The Journal OF THE House of Representatives

Number 22 **Wednesday, May 2, 2001**

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

Prayer

The following prayer was offered by the Pastor Randall "Randy" Ray of Temple Baptist Church of Tallahassee, upon invitation of Rep. Melvin:

Our dear Father in Heaven, we thank You for this great state in which we live and this great country that affords us the freedom to assemble publicly, and to make laws as these in this body will make today, tomorrow, and the next day. I pray that in this body today there will be harmony and also healthy debate. I pray that the business of the state will be concluded by Friday, and thank You for the sacrifice that these Members make. And may we, the citizens of this state, understand and appreciate the nature of the work that they do and how difficult it is to be all things to all people. And may we humbly follow their leadership. We pray for the Governor of our state and the Cabinet, the Lieutenant Governor, this body, and the Senate. In Christ's name, we pray. Amen.

The following Members were recorded present:

Session Vote Sequence: 330

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

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

A quorum was present.

Pledge

The Members, led by Mark Cavins of Palm Bay, Stephen-Michael Hawkins Nixon of Miami, Matthew Parantha of Clewiston, John Daniel Pritchard of Orlando and Joseph Sindad of St. Augustine, pledged allegiance to the Flag. Mark Cavins served at the invitation of Rep. Needelman. Stephen-Michael Hawkins Nixon served at the invitation of Rep. Bendross-Mindingall. Matthew Parantha served at the invitation of Rep. Spratt. John Daniel Pritchard served at the invitation of Speaker Feeney. Joseph Sindad served at the invitation of Rep. Wiles.

House Physician

The Speaker introduced Dr. Robert Pickard of South Miami, who served in the Clinic today upon invitation of Rep. Prieguez.

Correction of the *Journal*

The *Journal* of May 1 was corrected and approved as corrected.

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed SB 1142; CS for CS for SB 1376; and SB 1428, as amended; passed CS for SB 1540 by the required Constitutional three-fifths vote of the members of the Senate; passed CS for SB 1576 and CS for SB 1662, as amended; passed CS for SB 1836; passed CS for CS for SB 1878, as amended; passed CS for SB 1922, as further amended; and passed CS for SB 2220, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By Senator Constantine—

SB 1142—A bill to be entitled An act relating to the emergency telephone system; amending ss. 365.171, 365.172, 365.174, F.S.; transferring state control over the Florida Emergency Telephone Act and the Wireless Emergency Communications Act from the Department of Management Services to the Office of State Technology; conforming statutory references; providing for the "911" fee to be used by certain counties to fund a pilot project for a nonemergency system; amending s. 365.173, F.S.; authorizing the State Treasurer to invest moneys in the Wireless Emergency Telephone System Fund; removing requirements

that funds be held in escrow; revising the date for submission of the legislative budget request; providing an effective date.

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

By the Committees on Finance and Taxation, Natural Resources and Senator Laurent—

CS for CS for SB 1376—A bill to be entitled An act relating to mining; amending s. 378.035, F.S.; reserving certain funds in the Nonmandatory Land Reclamation Trust Fund for use by the Department of Environmental Protection for reclaiming lands; authorizing the department to use funds from the trust fund for the purpose of closing certain abandoned phosphogypsum stack systems; limiting the period of operation of the program; requiring the Bureau of Mine Reclamation to review the sufficiency of the trust fund to support certain objectives and make reports; amending s. 378.601, F.S.; deleting provisions exempting certain mining operations from review as developments of regional impact; amending s. 403.4154, F.S.; defining the terms "phosphogypsum stack system" and "process wastewater"; authorizing the Department of Environmental Protection to take action to abate or reduce any imminent hazard caused by a phosphogypsum stack system; requiring the department to recover moneys from the owner or operator of the system; providing for attorney's fees and costs; authorizing the department to impose a lien for the recovery of such moneys; imposing certain fees upon an owner or operator who has not demonstrated financial responsibility; providing for the refund of the fee upon closure of the phosphogypsum stack; authorizing the department to expend moneys from the Nonmandatory Land Reclamation Trust Fund to close abandoned phosphogypsum stack systems; providing for a lien for the recovery of such moneys; amending s. 403.4155, F.S.; requiring the department to review certain rules and determine the adequacy of the rules; providing an appropriation; providing an effective date.

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

By Senators Posey and Clary—

SB 1428—A bill to be entitled An act relating to the State Group Insurance Program; amending ss. 110.123, 287.022, F.S.; prohibiting limitations by the state on competition for an insurance product or plan on the basis of the compensation arrangement used by the insurer or organization; providing an effective date.

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

By the Committee on Finance and Taxation and Senator Carlton—

CS for SB 1540—A bill to be entitled An act relating to trust funds; creating s. 202.193, F.S.; creating the Local Communications Services Tax Clearing Trust Fund within the Department of Revenue; providing for sources of moneys and purposes; providing for annual carryforward of fund balances; providing that the trust fund is exempt from constitutional termination; providing a contingent effective date.

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

By the Committee on Finance and Taxation and Senator Carlton—

CS for SB 1576—A bill to be entitled An act relating to ad valorem tax administration; amending s. 195.096, F.S.; requiring the Department of Revenue to document and retain records used in the review of assessment rolls; amending s. 195.096, F.S., effective for the 2003 tax rolls and subsequent tax rolls; requiring the Department of Revenue to study assessment groups or market areas to assure the representativeness of ratio-study samples; amending s. 197.502, F.S.; authorizing the tax collector to contract with a title abstract company to provide information concerning property described in a tax certificate; authorizing the tax collector to pay a reasonable fee for this information; providing that the amount of any fee paid for this information must be added to the opening bid for a tax deed for the property; amending s. 200.069, F.S.; changing the presentation of independent special districts' debt-service levies on notices of proposed property taxes; amending s. 193.155, F.S.; revising provisions governing assessment of homestead property; amending s. 197.343, F.S.; changing the date for an additional tax notice; amending s. 192.0105, F.S.; conforming a cross-reference; amending s. 197.212, F.S.; increasing the allowable minimum property tax; creating the Property Tax Administration Task Force; providing purposes and membership of the task force; requiring periodic reports to the Department of Revenue; amending s. 196.1975, F.S., relating to exemptions for nonprofit homes for the aged; specifying that the exemption applicable to such homes the residents of which meet certain income limitations applies to individual units or apartments of such homes; providing for application of a residency affidavit requirement to applicants for such an exemption; clarifying provisions relating to qualification for the alternative exemption provided by that section for those portions of a home in which the residents do not meet the income limitations; providing that s. 196.195, F.S., relating to requirements and criteria for determining the profit or nonprofit status of an applicant for exemption, and s. 196.196, F.S., relating to criteria for determining whether property is entitled to a charitable, religious, scientific, or literary exemption, do not apply to that section; creating an advisory committee on property and other public facility taxation; providing purposes and membership; requiring a report; providing an appropriation; amending s. 236.25, F.S.; allowing certain school districts to levy, by referendum, additional district school taxes; providing limitations on the uses of the resulting revenues; amending s. 236.31, F.S.; providing for millage elections pursuant to s. 236.25, F.S.; amending s. 236.32, F.S.; revising the procedures for conducting school district millage elections; providing an effective date.

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

By the Committee on Natural Resources and Senator Laurent—

CS for SB 1662—A bill to be entitled An act relating to Lake Okeechobee Protection Program; amending s. 373.4595, F.S.; authorizing a line item on utility sewer rates to cover wastewater residual treatment and disposal in certain counties; providing exemption from requirements of the Public Service Commission; providing for audits; providing an effective date.

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

By the Committee on Finance and Taxation and Senator Carlton—

CS for SB 1836—A bill to be entitled An act relating to public records; amending s. 213.053, F.S.; providing an exemption from public records requirements for information contained in specified documents received by the Department of Revenue in connection with ch. 202, F.S., the Communications Services Tax Simplification Law; authorizing the department to provide certain information relative to said chapter to local governments imposing a local communications services tax; providing for application of confidentiality and penalty provisions to such local governments; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

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

By the Committees on Appropriations, Finance and Taxation and Senator Horne and others—

CS for CS for SB 1878—A bill to be entitled An act relating to tax on communications services; creating s. 202.105, F.S.; providing legislative findings and intent with respect to the Communications Services Tax Simplification Law; amending s. 202.11, F.S.; revising and providing definitions; amending s. 202.12, F.S.; specifying the rates for the state tax; revising provisions relating to application of the tax; providing for application of the tax rate to private communications services and mobile communications services; providing the initial

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

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

By the Committee on Agriculture and Consumer Services and Senator Geller—

CS for SB 1922—A bill to be entitled An act relating to agriculture and consumer services; amending s. 121.0515, F.S., relating to special risk membership; revising criteria for firefighters; amending s. 120.80, F.S.; providing that marketing orders under ch. 527, F.S., are not rules; amending s. 125.27, F.S.; authorizing the Department of Agriculture and Consumer Services to lease or lend equipment to governmental entities that have fire/rescue responsibilities; limiting liability for civil

damages resulting from use or possession of such equipment; amending s. 193.461, F.S.; providing that, for purposes of the income methodology approach to such assessment, certain litter containment and animal waste nutrient containment structures shall be considered a part of the average yields per acre and have no separately assessable contributory value; amending s. 201.15, F.S.; authorizing the department to adopt rules regarding the distribution of funds for best management practices; amending s. 316.228, F.S.; revising requirements for lamps on projecting loads; amending s. 320.08, F.S.; redefining the term "goat" to include certain additional farm equipment for purposes of the annual license tax imposed on trucks; amending s. 403.714, F.S.; deleting a requirement that the department coordinate development of uniform product specifications for compost used by state agencies; amending s. 487.041, F.S.; authorizing the department to require and review data relating to the claims of pesticide products used as preventive treatment for termites; authorizing the department to adopt rules; amending s. 500.09, F.S.; authorizing fees for certain reinspection of food establishments; amending s. 500.12, F.S.; increasing the maximum fee for a food permit; limiting the use of such fees; amending ss. 502.012, 502.014, F.S.; revising references relating to the pasteurized milk ordinance and milk sanitation; deleting a requirement that a copy of a federal temporary marketing permit for milk and milk products be forwarded to the department; amending s. 502.053, F.S.; clarifying milk testing requirements; amending s. 502.091, F.S.; authorizing the department to forgo the grading of certain milk products in an emergency; providing for labeling; amending s. 503.041, F.S.; providing that an attempted or purported transfer of a frozen dessert plant license is grounds for its suspension or revocation; repealing ss. 504.21, 504.22, 504.23, 504.24, 504.25, 504.26, 504.27, 504.28, 504.29, 504.31, 504.32, 504.33, 504.34, 504.35, 504.36, F.S.; eliminating the Florida Organic Farming and Food Law; providing an effective date; repealing ss. 536.20, 536.21, 536.22, F.S., relating to timber and lumber; repealing s. 570.381, F.S., relating to Appaloosa racing; amending ss. 550.2625, 550.2633, F.S.; conforming cross-references; amending s. 570.07, F.S.; authorizing the department to conduct investigations of violations of laws relating to consumer protection; amending s. 503.071, F.S.; providing for the embargo, detainment, or destruction of food or food processing equipment of a frozen dessert manufacturer; amending s. 570.244, F.S.; clarifying powers and duties of the department relating to the development of agribusinesses; amending s. 570.249, F.S.; clarifying aquacultural crops eligible for Agricultural Economic Development Program disaster loans; revising loan application requirements; directing the department to establish an agribusiness market development grant program; amending s. 570.38, F.S.; increasing membership of the Animal Industry Technical Council; amending s. 580.031, F.S.; revising definitions; amending s. 580.051, F.S.; revising label requirements for feed; amending s. 580.065, F.S.; revising feed laboratory procedures; amending s. 580.091, F.S.; removing intent language regarding feed sampling and analysis; amending s. 580.112, F.S.; expanding prohibited acts; amending s. 581.211, F.S.; providing a penalty for violation of rules relating to plant industry; amending s. 585.145, F.S.; prescribing requirements with respect to veterinarians who may inspect animals for disease; amending s. 585.155, F.S.; revising vaccination requirements for calves; amending s. 589.19, F.S.; naming a state forest; amending s. 616.242, F.S.; providing additional exemptions from amusement ride safety standards; amending s. 828.22, F.S.; creating the "Humane Slaughter Act"; revising provisions relating to humane slaughter and livestock euthanasia; amending s. 828.23, F.S.; revising definitions; amending s. 828.24, F.S.; revising provisions relating to prohibited acts; amending s. 828.25, F.S.; revising provisions relating to administration of the act by the department; creating s. 828.251, F.S.; directing the department to make current technical information available to slaughterers; creating s. 828.252, F.S.; providing for humane treatment of nonambulatory animals; amending s. 828.26, F.S.; revising penalties; amending ss. 427.804, 559.921, F.S.; conforming cross-references; creating s. 604.60, F.S.; providing that certain agricultural growers or producers shall have a right to recover damages as a result of willful and knowing damage or destruction of specified agricultural products; providing considerations and limits in award of damages; providing for costs and attorney's fees; amending s. 810.09, F.S.; prohibiting trespass upon specified legally posted agricultural sites; providing a penalty; reenacting ss. 260.0125(5)(b) and 810.011(5)(b), F.S., to incorporate the amendment to s. 810.09, F.S., in references thereto; repealing s. 570.544(10) and (11), F.S., relating to authority of the Division of Consumer Services of the department to conduct investigations of violations of laws relating to consumer protection; creating s. 373.621, F.S.; providing consideration for certain applicants who implement water conservation practices; amending section 601.48, F.S.; eliminating provisions relating to inspection of processed citrus products for grade and subsequent grading and designation thereof; authorizing the Florida Department of Citrus or its successor, to collect dues, contributions, or any other financial payment upon request by and on behalf of any not-for-profit corporation; amending s. 232.246, F.S.; authorizing Agriscience Foundations I to count as a science credit; providing an effective date; abolishing specified authorities and councils advisory to the department; creating s. 570.085, F.S.; creating an agricultural water conservation program within the department; designating the official citrus archive of Florida; providing for severability; requiring the Department of Agriculture and Consumer Services to administer a residential citrus canker compensation program; providing for sources of funds; providing for homeowners to receive compensation for citrus trees removed on or after a specified date as part of a citrus canker eradication program; providing eligibility criteria for receiving compensation; specifying the amount of compensation provided under the program, subject to availability of funds; requiring that the department notify homeowners of the program and develop a dispute-resolution process; creating the "Rural and Family Lands Protection Act"; defining terms; creating s. 570.70, F.S.; providing legislative intent; creating s. 570.71, F.S.; providing for the purchase of rural-lands-protection easements by the Department of Agriculture and Consumer Services; providing criteria; providing for resource conservation agreements and agricultural protection agreements; prescribing allowable land uses; providing for an application process; providing for the sale of an easement; requiring the department to adopt rules; authorizing the use of specified funds; authorizing the removal of property from lists and maps; providing for the deposit of funds; directing the completion of a needs assessment and a report; amending s. 163.3177, F.S.; directing the department to authorize up to five local governments to designate rural land stewardship areas; requiring a written agreement; providing requirements for comprehensive plan amendments for such designations; providing that owners of land within such areas may convey development rights in return for the assignment of transferable rural land use credits; providing requirements with respect to such credits; specifying incentives that should be provided such landowners; requiring reports; providing intent; providing effective dates.

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

By the Committee on Comprehensive Planning, Local and Military Affairs and Senators Posey and Klein—

CS for SB 2220—A bill to be entitled An act relating to governmental data processing; creating s. 119.084, F.S.; providing definitions; authorizing governmental agencies to acquire, hold, and enforce copyrights for data processing software they create; authorizing sale or license of such software; authorizing establishment of sales price and licensing fee; providing requirements for electronic recordkeeping systems; providing for access to public records maintained in electronic recordkeeping systems; providing for fees to be charged for copying public records maintained in electronic recordkeeping systems; prohibiting contracts for public records databases that impair public access to public records; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

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

Reports of Councils and Standing Committees

Report of the Procedural & Redistricting Council

The Honorable Tom Feeney May 1, 2001
Speaker, House of Representatives

Mr. Speaker:

Pursuant to Special Rule 01-11, your Procedural & Redistricting Council herewith submits as a Third Reading Calendar for Wednesday, May 2, 2001. Consideration of the House Bills on the Third Reading Calendar shall include the Senate Companion Measures on the House Calendar.

I. Consideration of the following bill(s):
CS/CS/HB 267—Kravitz
School Attendance/Violent Offenders
CS/HB 337—Garcia
Public Libraries
CS/HB 345—Johnson
Sports Industry Economic Development
CS/HB 455—Detert
Mortgage Brokers & Lenders
HB 457—Lee
Property & Casualty Insurers
HB 575—Baker
Filing Fees/Corporate Fee
CS/HB 605—Gibson
Florida Alzheimer's Training Act
HB 635—Hart
Drivers' Licenses/Selective Service
HB 645—Henriquez
Alcoholic Beverages/Nonprofit Orgs.
CS/CS/HB 807—Gardiner
Hwy. Safety/Motor Vehicles/Vessels
HB 953—Crime Prevention, Corrections & Safety (HCC)
Burglary
CS/HB 973—Davis
Property Tax/Disabled/Physicians
CS/CS/HB 1053—Russell
Transportation
CS/HB 1219—Brown
Insurance Agents
CS/HB 1263—Dockery
Mining
HB 1379—Flanagan
Emergency Telephone System
HB 1415—Kallinger
Medicaid/Environmental Modification
HB 1491—Attkisson
Lake Okeechobee Protection Program
HB 1545—Education Appropriations (FRC)
Schools/Performance Reporting
HB 1863—Health Regulation (HCC)
Onsite Sewage Treatment & Disposal
HB 1971—Natural Resources & Environmental Protection (RIC)
Water Supply Policy
SB 150—Horne
Property Exempt from Legal Process
CS/SB 178—Brown-Waite
Duration of Real Property Liens
CS/SB 252—King
Law Officer/Background Investigation
SB 272—Klein
Law Enforcement Officers
SB 654—Saunders
Pharmacists/Licensure by Endorsement
SB 782—Sanderson
Nursing Education
CS/SB 838—Saunders
Landlord & Tenant
CS/CS/SB 1258—Mitchell
Behavioral Health Services
SB 1424—Posey
Real Estate Professionals
SB 810—Laurent
Municipal Law Enforcement Officers
CS/CS/HB 1533—Lynn
Education Governance Reorganization
(Special Rule 01-14)
CS/CS/SB 108—Geller
Structured Settlements/Transfers
HB 731—Kottkamp
Public Records/Local Government/WMD
CS/SB 1524—Constantine
Comprehensive Everglades Restoration
HB 1513—Simmons
Insurance Competitions/Compensations
CS/HB 1529—Simmons
Controlled Substances
CS/CS/CS/SB 1202—Brown-Waite
Long-term-care Facilities
HB 1915—Agriculture & Consumer Affairs (CCC)
Agric. & Consumer Services Dept.
CS/HB 1819—Insurance (CCC)
Insurance/Public Records Illegal Use
HB 159—Rubio
Health Maintenance Organizations
SB 1400—Posey
Swimming Pool/Spa Service Contractor
CS/SB 684—Cowin
Organ Transplantation
CS/CS/SB 870—Webster
Construction/Prompt Payment Act
CS/SB 972—Bronson
Water Mgmt. District Fiscal Matters
CS/CS/HB 1121—Byrd
Driver Licenses/Co. Tax Collectors
CS/HB 1889—Utilities & Telecommunications (RIC)
Taxation/Communications Services
CS/HB 1891—Utilities & Telecommunications (RIC)
Public Records/Communications Tax
CS/HB 1893—Utilities & Telecommunications (RIC)
Local Communications Services Tax TF
HB 1867—Health Regulation (HCC)
Health Care Practitioner Regulation
HB 25—Crow
Offenses Against Children
CS/HB 83—Russell
Enterprise Zone Designations
CS/HB 93—Harrington
Road & Bridge Designations
HB 163—Prieguez
Tax/College Games/College Facility
CS/CS/HB 179—Lynn
Child Care Facilities
CS/HB 281—Alexander
Higher Educational Facilities
CS/HB 365—Hogan
Public Records/Health/Financial Info
CS/CS/HB 453—Prieguez
Energy Performance Savings
CS/HB 463—Baxley
Florida Prepaid College Program
HB 509—Attkisson
Relief/Hopkins & Bowman
CS/CS/HB 617—Harper
Youthful Offenders
CS/HB 623—Mack
Government Accountability
HB 649—Bilirakis
Law Enforcement Officers' Disability
CS/HB 699—Goodlette

Rural Electric Cooperatives
HB 701—Bean
Correctional Officers Memorial Hwy.
CS/CS/HB 719—Stansel
Agri. Products/Damage or Destruction
CS/CS/HB 721—Stansel
Public Records/Agricultural Records
CS/HB 729—Argenziano
Environmental Control
HB 749—Dockery
Absentee Ballots
CS/HB 789—Mealor
Governmental Data Processing
CS/HB 793—Hogan
Elderly Persons & Disabled Adults
HB 959—Gottlieb
Mortgages
CS/HB 997—Littlefield
Spinal Cord Injuries/Pilot Program
CS/HB 1131—Barreiro
Criminal Rehabilitation
CS/HB 1133—Brutus
Correctional Work Programs/Operation
CS/HB 1189—Diaz-Balart
Brownfield Redevelopment Incentives
HB 1221—Cantens
Water Resources
HB 1395—Crime Prevention, Corrections & Safety (HCC)
Driver Lic. Div./Exclusionary Rule
HB 1439—Berfield
Health Insurance
HB 1471—Alexander
Food Service Employee Training
HB 1485—Kravitz
Sexual Offenders Release Supervision
CS/HB 1541—Economic Development & International Trade (CCC)
Public Records/Economic Development
HB 1585—Detert
Public Records/Abandoned Property
HB 1611—Arza
Relief/Mary Beth Wiggers/DOC
CS/HB 1617 & 1487—Dockery
Growth Management
HB 1669—Paul
Harris Chain of Lakes Restoration
HB 1681—Miller
Pest Control Operators
HB 1787—Berfield
Warranty Associations/Motor Vehicles
HB 1799—Child & Family Security (HCC)
Children's Behavioral Crisis Unit
HB 1861—Elder & Long-Term Care (HCC)
Quality of Long-Term Care Facility
HB 1881—Elder & Long-Term Care (HCC)
Public Records/Nursing Homes
HB 1885—Health Promotion (HCC)
Health Care
HB 1961—Fiscal Policy & Resources (FRC)
Sales Tax/State Tax Policy
HB 1973—Fiscal Policy & Resources (FRC)
State Debt
HB 1983—Fiscal Policy & Resources (FRC)
Ad Valorem Tax Administration
CS/SB 94—Laurent
Consumer Collection Practices
SB 130—Silver
Eminent Domain/Public School Purpose
CS/SB 202—Lee
Malt Beverages/Container Size
CS/SB 232—Brown-Waite
Controlled Substances/Hydrocodone
SB 338—Campbell
Bryant Peney Act
CS/SB 350—Dawson
Individual Development Accounts
CS/CS/SB 400—Horne
Support of Dependents
CS/CS/CS/SB 446—Constantine
Homelessness
SB 676—Smith
Prison Releasee Reoffender
SB 720—Carlton
Criminal Records/Obscene Materials
SB 766—Sanderson
Driver's Licenses/DUI Convictions
CS/SB 800—Silver
Disposition of Traffic Fines
CS/SB 806—Laurent
Insurance Examination/Exemptions
CS/SB 1018—Pruitt
Young Children/Learning Gateway
SB 1126—Latvala
Nonprofit Civic Organization/Alcohol
CS/CS/SB 1180—Pruitt
Scholarships/Students/Disabilities
SB 1516—Constantine
Surety Bonds
CS/CS/CS/SB 1526 & 314—Constantine
Money Transmitter's Code
CS/CS/SB 1672—Lee
Passport to Economic Progress Act
CS/SB 1788—Wasserman Schultz
Dentistry
SB 1986—Sanderson
Public Employees/Volunteers/Ins.
HB 1977—Fiscal Responsibility Council
State Planning & Budgeting

II. Special Order:
CS/SB 1012—Garcia
Energy Performance Savings
CS/SB 1366—Cowin
Property Tax/Permanently Disabled
CS/SB 1932—Laurent
Drug Traffic Program/Orange Co.
SB 2308—Cowin
South Lake County Hospital District
CS/SB 302—Pruitt
Higher Educational Facilities
CS/SB 322—Geller
Disposition of Offenders
CS/CS/SB 374—Carlton
Elderly & Disabled/Public Guardians
CS/SB 444—Latvala
Offenses Against Children
CS/CS/SB 668—Carlton
Enterprise Zones
CS/SB 840—Saunders
Public Records/Health/Financial Info
CS/SB 890—Campbell
Mortgages
SB 1162—Sebesta
Florida Prepaid College Program
SB 1324—Peaden
Health Care/Alternative Treatment
CS/SB 2034—Latvala
Rural Electric Cooperatives
CS/CS/SB 2092—Sanderson
Health Care
SB 2240—Garcia
Warranty Associations/Motor Vehicles

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

Respectfully submitted,
Johnnie B. Byrd, Jr.
Chair

Waiver of the Rules for Committee and Council Meetings and Bills

On motion by Rep. Smith, the rules were waived and the Procedural & Redistricting Council was given permission to meet today, 15 minutes after adjournment of the House for its scheduled midday recess.

On motion by Rep. Byrd, the rules were waived and **HB 1933**, **HB 1713**, **HB 1947**, **CS/HB 371**, **HJR 571**, **CS/HB 135**, **HB 1883**, **CS/HB 1255**, **HB 1923**, **HB 1099**, **HB 1789**, **HB 561**, **HB 829**, **HB 831**, **HB 835**, **HB 837**, **HB 843**, **HB 869**, **HB 899**, **HB 923**, **HB 933**, **HB 935**, **HB 1849**, and **HB 607** were added to the beginning of the Special Order Calendar.

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

Motions Relating to Committee or Council References

On motion by Rep. Byrd, agreed to by two-thirds vote, HB 607 was withdrawn from the Procedural & Redistricting Council and placed on the Special Order Calendar after HB 1849.

On motion by Rep. Byrd, the House moved to the consideration of CS for CS for CS for SB 1202 on Bills and Joint Resolutions on Third Reading.

Bills and Joint Resolutions on Third Reading

CS for CS for CS for SB 1202—A bill to be entitled An act relating to long-term care; amending s. 400.0073, F.S.; clarifying duties of the local ombudsman councils with respect to inspections of nursing homes and long-term-care facilities; amending s. 400.021, F.S.; defining the terms "controlling interest" and "voluntary board member" and revising the definition of "resident care plan" for purposes of part II of ch. 400, F.S., relating to the regulation of nursing homes; requiring the Agency for Health Care Administration and the Office of the Attorney General to study the use of electronic monitoring devices in nursing homes; requiring a report; amending s. 400.023, F.S.; providing for election of survival damages, wrongful death damages, or recovery for negligence; providing for attorney's fees for injunctive relief or administrative remedy; providing that ch. 766, F.S., does not apply to actions under this section; providing burden of proof; providing that a violation of a right is not negligence per se; prescribing the duty of care; prescribing a nurse's duty of care; eliminating presuit provisions; eliminating the requirement for presuit mediation; creating s. 400.0233, F.S; providing for presuit notice; prohibiting the filing of suit for a specified time; requiring a response to the notice; tolling the statute of limitations; limiting discovery of presuit investigation documents; limiting liability of presuit investigation participants; authorizing the obtaining of opinions from a nurse or doctor; authorizing the obtaining of unsworn statements; authorizing discovery of relevant documents; prescribing the time for acceptance of settlement offers; requiring mediation; prescribing the time to file suit; creating s. 400.0234, F.S.; requiring the availability of facility records for presuit investigation; specifying the records to be made available; specifying what constitutes evidence of failure to make records available in good faith; specifying the consequences of such failure; creating s. 400.0235, F.S.; providing that the provisions of s. 768.21(8), F.S., do not apply to actions under part II of ch. 400, F.S.; creating s. 400.0236, F.S.; providing a statute of limitations; providing a statute of limitations when there is fraudulent concealment or intentional misrepresentation of fact; providing for application of the statute of limitation to accrued actions; creating s. 400.0237, F.S.; requiring evidence of the basis for punitive damages; prohibiting discovery relating to financial worth; providing for proof of punitive damages; defining the terms "intentional misconduct" and "gross negligence"; prescribing criteria governing employers' liability for punitive damages; providing for the remedial nature of provisions; creating s. 400.0238, F.S.; prescribing limits on the amount of punitive damages; providing for a criminal investigation with a finding of liability for punitive damages under certain circumstances; providing for the admissibility of findings in subsequent civil and criminal actions; providing for the calculation of attorney's fees; amending s. 768.735, F.S.; providing that the section is inapplicable to actions brought under ch. 400, F.S.; amending s. 415.1111, F.S.; limiting actions against nursing homes and assisted living facilities; amending s. 400.0255, F.S.; providing for applicability of provisions relating to transfer or discharge of nursing home residents; amending s. 400.062, F.S.; increasing the bed license fee for nursing home facilities; amending s. 400.071, F.S.; revising license application requirements; requiring certain disclosures; authorizing the Agency for Health Care Administration to issue an inactive license; requiring quality assurance and risk-management plans; amending s. 400.102, F.S.; providing additional grounds for action by the agency against a licensee; amending s. 400.111, F.S.; prohibiting renewal of a license if an applicant has failed to pay certain fines; requiring licensees to disclose financial or ownership interests in certain entities; authorizing placing fines in escrow; amending s. 400.118, F.S.; revising duties of quality-of-care monitors in nursing facilities; amending s. 400.121, F.S.; specifying additional circumstances under which the agency may deny, revoke, or suspend a facility's license or impose a fine; authorizing placing fines in escrow; requiring that the agency revoke or deny a nursing home license under specified circumstances; providing standards for administrative proceedings; providing for the agency to assess the costs of an investigation and prosecution; specifying facts and conditions upon which administrative actions that are challenged must be reviewed; amending s. 400.126, F.S.; requiring an assessment of residents in nursing homes under receivership; providing for alternative care for qualified residents; amending s. 400.141, F.S.; providing additional administrative and management requirements for licensed nursing home facilities; requiring a facility to submit information on staff-to-resident ratios, staff turnover, and staff stability; requiring that certain residents be examined by a licensed physician; providing requirements for dining and hospitality attendants; requiring additional reports to the agency; requiring minimum amounts of liability insurance coverage; requiring daily charting of specified certified nursing assistant services; creating s. 400.1413, F.S.; authorizing nursing homes to impose certain requirements on volunteers; creating s. 400.147, F.S.; requiring each licensed nursing home facility to establish an internal risk management and quality assurance program; providing requirements of the program; requiring the use of incident reports; defining the term "adverse incident"; requiring that the agency be notified of adverse incidents; requiring reporting of liability claims; specifying duties of the internal risk manager; requiring the reporting of sexual abuse; limiting the liability of a risk manager; requiring that the agency report certain conduct to the appropriate regulatory board; requiring that the agency annually report to the Legislature on the internal risk management of nursing homes; creating s. 400.148, F.S.; providing for a pilot project to coordinate resident quality of care through the use of medical personnel to monitor patients; providing purpose; providing for appointment of guardians; creating s. 400.1755, F.S.; prescribing training standards for employees of nursing homes that provide care for persons with Alzheimer's disease or related disorders; prescribing duties of the Department of Elderly Affairs; amending s. 400.19, F.S.; requiring the agency to conduct surveys of certain facilities cited for deficiencies; providing for a survey fine; providing for inspections; amending s. 400.191, F.S.; requiring the agency to publish a Nursing Home Guide Watch List; specifying contents of the watch list; specifying distribution of the watch list; requiring that nursing homes post certain additional information; amending s. 400.211, F.S.; revising employment requirements for nursing assistants; requiring in-service training; amending s. 400.23, F.S.; revising minimum staffing requirements for nursing homes; requiring the documentation and posting of compliance with such standards; requiring correction of deficiencies prior to change in conditional status; providing definitions of deficiencies; adjusting the fines imposed for certain deficiencies; amending s. 400.235, F.S.; revising requirements for the Gold Seal Program; creating s. 400.275, F.S.; providing for training of nursing-home survey teams; amending s. 400.407, F.S.; revising certain licensing requirements; providing for the biennial license fee to be based on number of beds; amending s. 400.414,

F.S.; specifying additional circumstances under which the Agency for Health Care Administration may deny, revoke, or suspend a license; providing for issuance of a temporary license; amending s. 400.419, F.S.; increasing the fines imposed for certain violations; creating s. 400.423, F.S.; requiring certain assisted living facilities to establish an internal risk management and quality assurance program; providing requirements of the program; requiring the use of incident reports; defining the term "adverse incident"; requiring that the agency be notified of adverse incidents and of liability claims; requiring reporting of liability claims; specifying duties of the internal risk manager; requiring that the agency report certain conduct to the appropriate regulatory board; requiring that the agency annually report to the Legislature on the internal risk management of assisted living facilities; amending s. 400.426, F.S.; requiring that certain residents be examined by a licensed physician; amending s. 400.429, F.S.; providing for election of survival damages, wrongful death damages, or recovery for negligence; providing for attorney's fees for injunctive relief or administrative remedy; providing that ch. 766, F.S., does not apply to actions under this section; prescribing the burden of proof; providing that a violation of a right is not negligence per se; prescribing the duty of care; prescribing a nurse's duty of care; eliminating presuit provisions; eliminating the requirement for presuit mediation; requiring copies of complaints filed in court to be provided to the agency; creating s. 400.4293, F.S; providing for presuit notice; prohibiting the filing of suit for a specified time; requiring a response to the notice; tolling the statute of limitations; limiting the discovery of presuit investigation documents; limiting liability of presuit investigation participants; authorizing the obtaining of opinions from a nurse or doctor; authorizing the obtaining of unsworn statements; authorizing discovery of relevant documents; prescribing a time for acceptance of settlement offers; requiring mediation; prescribing the time to file suit; creating s. 400.4294, F.S.; requiring the availability of facility records for presuit investigation; specifying the records to be made available; specifying what constitutes evidence of failure to make records available in good faith; specifying the consequences of such failure; creating s. 400.4295, F.S.; providing that the provisions of s. 768.21(8), F.S., do not apply to actions under part III of ch. 400, F.S.; creating s. 400.4296, F.S.; providing a statute of limitations; providing a statute of limitations when there is fraudulent concealment or intentional misrepresentation of fact; providing for application of the statute of limitation to accrued actions; creating s. 400.4297, F.S.; requiring evidence of the basis for punitive damages; prohibiting discovery relating to financial worth; providing for proof of punitive damages; defining the terms "intentional misconduct" and "gross negligence"; prescribing criteria governing employers' liability for punitive damages; providing for the remedial nature of provisions; creating s. 400.4298, F.S.; providing limits on the amount of punitive damages; providing for a criminal investigation with a finding of liability for punitive damages under certain circumstances; providing for the admissibility of findings in subsequent civil and criminal actions; providing for the calculation of attorney's fees; amending s. 400.434, F.S.; authorizing the Agency for Health Care Administration to use information obtained by certain councils; amending s. 400.441, F.S.; clarifying facility inspection requirements; creating s. 400.449, F.S.; prohibiting the alteration or falsification of medical or other records of an assisted living facility; providing penalties; amending s. 409.908, F.S.; prohibiting nursing home reimbursement rate increases associated with changes in ownership; modifying requirements for nursing home cost reporting; requiring a report; amending s. 464.203, F.S.; revising certification requirements for nursing assistants; authorizing employment of certain nursing assistants pending certification; requiring continuing education; amending s. 397.405, F.S., relating to service providers; conforming provisions to changes made by the act; prohibiting the issuance of a certificate of need for additional nursing home beds; providing intent for such prohibition; reenacting s. 400.0255(3), (8), F.S., relating to discharge or transfer of residents; reenacting s. 400.23(5), F.S., relating to rules for standards of care for persons under a specified age residing in nursing home facilities; reenacting s. 400.191(2), (6), F.S., relating to requirements for providing information to consumers; reenacting s. 400.0225, F.S., relating to consumer satisfaction surveys for nursing homes; reenacting s. 400.141(4), (5), F.S., relating to the repackaging of residents' medication and access to other health-related services; reenacting s. 400.235(3)(a), (4), (9), F.S., relating to designation under the nursing home Gold Seal Program; reenacting s. 400.962(1), F.S., relating to the requirement for licensure under pt. IX of ch. 400, F.S.; reenacting s. 10 of ch. 2000-350, Laws of Florida, relating to requirements for a study of the use of automated medication-dispensing machines in nursing facilities and for demonstration projects and a report; amending s. 627.351, F.S.; creating the Senior Care Facility Joint Underwriting Association; defining the term "senior care facility"; requiring that the association operate under a plan approved by the Department of Insurance; requiring that certain insurers participate in the association; providing for a board of governors appointed by the Insurance Commissioner to administer the association; providing for terms of office; providing requirements for the plan of operation of the association; requiring that insureds of the association have a risk-management program; providing procedures for offsetting an underwriting deficit; providing for assessments to offset a deficit; providing that a participating insurer has a cause of action against a nonpaying insurer to collect an assessment; requiring the department to review and approve rate filings of the association; amending s. 400.562, F.S.; revising requirements for standards to be included in rules implementing part V of ch. 400, F.S.; providing for applicability of specified provisions of the act; providing appropriations; providing for severability; providing effective dates.

—was read the third time by title.

Motion to Reconsider

Rep. Frankel moved that the House reconsider the vote by which **Amendment 1** to **CS for CS for CS for SB 1202** was adopted on May 1 (shown in the *Journal* on pages 1450-1478), which was not agreed to by the required two-thirds vote.

Rep. Ryan moved that an amendment (953807) to CS for CS for CS for SB 1202 be allowed for consideration, which was not agreed to. The vote was:

Session Vote Sequence: 331

Yeas—39

Ausley	Gelber	Justice	Ryan
Bendross-Mindingall	Gibson	Kosmas	Seiler
Betancourt	Gottlieb	Lee	Siplin
Bucher	Greenstein	Lerner	Slosberg
Bullard	Harper	McGriff	Smith
Cusack	Henriquez	Peterman	Sobel
Davis	Heyman	Rich	Weissman
Fields	Holloway	Richardson	Wilson
Frankel	Jennings	Romeo	Wishner
Gannon	Joyner	Ross	

Nays—74

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

Votes after roll call:
Yeas—Meadows, Wiles

The question recurred on the passage of CS for CS for CS for SB 1202. The vote was:

Session Vote Sequence: 332

Yeas—112

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

Nays—8

Argenziano	Frankel	Gottlieb	Lee
Bucher	Gelber	Heyman	Sobel

Votes after roll call:
Yeas to Nays—Diaz de la Portilla

So the bill passed, as amended, and was immediately certified to the Senate.

Explanations of Vote

I voted no on CS for CS for CS for SB 1202 because although the bill improves the standards of care afforded seniors in nursing homes, it also contains provisions that protects from civil liability the most egregious abusers of seniors. Specifically, the provision in the bill that requires that nursing home facilities actually know of their employees' abuses encourages the management of nursing homes to look the other way and ignore the misconduct of their employees. Furthermore, the bill makes it almost impossible to hold a nursing home liable when their employees do abuse or neglect their residents. I believe our constituents expected more, and I know we could have done better.

Rep. Dan Gelber
District 106

I voted no on the "Reform of Long Term Care Facilities" bill because it was disguised change in some areas of industry standards and limited reform in other areas of patient rights. Legitimate reform, desperately needed, was not achieved. Under the guise of reform, we failed to meet the needs of both the industry and patients under their care. Raising the standards of "staff to patient" ratio; responsible funding to assure greater "direct care" time; whistleblower protection provisions; consequences for improper/inadequate staffing, were some of the critical issues addressed at a minimum, or not at all. This legislative body is empowered as lawmakers to reduce the burdens placed on the nursing homes and living facilities and provide greater protection and better care for those people they are responsible for. This bill made changes, clearly not enough and clearly short of legitimate reform to enhance patient/resident quality of care.

Rep. Sally Heyman
District 105

Today, the House took a positive step to improving the financial stability of Florida's nursing homes. I am pleased to support these efforts. However, I believe there are three major issues that we must address. First, I am uncomfortable with many provisions of this bill that lump together the large, self-insured for-profit nursing homes with the non-profit Continuing Care Retirement Communities (CCRC) that are truly placed at a financial disadvantaged by skyrocketing liability insurance rates. Many non-profit CCRC's, like Vicars Landing in St. Johns County, could be used as models for the type of residential long term care that Florida needs to encourage. They have a perfect record that may yet lose their insurance, and that is wrong. Also, I am not satisfied with the quality of care standards in this legislation. While the bill marks an improvement in staffing levels and pay, I believe that we could have reduced the tax cut and increased Medicaid reimbursement to make better staffing a state priority. Florida is not solely at fault for the current nursing home crisis. Congress must reconsider the long-term care reimbursement cuts that occurred with the 1997 Balanced Budget Act which exacerbated financial difficulties of many homes.

Rep. Doug Wiles
District 20

On motion by Rep. Byrd, the rules were waived and the House moved to the order of—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate returns as requested CS/HB 41.

Faye W. Blanton, Secretary

CS/HB 41—A bill to be entitled An act relating to water and wastewater systems; repealing s. 13 of ch. 2000-350, Laws of Florida, which requires county rate proceedings to follow certain provisions of the Administrative Procedure Act; amending s. 350.0611, F.S.; requiring the Public Counsel to provide legal representation in proceedings before counties under certain circumstances; recovery of rate case expenses; providing an effective date.

Reconsideration

On motion by Rep. Argenziano, the House reconsidered the vote by which **CS/HB 41**, as amended, passed on April 3.

The question recurred on passage of CS/HB 41.

Representative(s) Argenziano offered the following:

(Amendment Bar Code: 954629)

Amendment 3 (with title amendment)—On page 1, lines 15 and 16,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 1. Subsection (8) of section 367.171, Florida Statutes, is amended to read:

367.171 Effectiveness of this chapter.—

(8) Each county which is excluded from the provisions of this chapter shall regulate the rates of all utilities in that county which would otherwise be subject to regulation by the commission pursuant to s. 367.081(1), (2), (3), and (6). The county shall not regulate the rates or charges of any system or facility which would otherwise be exempt from commission regulation pursuant to s. 367.022(2). For this purpose the

county or its agency shall proceed as though the county or agency is the commission. ~~In all proceedings conducted by a county or its agency under the authority of this chapter, the provisions of ss. 120.569 and 120.57 shall apply.~~

And the title is amended as follows:

On page 1, lines 3 and 4,
remove from the title of the bill: all of said lines

and insert in lieu thereof: systems; amending s. 367.171, F.S.; deleting the requirement that county rate

Rep. Argenziano moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/HB 41. The vote was:

Session Vote Sequence: 333

Yeas—119

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

Nays—None

Votes after roll call:
Yeas—Rich

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

On motion by Rep. Byrd, the rules were waived and **SCR 2106**, and **SB 2308** were added to the beginning of the Special Order Calendar.

On motion by Rep. Byrd, the House moved to the consideration of SCR 2106 on Special Orders.

Special Orders

Special Order Calendar

SCR 2106—A concurrent resolution naming the legislative clinic in honor of Dr. Edward G. Haskell, Jr.

WHEREAS, Dr. Edward G. Haskell, Jr., founded the concept of health care for stressed-out, time-pressed legislators by voluntarily serving their health care needs during sessions of the Legislature in the mid and late 1960's, and

WHEREAS, Dr. Haskell was the philosophical designer of the concept of a legislative clinic and the "Doctor for the Day" program during legislative sessions, and

WHEREAS, the first legislative clinic opened early in 1967 in an unused portion of a supply room serving the Florida House of Representatives, and

WHEREAS, a terrible outbreak of influenza in 1967 and the passage of Senate Bill 135-X, Extraordinary Session, January 29, 1968, to February 16, 1968 which created the Joint Legislative Management Committee, combined to make a permanent fixture of the legislative clinic, and

WHEREAS, in the first few years of its existence, Dr. Haskell offered invaluable assistance to the clinic and its patients by lending his time, advice, and prescription support, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida, the House of Representatives Concurring:

That the legislative clinic, established in 1967, is named the "Dr. Ed Haskell Legislative Clinic."

BE IT FURTHER RESOLVED that the members of the 2001 Legislature of the State of Florida express their gratitude to Dr. Edward G. Haskell, Jr., for his pioneering leadership and unselfish contributions to the health of colleagues of the past and for his perseverance in helping to establish the legislative clinic.

—was read the second time by title. On motion by Rep. Melvin, the concurrent resolution was adopted and, under the rule, immediately certified to the Senate.

SB 2308—A bill to be entitled An act relating to the South Lake County Hospital District, Lake County; providing for codification of special laws relating to the South Lake County Hospital District; providing legislative intent; amending, codifying, reenacting, and repealing chapters 69-1201, 70-771, 75-415, 88-466, 95-456, Laws of Florida; providing district boundaries; providing definitions; providing for a board of trustees as the governing body of the district; prescribing the powers and duties of the board; providing for compensation and meetings of the board; providing a principal office of the district; authorizing the board to levy an annual al valorem tax upon taxable property within the district; providing for purpose of the tax; providing for a method for such levy; exempting property of the district for assessment; prohibiting the board from transferring control of the district's hospitals or facilities except upon approval by referendum; providing for severability; providing an effective date.

—was read the second time by title. On motion by Rep. Johnson, the rules were waived and the bill was read the third time by title. On passage, the vote was:

Session Vote Sequence: 334

Yeas—116

The Chair	Bennett	Cusack	Gibson
Alexander	Bense	Davis	Goodlette
Allen	Benson	Detert	Gottlieb
Andrews	Berfield	Diaz de la Portilla	Green
Argenziano	Betancourt	Diaz-Balart	Greenstein
Arza	Bilirakis	Dockery	Haridopolos
Attkisson	Brown	Farkas	Harper
Atwater	Brummer	Fasano	Harrell
Ausley	Brutus	Fields	Harrington
Baker	Bucher	Fiorentino	Hart
Ball	Bullard	Flanagan	Henriquez
Barreiro	Byrd	Frankel	Heyman
Baxley	Cantens	Gannon	Hogan
Bean	Carassas	Gardiner	Holloway
Bendross-Mindingall	Crow	Gelber	Jennings

Johnson	Lynn	Paul	Siplin
Jordan	Machek	Peterman	Slosberg
Joyner	Mack	Pickens	Smith
Justice	Mahon	Prieguez	Sobel
Kallinger	Mayfield	Rich	Sorensen
Kendrick	Maygarden	Richardson	Spratt
Kilmer	McGriff	Ritter	Stansel
Kosmas	Meadows	Romeo	Trovillion
Kravitz	Mealor	Ross	Wallace
Kyle	Melvin	Rubio	Waters
Lacasa	Miller	Russell	Weissman
Lee	Murman	Ryan	Wiles
Lerner	Needelman	Seiler	Wilson
Littlefield	Negron	Simmons	Wishner

Nays—None

Votes after roll call:
Yeas—Clarke, Kottkamp

So the bill passed and was immediately certified to the Senate.

On motion by Rep. Byrd, the House moved to the consideration of HB 1933 on Special Orders.

HB 1933—A bill to be entitled An act relating to trust funds; creating s. 121.467, F.S.; creating the Public Employee Disability Trust Fund within the Division of Retirement of the Department of Management Services; providing for sources of moneys and purposes; providing for exemption from the general revenue service charges; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; providing an effective date.

—was read the second time by title. The vote was:

Session Vote Sequence: 335

Yeas—116

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

Nays—None

Votes after roll call:
Yeas—Kottkamp, Rich

So the bill passed by the required constitutional three-fifths vote of the membership.

Reconsideration of HB 1933

On motion by Rep. Lacasa, the House reconsidered the vote by which **HB 1933** passed earlier today.

The question recurred on the passage of HB 1933.

On motion by Rep. Lacasa, the rules were waived and HB 1933 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 336

Yeas—119

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

Nays—None

So the bill passed by the required constitutional three-fifths vote of the membership and was immediately certified to the Senate.

On motion by Rep. Goodlette, the House moved to the consideration of CS/HB 371.

CS/HB 371 was taken up. On motion by Rep. Spratt, the rules were waived and—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 408, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Regulated Industries and Senator Smith—

CS for SB 408—A bill to be entitled An act relating to electric utility service interruptions; creating s. 768.138, F.S.; providing electric utilities with a complete defense in certain actions for certain law enforcement assistance activities; providing an effective date.

—was taken up, read the first time by title, and substituted for CS/HB 371. Under Rule 5.15, the House bill was laid on the table. On motion by Rep. Spratt, the rules were waived and CS for SB 408 was read the second time by title.

Representative(s) Greenstein offered the following:

(Amendment Bar Code: 401147)

Amendment 1 (with title amendment)—On page 1, line 10,

insert:

Section 1. Subsection (12) of section 403.503, Florida Statutes, is amended to read:

403.503 Definitions relating to Florida Electrical Power Plant Siting Act.—As used in this act:

(12) "Electrical power plant" means, for the purpose of certification, any steam or solar electrical generating facility using any process or fuel, including nuclear materials, and includes associated facilities which directly support the construction and operation of the electrical power plant and those associated transmission lines which connect the electrical power plant to an existing transmission network or rights-of-way to which the applicant intends to connect, except that this term does not include any steam or solar electrical generating facility of less than 75 megawatts in capacity unless the applicant for such a facility elects to apply for certification under this act *or proposes to site the facility within any area comprising at least 20 square miles with an average population density of at least 3,000 persons per square mile*. An associated transmission line may include, at the applicant's option, any proposed terminal or intermediate substations or substation expansions connected to the associated transmission line.

Section 2. Subsection (1) of section 403.506, Florida Statutes, is amended to read:

403.506 Applicability and certification.—

(1) The provisions of this act shall apply to any electrical power plant as defined herein, except that the provisions of this act shall not apply to any electrical power plant or steam generating plant of less than 75 megawatts in capacity or to any substation to be constructed as part of an associated transmission line unless the applicant has elected to apply for certification of such plant or substation under this act *or proposes to site such plant within any area comprising at least 20 square miles with an average population density of at least 3,000 persons per square mile*. No construction of any new electrical power plant or expansion in steam generating capacity of any existing electrical power plant may be undertaken after October 1, 1973, without first obtaining certification in the manner as herein provided, except that this act shall not apply to any such electrical power plant which is presently operating or under construction or which has, upon the effective date of chapter 73-33, Laws of Florida, applied for a permit or certification under requirements in force prior to the effective date of such act.

And the title is amended as follows:

On page 1, line 3, of the title of the bill

after "interruptions;" insert: amending s. 403.503, F.S.; revising a definition; amending s. 403.506, F.S.; providing an additional exception to application for certain power plants;

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

On motion by Rep. Spratt, the rules were waived and CS for SB 408 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 337

Yeas—119

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

Nays—None

So the bill passed and was immediately certified to the Senate.

On motion by Rep. Goodlette, the House moved to the consideration of HB 1947 on Special Orders.

Continuation of Special Orders

Continuation of Special Order Calendar

HB 1947—A bill to be entitled An act relating to the Public Employee Optional Retirement Program; amending s. 121.4501, F.S.; providing additional definitions; providing for payment of benefits pursuant to s. 121.591, F.S.; amending s. 121.571, F.S.; revising employer contribution rates to disability accounts; creating s. 121.591, F.S.; providing for payment of normal benefits, disability retirement benefits, and death benefits under the Public Employee Optional Retirement Program; providing requirements, criteria, procedures, and limitations; providing for disability benefits for certain justices and judges; limiting application of legal process to such benefits; providing a declaration of important state interest; providing an effective date.

—was read the second time by title.

Representative(s) Gibson offered the following:

(Amendment Bar Code: 145875)

Amendment 1 (with title amendment)—On page 1, line 21,

insert:

Section 1. Subsection (2) of section 121.0515, Florida Statutes, is amended to read:

121.0515 Special risk membership.—

(2) CRITERIA.—A member, to be designated as a special risk member, must meet the following criteria:

(a) The member must be employed as a law enforcement officer and be certified, or required to be certified, in compliance with s. 943.1395; however, sheriffs and elected police chiefs shall be excluded from meeting the certification requirements of this paragraph. In addition, the member's duties and responsibilities must include the pursuit, apprehension, and arrest of law violators or suspected law violators; or the member must be an active member of a bomb disposal unit whose

primary responsibility is the location, handling, and disposal of explosive devices; or the member must be the supervisor or command officer of a member or members who have such responsibilities; provided, however, administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall not be included;

(b) The member must be employed as a firefighter and be certified, or required to be certified, in compliance with s. 633.35 and be employed solely within the fire department of the employer or agency of state government. In addition, the member's duties and responsibilities must include on-the-scene fighting of fires*, fire prevention or firefighter training,* or direct supervision of firefighting units, *fire prevention or firefighter training,* or the member must be the supervisor or command officer of a member or members who have such responsibilities; provided, however, administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall not be included;

(c) The member must be employed as a correctional officer and be certified, or required to be certified, in compliance with s. 943.1395. In addition, the member's primary duties and responsibilities must be the custody, and physical restraint when necessary, of prisoners or inmates within a prison, jail, or other criminal detention facility, or while on work detail outside the facility, or while being transported; or the member must be the supervisor or command officer of a member or members who have such responsibilities; provided, however, administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall not be included; however, wardens and assistant wardens, as defined by rule, shall participate in the Special Risk Class;

(d) The member must be employed by a licensed Advance Life Support (ALS) or Basic Life Support (BLS) employer as an emergency medical technician or a paramedic and be certified in compliance with s. 401.27. In addition, the member's primary duties and responsibilities must include on-the-scene emergency medical care *or direct supervision of emergency medical technicians or paramedics, or the member must be the supervisor or command officer of one or more members who have such responsibility*. However, administrative support personnel, including, but not limited to, those whose primary responsibilities are in accounting, purchasing, legal, and personnel, shall not be included;

(e) The member must be employed as a community-based correctional probation officer and be certified, or required to be certified, in compliance with s. 943.1395. In addition, the member's primary duties and responsibilities must be the supervised custody, surveillance, control, investigation, and counseling of assigned inmates, probationers, parolees, or community controllees within the community; or the member must be the supervisor of a member or members who have such responsibilities. Administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal services, and personnel management, shall not be included; however, probation and parole circuit and deputy circuit administrators shall participate in the Special Risk Class; or

(f) The member must be employed in one of the following classes and must spend at least 75 percent of his or her time performing duties which involve contact with patients or inmates in a correctional or forensic facility or institution:

1. Dietitian (class codes 5203 and 5204).

2. Public health nutrition consultant (class code 5224).

3. Psychological specialist (class codes 5230 and 5231).

4. Psychologist (class code 5234).

5. Senior psychologist (class codes 5237 and 5238).

6. Regional mental health consultant (class code 5240).

7. Psychological Services Director—DCF (class code 5242).

8. Pharmacist (class codes 5245 and 5246).

9. Senior pharmacist (class codes 5248 and 5249).

10. Dentist (class code 5266).

11. Senior dentist (class code 5269).

12. Registered nurse (class codes 5290 and 5291).

13. Senior registered nurse (class codes 5292 and 5293).

14. Registered nurse specialist (class codes 5294 and 5295).

15. Clinical associate (class codes 5298 and 5299).

16. Advanced registered nurse practitioner (class codes 5297 and 5300).

17. Advanced registered nurse practitioner specialist (class codes 5304 and 5305).

18. Registered nurse supervisor (class codes 5306 and 5307).

19. Senior registered nurse supervisor (class codes 5308 and 5309).

20. Registered nursing consultant (class codes 5312 and 5313).

21. Quality management program supervisor (class code 5314).

22. Executive nursing director (class codes 5320 and 5321).

23. Speech and hearing therapist (class code 5406); or

24. Pharmacy manager (class code 5251).

And the title is amended as follows:

On page 1, lines 2 & 3 ,
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to the Florida Retirement System; amending s. 121.0515, F.S.; including fire prevention training or firefighting duties among eligibility requirements for special risk classification; revising criteria for membership in the special risk class to include emergency medical technicians and paramedics having supervisory or command authority over other emergency medical technicians and paramedics or having supervisory or command authority over such supervisory or command personnel; amending s. 121.4501, F.S.;

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

Representative(s) Cantens offered the following:

(Amendment Bar Code: 455071)

Amendment 2 (with title amendment)—On page 1, line 21,

insert:

Section 1. Paragraph (b) of subsection (1) of section 121.053, Florida Statutes, is amended to read:

121.053 Participation in the Elected Officers' Class for retired members.—

(1)

(b) Any retired member of the Florida Retirement System, or any existing system as defined in s. 121.021(2), who, on or after July 1, 1990, is serving in, or is elected or appointed to, an elective office covered by the Elected Officers' Class shall be enrolled in the appropriate subclass of the Elected Officers' Class of the Florida Retirement System, and applicable contributions shall be paid into the Florida Retirement System Trust Fund as provided in s. 121.052(7). Pursuant thereto:

1. Any such retired member shall be eligible to continue to receive retirement benefits as well as compensation for the elected officer service for as long as he or she remains in an elective office covered by the Elected Officers' Class.

2. If any such member serves in an elective office covered by the Elected Officers' Class and becomes vested under that class, he or she shall be entitled to receive an additional retirement benefit for such elected officer service.

3. Such member shall be entitled to purchase additional retirement credit in the Elected Officers' Class for any postretirement service performed in an elected position eligible for the Elected Officers' Class prior to July 1, 1990, or in the Regular Class for any postretirement service performed in any other regularly established position prior to July 1, 1991, by paying the applicable Elected Officers' Class or Regular Class employee and employer contributions for the period being claimed, plus 4 percent interest compounded annually from the first year of service claimed until July 1, 1975, and 6.5 percent interest compounded thereafter, until full payment is made to the Florida Retirement System Trust Fund. The contribution for postretirement Regular Class service between July 1, 1985, and July 1, 1991, for which the reemployed retiree contribution was paid, shall be the difference between such contribution and the total applicable contribution for the period being claimed, plus interest. The employer of such member may pay the applicable employer contribution in lieu of the member. If a member does not wish to claim credit for all of the postretirement service for which he or she is eligible, the service the member claims must be the most recent service.

4. Creditable service for which credit was received, or which remained unclaimed, at retirement may not be claimed or applied toward service credit earned following renewed membership. However, service earned in accordance with the renewed membership provisions in s. 121.122 may be used in conjunction with creditable service earned under this paragraph, provided applicable vesting requirements and other existing statutory conditions required by this chapter are met.

5. Any elected officer who is a participating member of DROP may terminate participation at any time during the 60-month DROP participation period and elect to enroll in the appropriate subclass of the Elected Officers' Class, including participating in the Senior Management Service Class, effective the first day of the following month.

And the title is amended as follows:

On page 1, line 3, before the word "amending" ,

insert: amending s. 121.053, F.S.; authorizing elected officers participating in DROP to terminate participation in DROP and enroll in a subclass of the Elected Officers' Class;

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

Representative(s) Fasano offered the following:

(Amendment Bar Code: 833723)

Amendment 3 (with title amendment)—On page 1, line 21, of the bill

insert:

Section 1. Subsection (1), paragraph (a) of subsection (2), paragraph (e) of subsection (4), paragraph (b) of subsection (8), and paragraphs (a) and (b) of subsection (9) of section 121.4501, Florida Statutes, are amended, and paragraph (f) is added to subsection (9) of said section, to read:

121.4501 Public Employee Optional Retirement Program.—

(1) The Trustees of the State Board of Administration shall establish an optional defined contribution retirement program for members of the Florida Retirement System under which retirement benefits will be provided for eligible employees who elect to participate in the program. The benefits to be provided for or on behalf of participants in such optional retirement program shall be provided through employee-directed investments, in accordance with s. 401(a) of the Internal Revenue Code and its related regulations. The employers shall contribute, as provided in this section and s. 121.571, *to the Public Employee Optional Retirement Program Trust Fund* toward the funding of such optional benefits.

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

(a) "Approved provider" or "provider" means a private sector company that is selected and approved by the state board to offer one or more investment products or services to the Public Employee Optional Retirement Program*, including a "bundled provider" that offers participants a range of individually allocated or unallocated investment products and may offer a range of administrative and customer services, which may include accounting and administration of individual participant benefits and contributions; individual participant recordkeeping; asset purchase, control, and safekeeping; direct execution of the participant's instructions as to asset and contribution allocation; calculation of daily net asset values; direct access to participant account information; periodic reporting to participants, at least quarterly, on account balances and transactions; direct advice and guidance on its investments options; a broad array of distribution options; and asset allocation and retirement counseling and education*. Private sector companies include investment management companies, insurance companies, depositories, and mutual fund companies.

(4) PARTICIPATION; ENROLLMENT.—

(e) After the period during which an eligible employee had the choice to elect the defined benefit program or the Public Employee Optional Retirement Program, the employee shall have one opportunity, *that is, a second election,* ~~at the employee's discretion,~~ to choose to move from the defined benefit program to the Public Employee Optional Retirement Program or from the Public Employee Optional Retirement Program to the defined benefit program. This paragraph shall be contingent upon approval from the Internal Revenue Service for including the choice described herein within the programs offered by the Florida Retirement System.

1. If the employee chooses to move to the Public Employee Optional Retirement Program, the applicable provisions of this section shall govern the transfer.

2. If the employee chooses to move *from the Public Employee Optional Retirement Program* to the defined benefit program, the employee must transfer from his or her *optional program* ~~Public Employee Optional Retirement Program~~ account and from other employee moneys as necessary, a sum representing all contributions that would have been made to the defined benefit plan for that employee and the actual return that would have been earned on those contributions had they been invested in the defined benefit program.

If, at the time of a member's election to transfer to the defined benefit program, the member's optional program account does not contain the total amount required to be transferred to the defined benefit program, the member must pay the remaining balance. If the member's optional program account contains more than the amount required to be transferred to the defined benefit program, such additional amount shall remain in the member's optional program account.

(8) ADMINISTRATION OF PROGRAM.—

(b)1. The state board shall select and contract with one third-party administrator to provide administrative services*, where those services do not duplicate services provided by the Division of Retirement within the Department of Management Services*. With the approval of the state board, the third-party administrator may subcontract with other organizations or individuals to provide components of the administrative services. As a cost of administration, the board may compensate any such contractor for its services, in accordance with the terms of the contract, as is deemed necessary or proper by the board. The third-party administrator may not be an approved provider or be affiliated with an approved provider.

2. *These* administrative services *may* include, but are not limited to, *enrollment of eligible employees, collection of employer contributions, disbursement of such contributions to approved providers in accordance with the allocation directions of participants;* services relating to consolidated billing; individual and collective recordkeeping and accounting; asset purchase, control, and safekeeping; and direct disbursement of funds to and from the third-party administrator, the division, the board, employers, participants, approved providers, and

beneficiaries. *Nothing in this section shall prevent or prohibit a bundled provider from providing any administrative or customer service, including accounting and administration of individual participant benefits and contributions; individual participant recordkeeping; asset purchase, control, and safekeeping; direct execution of the participant's instructions as to asset and contribution allocation; calculation of daily net asset values; direct access to participant account information; periodic reporting to participants, at least quarterly, on account balances and transactions.*

3. The state board shall select and contract with one or more organizations to provide educational services. With approval of the board, the organizations may subcontract with other organizations or individuals to provide components of the educational services. As a cost of administration, the board may compensate any such contractor for its services in accordance with the terms of the contract, as is deemed necessary or proper by the board. The education organization may not be an approved provider or be affiliated with an approved provider.

4. Educational services shall be designed by the board and department to assist employers, eligible employees, participants, and beneficiaries in order to maintain compliance with United States Department of Labor regulations under s. 404(c) of the Employee Retirement Income Security Act of 1974 and to assist employees in their choice of defined benefit or defined contribution retirement alternatives. Educational services include, but are not limited to, disseminating educational materials; providing retirement planning education; explaining the differences between the defined benefit retirement plan and the defined contribution retirement plan; and offering financial planning guidance on matters such as investment diversification, investment risks, investment costs, and asset allocation. An approved provider may also provide educational information, including retirement planning and investment allocation information concerning its products and services.

(9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

(a) The board shall develop policy and procedures for selecting, evaluating, and monitoring the performance of approved providers and investment products to which employees may direct retirement contributions under the program. In accordance with such policy and procedures, the board shall designate and contract for a number of investment products as determined by the board. The board shall *also* select one or more *bundled* providers*, each of whom* ~~who~~ offer *nine* ~~multiple~~ investment *options and related services* ~~products~~ when such an approach is determined by the board to afford value to the participants otherwise not available through individual investment products. *Each approved bundled provider may offer investment options that provide participants with the opportunity to invest in each of the following asset classes, to be composed of individual options that represent either a single asset class or a combination thereof: money markets, U.S. fixed income, U.S. equities, and foreign stock.* The board shall review and manage all educational materials, contract terms, fee schedules, and other aspects of the approved provider relationships to ensure that no provider is unduly favored or penalized by virtue of its status within the plan.

(b) The board shall consider investment options or products it considers appropriate to give participants the opportunity to accumulate retirement benefits, subject to the following:

1. The Public Employee Optional Retirement Program must offer a diversified mix of low-cost investment products that span the risk-return spectrum*, and may include a guaranteed account as well as investment products such as individually allocated guaranteed and variable annuities, that meet the requirements of this subsection and that combine the ability to accumulate investment returns with the option of receiving lifetime income consistent with the long-term retirement security of a pension plan and similar to the lifetime income benefit provided by the Florida Retirement System*.

2. Investment options or products offered by the group of approved providers may include mutual funds, group annuity contracts, individual retirement annuities, interests in trusts, collective trusts, separate accounts, and other such financial instruments*, and shall include products that give participants the option of committing their contributions for an extended time period in an effort to obtain higher returns than could be obtained from investment products offering full liquidity*.

3. The board shall not contract with any provider that imposes a front-end, back-end, contingent, or deferred sales charge, or any other fee that limits or restricts the ability of participants to select any investment product available in the optional program. *This prohibition shall not apply to fees or charges that are imposed on withdrawals from products that give participants the option of committing their contributions for an extended time period in an effort to obtain higher returns than could be obtained from investment products offering full liquidity, provided that the product in question, net of all fees and charges, produces material benefits relative to other comparable products in the program offering full liquidity.*

4. Fees or charges for insurance features, such as mortality and expense risk charges, shall be reasonable relative to the benefits provided.

(f)1. An approved provider shall comply with all applicable federal and state securities and insurance laws and regulations, as well as the applicable rules and guidelines of the National Association of Securities Dealers (NASD) governing the ethical marketing of investment products. In furtherance of this mandate, an approved provider must agree in its contract with the board to establish and maintain a compliance education and monitoring system to supervise the activities of all personnel who directly communicate with individual participants and recommend investment products, which system is consistent with National Association of Security Dealers rules.

2. Approved provider personnel who directly communicate with individual participants and who recommend investment products shall make an independent and unbiased determination as to whether an investment product is suitable for a particular participant.

3. The board shall develop procedures to receive and resolve participant complaints against a provider or approved provider personnel, and, when appropriate, refer such complaints to the appropriate regulatory agency.

4. Approved providers are prohibited from selling or in any way distributing any customer list or participant identification information generated through their offering of products or services through the optional retirement program.

Section 2. *The appointment of the executive director of the State Board of Administration shall be subject to the approval by a majority vote of the Board of Trustees of the State Board of Administration and the Governor must vote on the prevailing side. Such appointment must be reaffirmed in the same manner by the Board of Trustees on an annual basis.*

And the title is amended as follows:

On page 1, line 3, after "Program;"

insert: amending s. 121.4501, F.S.; redefining the term "approved provider"; providing requirements for the State Board of Administration in carrying out its duties under the program; providing requirements for approved providers regarding federal and state laws and regulations, and for communications with participants; providing requirements for the appointment of the executive director of the State Board of Administration;

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

Representative(s) Lacasa offered the following:

(Amendment Bar Code: 741737)

Amendment 4—On page 12, lines 3 through 19
remove from the bill: all of said lines

and insert in lieu thereof: *(f) A participant whose application for regular disability has been denied and who has filed an appeal to the*

State Retirment Commission under s. 121.23 may elect, if eligible, to recieve disability benefits as provided under paragraphs (g) and (h) while her or she is awaiting the decision on appeal, to the extent such benefit payments are covered by funds deposited in the Public Employee Disability Trust Fund pursuant to subparagraph 1. or 2. of paragraph (2)(a). In that event:

1. If the regular disability benefits are subsequently approved, disability benefits will continue to be paid to the terminated participant as provided under this subsection.

2. If disability benefits are later denied as a result of the appeal:

a. The remainder of any vested accumulations on deposit in the Public Employee Disability Trust Fund, less the sum of the total amount paid in monthly disability benefits while the appeal was pending and any withholding taxes remitted to the Internal Revenue Service, shall be transferred to the third party administrator for distribution to the terminated participant as provided under subsection (1).

b. The remainder of any nonvested accumulations on deposit in the Public Employee Disability Trust Fund, less the sum of the total amount paid in monthly disability benefits while the appeal was pending and any withholding taxes remitted to the Internal Revenue Service, shall be transferred to the State Board Of Administration and shall be held in the suspense account of the Public Employee Optional Retirement Program Trust Fund, in accordance with s. 121.4501(6)(a)2. or (b)2., as appropriate.

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

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

Waiver of the Rules for Committee and Council Meetings and Bills

On motion by Rep. Goodlette, Chair of the Committee on Rules, Ethics & Elections, the rules were waived and the Procedural & Redistricting Council was given permission to add PCB PRC 01-04, relating to elections, to the agenda for its meeting today, to be held 15 minutes after adjournment of the morning session.

Recessed

On motion by Rep. Byrd, the House recessed at 12:36 p.m., to reconvene at 1:45 p.m. today or upon call of the Chair.

Reconvened

The House was called to order by the Speaker at 1:51 p.m. A quorum was present [Session Vote Sequence: 338].

On motion by Rep. Byrd, the House moved to the consideration of HJR 571 on Special Orders.

Continuation of Special Orders

HJR 571—A joint resolution proposing a revision of Article XI, Section 5 of the State Constitution requiring the Legislature to provide by general law for the provision of an economic impact statement of each proposed amendment or revision to the State Constitution prior to its adoption by the voters of the state.

—was read the second time by title.

Representative(s) Johnson offered the following:

(Amendment Bar Code: 314251)

Amendment 1 (with title amendment)—On page 2, lines 1-24, remove from the bill: all of said lines

and insert in lieu thereof:
probable financial impact of any amendment proposed by initiative pursuant to Section 3.

(c)~~(b)~~ Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, shall be published in one newspaper of general circulation in each county in which a newspaper is published.

(d)~~(c)~~ If the proposed amendment or revision is approved by vote of the electors, it shall be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.

BE IT FURTHER RESOLVED that in accordance with the requirements of section 101.161, Florida Statutes, the title and substance of the amendment proposed herein shall appear on the ballot as follows:

ECONOMIC IMPACT STATEMENTS FOR
PROPOSED CONSTITUTIONAL AMENDMENTS OR REVISIONS

Requires the Legislature to provide by general law for the provision of an economic impact statement to the public prior to the public voting on an amendment of the Florida Constitution proposed by initiative.

And the title is amended as follows:

On page 1, lines 6 and 7,
remove from the title of the bill: all of said lines

and insert in lieu thereof: statement of each amendment proposed by initiative to the State Constitution prior to its

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

On motion by Rep. Johnson, the rules were waived and HJR 571, as amended, was read the third time by title and now reads as follows:

HJR 571—A joint resolution proposing a revision of Article XI, Section 5 of the State Constitution requiring the Legislature to provide by general law for the provision of an economic impact statement of each amendment proposed by initiative to the State Constitution prior to its adoption by the voters of the state.

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

That the amendment to Section 5 of Article XI of the State Constitution set forth below is agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November 2002:

SECTION 5. Amendment or revision election.—

(a) A proposed amendment to or revision of this constitution, or any part of it, shall be submitted to the electors at the next general election held more than ninety days after the joint resolution, initiative petition or report of revision commission, constitutional convention or taxation and budget reform commission proposing it is filed with the custodian of state records, unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.

(b) The legislature shall provide by general law, prior to the holding of an election pursuant to this section, for the provision of a statement to the public regarding the probable financial impact of any amendment proposed by initiative pursuant to Section 3.

(c)~~(b)~~ Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, shall be published in one newspaper of general circulation in each county in which a newspaper is published.

(d)~~(c)~~ If the proposed amendment or revision is approved by vote of the electors, it shall be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.

BE IT FURTHER RESOLVED that in accordance with the requirements of section 101.161, Florida Statutes, the title and substance of the amendment proposed herein shall appear on the ballot as follows:

ECONOMIC IMPACT STATEMENTS FOR PROPOSED CONSTITUTIONAL AMENDMENTS OR REVISIONS

Requires the Legislature to provide by general law for the provision of an economic impact statement to the public prior to the public voting on an amendment of the Florida Constitution proposed by initiative.

The question recurred on the passage of HJR 571. The vote was:

Session Vote Sequence: 339

Yeas—105

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

Nays—9

Cusack	Kendrick	Romeo	Siplin
Dockery	Ritter	Ross	Weissman
Fields			

Votes after roll call:
Yeas—Flanagan
Nays—Sobel

So the joint resolution passed, as amended, by the required constitutional three-fifths vote of the membership and was immediately certified to the Senate after engrossment.

CS/HB 135—A bill to be entitled An act relating to Workforce Florida, Inc.; amending s. 445.004, F.S.; expanding the utilization of faith-based and community-based organizations; requiring certain funds to be expended for after-school care programs; providing an effective date.

—was read the second time by title.

The Committee on Transportation & Economic Development Appropriations offered the following:

(Amendment Bar Code: 093971)

Amendment 1—On page 3, lines 10-15,
remove from the bill: all of said lines

and insert in lieu thereof: *expended for after-school care programs, through contracts with qualified faith-based and community-based organizations, on an equal basis with other private organizations, to provide after-school care programs to eligible children 14 through 18 years of age. Such programs shall include academic tutoring, mentoring, and other appropriate services. Similar services may be provided for eligible children 6 through 13 years of age using Temporary Assistance for Needy Families funds.*

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

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

HB 1883—A bill to be entitled An act relating to trust funds; creating s. 20.505, F.S.; creating the Administrative Trust Fund within the Agency for Workforce Innovation; providing for sources of funds and purposes; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; providing an effective date.

—was read the second time by title.

Representative(s) Johnson offered the following:

(Amendment Bar Code: 662387)

Amendment 1 (with title amendment)—On page 1, lines 19-21,
remove from the bill: all of said lines

and insert in lieu thereof:

(2) Funds shall be used for the purpose of

And the title is amended as follows:

On page 1, line 5,
remove from the title of the bill: sources of funds and

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

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

CS/HB 1255—A bill to be entitled An act relating to the Florida Building Code; amending s. 373.323, F.S.; authorizing water well contractors to install, repair, or modify specified equipment in accordance with the code; amending s. 489.509, F.S.; transferring specified licensing fees from the Department of Education to the Department of Community Affairs; amending ss. 553.36 and 553.415, F.S.; defining the term "factory-built school shelter"; providing for the Department of Community Affairs to approve plans for such shelters; authorizing districts to charge inspection fees; authorizing approved inspection entities to conduct inspections of factory-built school buildings while they are under construction; delaying the deadline for inspecting factory-built buildings currently in use; amending ss. 553.505 and 553.507, F.S.; conforming cross references; amending s. 553.73, F.S.; providing for the uniform implementation of parts of the residential swimming pool safety act; defining the term "specific needs" for purposes of selection from available codes; providing a process for the approval of technical amendments to the code; providing for the treatment of permit applications submitted prior to the effective date of the code; exempting specified buildings from certain standards of the code; amending s. 553.77, F.S.; requiring the commission to issue specified declaratory statements; providing for hearings; providing for rules for plan review of prototype buildings; authorizing the commission to produce a commentary to accompany the Florida Building Code; amending s. 553.79, F.S.; requiring the code to establish standards for preliminary construction; creating s. 553.8412, F.S.; providing for statewide outreach for training in the code; amending s. 553.842, F.S.; providing methods for local and statewide approval of products and methods or systems of construction; providing rulemaking authority; amending s. 553.895, F.S.; exempting specified spaces within telecommunications buildings under specified circumstances; allowing the use of a manual wet standpipe under certain circumstances; directing the commission to research certain issues and provide reports to the Legislature; providing an effective date for the Florida Building Code; amending chs. 98-287, Laws of Florida, as amended by ch. 2000-141, Laws of Florida, 98-419, Laws of Florida, as amended by ch. 2000-141, Laws of Florida, and 2000-141, Laws of Florida; revising effective

dates of certain provisions; requiring the Florida Building Commission to appoint members to the commission's Education Technical Advisory Committee; specifying duties of the advisory committee; providing for the carryforward of funds collected for research projects; requiring the Florida Building Commission to convene an ad hoc subcommittee to make recommendations regarding alternative plans review and inspection procedures; requiring a report; amending ss. 316.515 and 627.702, F.S.; revising cross references; repealing s. 553.77(2), F.S., relating to commission prescription of certain renewal fees; providing effective dates.

—was read the second time by title.

Representative(s) Diaz-Balart offered the following:

(Amendment Bar Code: 254301)

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

and insert in lieu thereof:

Section 1. Effective upon this act becoming a law, section 235.061, Florida Statutes, is amended to read:

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

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

(2) Annual inspections for all satisfactory relocatables designed for classroom use or being occupied by students are required for: foundations; tie-downs; structural integrity; weatherproofing; HVAC; electrical; plumbing, if applicable; firesafety; and accessibility. Reports shall be filed with the district school board and posted in each respective relocatable in order to facilitate corrective action.

Section 2. Effective upon this act becoming a law, subsection (1) of section 235.212, Florida Statutes, is amended to read:

235.212 Low-energy use design; solar energy systems; swimming pool heaters.—

(1)(a) Passive design elements and low-energy usage features shall be included in the design and construction of new educational facilities. Operable glazing consisting of at least 5 percent of the floor area shall be placed in each classroom located on the perimeter of the building. *For relocatable classroom facilities, the area of operable glazing and the area of exterior doors together shall consist of at least 5 percent of the floor area.* Operable glazing is not required in community colleges, auxiliary facilities, music rooms, gyms, locker and shower rooms, special laboratories requiring special climate control, and large group instruction areas having a capacity of more than 100 persons.

(b) In the remodeling and renovation of educational facilities which have existing natural ventilation, adequate sources of natural ventilation shall be retained, or a combination of natural and low-energy usage mechanical equipment shall be provided that will permit the use of the facility without air-conditioning or heat when ambient conditions are moderate. However, the Commissioner of Education is authorized to waive this requirement when environmental conditions, particularly noise and pollution factors, preclude the effective use of natural ventilation.

Section 3. Effective July 1, 2001, subsection (1) of section 255.31, Florida Statutes, as amended by section 15 of chapter 2001-141, Laws of Florida, is amended to read:

255.31 Authority to the Department of Management Services to manage construction projects for state and local governments.—

(1) The design, construction, erection, alteration, modification, repair, and demolition of all public and private buildings are governed by the Florida Building Code and the Florida Fire Prevention Code, which are to be enforced by local jurisdictions or local enforcement districts unless specifically exempted as provided in s. 553.80. However, the Department of Management Services shall provide the project management and administration services for the construction, renovation, repair, modification, or demolition of buildings, utilities, parks, parking lots, or other facilities or improvements for projects for which the funds are appropriated to the department; provided that, with the exception of facilities constructed under the authority of chapters 944, 945, ~~and~~ 985, *the Governor's mansion and grounds thereof as described in s. 272.18, and the Capitol Building and environs, being that part of the city of Tallahassee bounded on the north by Pensacola and Jefferson Streets, on the east by Monroe Street, on the south by Madison Street and on the west by Duval Street,* the department may not conduct plans reviews or inspection services for consistency with the Florida Building Code. The department's fees for such services shall be paid from such appropriations.

Section 4. Effective upon this act becoming a law, subsections (1) and (2) of section 399.061, Florida Statutes, are amended to read:

399.061 Inspections; correction of deficiencies.—

(1)(a) All elevators *or other conveyances* subject to this chapter must be *annually* inspected by *a certified elevator inspector through a third-party inspection service, or by a municipality or county under contract with the division* pursuant to s. 399.13. *If the elevator or other conveyance is* ~~by a third-party inspection service certified as a qualified elevator inspector or~~ maintained pursuant to a service maintenance contract continuously in force*, it shall be inspected at least once every two years by a certified elevator inspector not employed by or otherwise associated with the maintenance company; however, if the elevator is not an escalator or a dumbwaiter and the elevator serves only two adjacent floors and is covered by a service maintenance contract, no inspection shall be required so long as the service contract remains in effect*. A statement verifying the existence, performance, and cancellation of each service maintenance contract must be filed annually with the division as prescribed by rule. ~~All elevators covered by a service maintenance contract shall be inspected by a certificate-of-competency holder at least once every 2 years; however, if the elevator is not an escalator or a dumbwaiter and the elevator serves only two adjacent floors and is covered by a service maintenance contract, no inspection shall be required so long as the service contract remains in effect.~~

(b) The division may inspect an elevator whenever necessary to ensure its safe operation *or when a third-party inspection service is not available for routine inspection*.

(2) The division *may* ~~shall~~ employ state elevator inspectors to conduct the inspections *as* required by subsection (1) *and may charge an inspection fee for each inspection sufficient to cover the costs of that inspection, as provided by rule*. Each state elevator inspector shall hold a certificate of competency issued by the division.

Section 5. Subsection (10) is added to section 373.323, Florida Statutes, to read:

373.323 Licensure of water well contractors; application, qualifications, and examinations; equipment identification.—

(10) Water well contractors licensed under this section may install, repair, and modify pumps and tanks in accordance with the Florida Building Code, Plumbing; Section 612—Wells pumps and tanks used for private potable water systems. In addition, licensed water well contractors may install pumps, tanks, and water conditioning equipment for all water well systems.

Section 6. Effective upon this act becoming a law, section 489.13, Florida Statutes, is amended to read:

489.13 Unlicensed contracting; authority to issue or receive a building permit.—

(1) Any person performing an activity requiring licensure under this part as a construction contractor is guilty of unlicensed contracting if he or she does not hold a valid active certificate or registration authorizing him or her to perform such activity, regardless of whether he or she holds a local construction contractor license or local certificate of competency*, except where he or she holds a valid local specialty license as defined in s. 489.105(3)q)*. Persons working outside the geographical scope of their registration are guilty of unlicensed activity for purposes of this part.

(2) A local building department shall not issue a building permit to any contractor, or to any person representing himself or herself as a contractor, who does not hold a valid active certificate or registration in the appropriate category. Possession of a local certificate of competency or local construction license is not sufficient to lawfully obtain a building permit as a construction contractor if the activity in question requires licensure under this part. Nothing in this section shall be construed as prohibiting a local building department from issuing a building permit to a locally licensed or certified contractor for an activity that does not require licensure under this part.

Section 7. Effective upon this act becoming a law, subsection (3) of section 489.509, Florida Statutes, is amended to read:

489.509 Fees.—

(3) Four dollars of each fee under subsection (1) paid to the department at the time of application or renewal shall be transferred at the end of each licensing period to the Department of *Community Affairs* ~~Education~~ to fund projects relating to the building construction industry or continuing education programs offered to persons engaged in the building construction industry in Florida. The board shall, at the time the funds are transferred, advise the Department of *Community Affairs* ~~Education~~ on the most needed areas of research or continuing education based on significant changes in the industry's practices or on the most common types of consumer complaints or on problems costing the state or local governmental entities substantial waste. The board's advice is not binding on the Department of *Community Affairs* ~~Education~~. ~~The Department of Education must allocate 50 percent of the funds to a graduate program in building construction in a Florida university and 50 percent of the funds to all accredited private and state universities and community colleges within the state offering approved courses in building construction, with each university or college receiving a pro rata share of such funds based upon the number of full-time building construction students enrolled at the institution.~~ The Department of *Community Affairs* ~~Education~~ shall ensure the distribution of research reports and the availability of continuing education programs to all segments of the building construction industry to which they relate. The Department of *Community Affairs* ~~Education~~ shall report to the board in October of each year, summarizing the allocation of the funds by institution and summarizing the new projects funded and the status of previously funded projects. ~~The Commissioner of Education is directed to appoint one electrical contractor and one certified alarm system contractor to the Building Construction Industry Advisory Committee.~~

Section 8. Effective upon this act becoming a law, present subsections (7) through (15) of section 553.36, Florida Statutes, are redesignated as subsections (8) through (16), respectively, and a new subsection (7) is added to that section, to read:

553.36 Definitions.—The definitions contained in this section govern the construction of this part unless the context otherwise requires.

(7) "Factory-built school shelter" means any site-assembled or factory-built school building that is designed to be portable, relocatable, demountable, or reconstructible and that complies with the provisions for enhanced hurricane protection areas, as required by the applicable code.

Section 9. Effective upon this act becoming a law, subsections (1), (5), (7), (8), (9), (11) and (13) of section 553.415, Florida Statutes, are amended to read:

553.415 Factory-built school buildings.—

(1) It is the purpose of this section to provide an alternative procedure for the construction and installation of factory-built school buildings designed or intended for use as school buildings. As used in this section, the term "factory-built school building" means any building designed or intended for use as a school building, which is in whole or in part, manufactured at an offsite facility in compliance with the State Uniform Code for Public Educational Facilities and Department of Education rule, effective on January 5, 2000. After *January 1, 2002* ~~July 1, 2001~~, the Uniform Code for Public Educational Facilities shall be incorporated into the Florida Building Code, including specific requirements for Public Educational Facilities and the Department of Education rule, effective on January 5, 2000. For the purpose of this section, factory-built school buildings include prefabricated educational facilities, factory-built educational facilities, and modular-built educational facilities, that are designed to be portable, relocatable, demountable, or reconstructible; are used primarily as classrooms or the components of an entire school; and do not fall under the provisions of ss. 320.822-320.862.

(5) The department, in accordance with the standards and procedures adopted pursuant to this section and as such standards and procedures may thereafter be modified, shall approve or reject such plans, specifications, and methods of construction. Approval shall not be given unless such plans, specifications, and methods of construction are in compliance with the State Uniform Building Code for Public Educational Facilities and department rule. After *January 1, 2002* ~~July 1, 2001~~, the Uniform Code for Public Educational facilities shall be incorporated into the Florida Building Code, including specific requirements for public educational facilities and department rule.

(7) A standard plan approval may be obtained from the department for factory-built school buildings and such department-approved plans shall be accepted by the enforcement agency as approved for the purpose of obtaining a construction permit for the structure itself. *The department, or its designated representative, shall determine if the plans qualify for purposes of a factory-built school shelter, as defined in s. 553.36.*

(8) Any amendment to the State Uniform Code for Public Educational Facilities, and after *January 1, 2002* ~~July 1, 2001~~, the Florida Building Code, shall become effective 180 days after the amendment is filed with the Secretary of State. Notwithstanding the 180-day delayed effective date, the manufacturer shall submit and obtain a revised approved plan within the 180 days. A revised plan submitted pursuant to this subsection shall be processed as a renewal or revision with appropriate fees. A plan submitted after the period of time provided shall be processed as a new application with appropriate fees.

(9) The school district or community college district for which any factory-built school building is constructed or altered *after July 1, 2001,* shall provide for periodic inspection of the proposed factory-built school building during each phase of construction or alteration. The inspector shall act under the direction of the governing board for employment purposes. *Nothing in this subsection shall prevent a school district or community college district from purchasing or otherwise using a factory-built school building that has been inspected during all phases of construction or alteration conducted after January 1, 2002, by another school district or community college or by an approved inspection agency certified pursuant to s. 553.36(2). If a factory-built school building is constructed or altered for an entity other than a school district or*

community college district after January 1, 2002, such entity may employ at its election a school district, community college district, or such approved inspection agency to conduct such inspections. A school district or community college district so employed may charge such entity for services at reasonable rates comparable to those charged for similar services by approved inspection agencies.

(11) The department shall develop a unique identification label to be affixed to all newly constructed factory-built school buildings and existing factory-built school buildings which have been brought into compliance with the standards for existing "satisfactory" buildings pursuant to chapter 5 of the Uniform Code for Public Educational Facilities, and after *January 1, 2002* ~~July 1, 2001~~, the Florida Building Code. The department may charge a fee for issuing such labels. Such labels, bearing the department's name and state seal, shall at a minimum, contain:

(a) The name of the manufacturer.

(b) The standard plan approval number or alteration number.

(c) The date of manufacture or alteration.

(d) The serial or other identification number.

(e) The following designed-for loads: lbs. per square foot live load; lbs. per square foot floor live load; lbs. per square foot horizontal wind load; and lbs. per square foot wind uplift load.

(f) The designed-for flood zone usage.

(g) The designed-for wind zone usage.

(h) The designed-for enhanced hurricane protection zone usage: yes or no.

(13) As of July 1, 2001, all ~~existing and~~ newly constructed factory-built school buildings shall bear a label pursuant to subsection (12). *As of January 1, 2002,* existing factory-built school buildings*, and manufactured buildings used as classrooms,* not bearing such label shall not be used as classrooms pursuant to s. 235.061.

Section 10. Effective July 1, 2001, section 553.505, Florida Statutes, is amended to read:

553.505 Exceptions to applicability of the Americans with Disabilities Act.—Notwithstanding the Americans with Disabilities Act of 1990, private clubs are governed by ss. 553.501-553.513. Parking spaces, parking lots, and other parking facilities are governed by *s. 553.5041* ~~s. 316.1955,~~ when that section provides increased accessibility.

Section 11. Effective July 1, 2001, section 553.507, Florida Statutes, is amended to read:

553.507 Exemptions.—Sections 553.501-553.513 ~~and s. 316.1955(4)~~ do not apply to any of the following:

(1) Buildings, structures, or facilities that were either under construction or under contract for construction on October 1, 1997.

(2) Buildings, structures, or facilities that were in existence on October 1, 1997, unless:

(a) The building, structure, or facility is being converted from residential to nonresidential or mixed use, as defined by local law;

(b) The proposed alteration or renovation of the building, structure, or facility will affect usability or accessibility to a degree that invokes the requirements of s. 303(a) of the Americans with Disabilities Act of 1990; or

(c) The original construction or any former alteration or renovation of the building, structure, or facility was carried out in violation of applicable permitting law.

Section 12. Subsections (2) and (3), paragraph (b) of subsection (4) and subsections (5), (6), and (7) of section 553.73, Florida Statutes, as amended by section 40 of chapter 98-287, Laws of Florida, as amended by section 61 of chapter 98-419, Laws of Florida, as amended by sections 73, 74, and 75 of chapter 2000-141, Laws of Florida, and section 62 of chapter 2000-154, Laws of Florida, are amended, and present subsections (8), (9), and (10) of that section are redesignated as subsections (9), (10), and (11), respectively, to read:

553.73 State Minimum Building Codes.—

(2) The Florida Building Code shall contain provisions or requirements for public and private buildings, structures, and facilities relative to structural, mechanical, electrical, plumbing, energy, and gas systems, existing buildings, historical buildings, manufactured buildings, elevators, coastal construction, lodging facilities, food sales and food service facilities, health care facilities, including assisted living facilities, adult day care facilities, and facilities for the control of radiation hazards, public or private educational facilities, swimming pools, and correctional facilities and enforcement of and compliance with such provisions or requirements. *Further, the Florida Building Code must provide for uniform implementation of ss. 515.25, 515.27, and 515.29 by including standards and criteria for residential swimming pool barriers, pool covers, latching devices, door and window exit alarms, and other equipment required therein, which are consistent with the intent of s. 515.23.* Technical provisions to be contained within the Florida Building Code are restricted to requirements related to the types of materials used and construction methods and standards employed in order to meet criteria specified in the Florida Building Code. Provisions relating to the personnel, supervision or training of personnel, or any other professional qualification requirements relating to contractors or their workforce may not be included within the Florida Building Code, and subsections (4), (5), and (6) are not to be construed to allow the inclusion of such provisions within the Florida Building Code by amendment. This restriction applies to both initial development and amendment of the Florida Building Code.

(3) The commission shall select from available national or international model building codes, or other available building codes and standards currently recognized by the laws of this state, to form the foundation for the Florida Building Code. The commission may modify the selected model codes and standards as needed to accommodate the specific needs of this state. Standards or criteria referenced by the selected model codes shall be similarly incorporated by reference. If a referenced standard or criterion requires amplification or modification to be appropriate for use in this state, only the amplification or modification shall be specifically set forth in the Florida Building Code. *The Florida Building Commission may approve technical amendments to the code after the amendments have been subject to the following conditions:*

(a) The proposed amendment has been published on the commission's website for a minimum of 45 days and all the associated documentation has been made available to any interested party before any consideration by any Technical Advisory Committee;

(b) In order for a Technical Advisory Committee to make a favorable recommendation to the commission, the proposal must receive a three-fourths vote of the members present at the Technical Advisory Committee meeting and at least half of the regular members must be present in order to conduct a meeting;

(c) After Technical Advisory Committee consideration and a recommendation for approval of any proposed amendment, the proposal must be published on the commission's website for not less than 45 days before any consideration by the commission; and

(d) Any proposal may be modified by the commission based on public testimony and evidence from a public hearing held in accordance with chapter 120.

The commission shall incorporate within sections of the Florida Building Code provisions which address regional and local concerns and variations. The commission shall make every effort to minimize conflicts between the Florida Building Code, the Florida Fire Prevention Code, and the Life Safety Code.

(4)

(b) Local governments may, subject to the limitations of this section, adopt amendments to the technical provisions of the Florida Building

Code which apply solely within the jurisdiction of such government and which provide for more stringent requirements than those specified in the Florida Building Code, not more than once every 6 months, provided:

1. The local governing body determines, following a public hearing which has been advertised in a newspaper of general circulation at least 10 days before the hearing, that there is a need to strengthen the requirements of the Florida Building Code. The determination must be based upon a review of local conditions by the local governing body, which review demonstrates that local conditions justify more stringent requirements than those specified in the Florida Building Code for the protection of life and property.

2. Such additional requirements are not discriminatory against materials, products, or construction techniques of demonstrated capabilities.

3. Such additional requirements may not introduce a new subject not addressed in the Florida Building Code.

4. The enforcing agency shall make readily available, in a usable format, all amendments adopted pursuant to this section.

5. Any amendment to the Florida Building Code shall be transmitted within 30 days by the adopting local government to the commission. The commission shall maintain copies of all such amendments in a format that is usable and obtainable by the public.

6. Any amendment to the Florida Building Code adopted by a local government pursuant to this paragraph shall be effective only until the adoption by the commission of the new edition of the Florida Building Code every third year. At such time, the commission shall review such amendment for consistency with the criteria in paragraph (6)(a) and adopt such amendment as part of the Florida Building Code or rescind the amendment. The commission shall immediately notify the respective local government of the rescission of any amendment. After receiving such notice, the respective local government may readopt the rescinded amendment pursuant to the provisions of this paragraph.

7. Each county and municipality desiring to make local technical amendments to the Florida Building Code shall by interlocal agreement establish a countywide compliance review board to review any amendment to the Florida Building Code, adopted by a local government within the county pursuant to this paragraph, that is challenged by any substantially affected party for purposes of determining the amendment's compliance with this paragraph. If the compliance review board determines such amendment is not in compliance with this paragraph, the compliance review board shall notify such local government of the noncompliance and that the amendment is invalid and unenforceable until the local government corrects the amendment to bring it into compliance. The local government may appeal the decision of the compliance review board to the commission*, which shall conduct a hearing under chapter 120 and the uniform rules of procedure*. If the compliance review board determines such amendment to be in compliance with this paragraph, any substantially affected party may appeal such determination to the commission*, which shall conduct a hearing under chapter 120 and the uniform rules of procedure*. Actions of the commission are subject to judicial review pursuant to s. 120.68. The compliance review board shall determine whether its decisions apply to a respective local jurisdiction or apply countywide.

8. An amendment adopted under this paragraph shall include a fiscal impact statement which documents the costs and benefits of the proposed amendment. Criteria for the fiscal impact statement shall include the impact to local government relative to enforcement, the impact to property and building owners, as well as to industry, relative to the cost of compliance. The fiscal impact statement may not be used as a basis for challenging the amendment for compliance.

9. In addition to subparagraphs 7. and 8., the commission may review any amendments adopted pursuant to this subsection and make nonbinding recommendations related to compliance of such amendments with this subsection.

(5) ~~The commission, by rule adopted pursuant to ss. 120.536(1) and 120.54, shall update the Florida Building Code every 3 years.~~ The initial adoption of, and any subsequent update or amendment to, the Florida Building Code by the commission is deemed adopted for use statewide without adoptions by local government. *For a building permit for which an application is submitted prior to the effective date of the Florida Building Code, the state minimum building code in effect in the permitting jurisdiction on the date of the application governs the permitted work for the life of the permit and any extension granted to the permit.*

(6) The commission, by rule adopted pursuant to ss. 120.536(1) and 120.54, shall update the Florida Building Code every 3 years. When updating the Florida Building Code, the commission shall consider changes made by the adopting entity of any selected model code for any model code incorporated into the Florida Building Code, and may subsequently adopt the new edition or successor of the model code or any part of such code, *no sooner than 6 months after such model code has been adopted by the adopting organization,* which may then be modified for this state as provided in this section, and shall further consider the commission's own interpretations, declaratory statements, appellate decisions, and approved statewide and local technical amendments. A change made by an institute or standards organization to any standard or criterion that is adopted by reference in the Florida Building Code does not become effective statewide until it has been adopted by the commission. *Furthermore,* the edition of the Florida Building Code which is in effect on the date of application *for* ~~of~~ any permit authorized by the code governs the permitted work for the life of the permit and any extension granted to the permit. Any amendment to the Florida Building Code which is adopted upon a finding by the commission that the amendment is necessary to protect the public from immediate threat of harm takes effect immediately.

(7)~~(6)~~(a) The commission may approve technical amendments to the Florida Building Code once each year for statewide or regional application upon a finding that the amendment:

1. Has a reasonable and substantial connection with the health, safety, and welfare of the general public.

2. Strengthens or improves the Florida Building Code, or in the case of innovation or new technology, will provide equivalent or better products or methods or systems of construction.

3. Does not discriminate against materials, products, methods, or systems of construction of demonstrated capabilities.

4. Does not degrade the effectiveness of the Florida Building Code.

Furthermore, the Florida Building Commission may approve technical amendments to the code once each year to incorporate into the Florida Building Code its own interpretations of the code which are embodied in its opinions and declaratory statements. Amendments approved under this paragraph shall be adopted by rule pursuant to ss. 120.536(1) and 120.54*, after the amendments have been subjected to the provisions of subsection (3)*.

(b) A proposed amendment shall include a fiscal impact statement which documents the costs and benefits of the proposed amendment. Criteria for the fiscal impact statement shall be established by rule by the commission and shall include the impact to local government relative to enforcement, the impact to property and building owners, as well as to industry, relative to the cost of compliance.

(c) The commission may not approve any proposed amendment that does not accurately and completely address all requirements for amendment which are set forth in this section.

(8)~~(7)~~ The following buildings, structures, and facilities are exempt from the Florida Building Code as provided by law, and any further exemptions shall be as determined by the Legislature and provided by law:

(a) Buildings and structures specifically regulated and preempted by the Federal Government.

(b) Railroads and ancillary facilities associated with the railroad.

(c) Nonresidential farm buildings on farms.

(d) Temporary buildings or sheds used exclusively for construction purposes.

(e) Mobile homes used as temporary offices, except that the provisions of part V relating to accessibility by persons with disabilities shall apply to such mobile homes.

(f) Those structures or facilities of electric utilities, as defined in s. 366.02, which are directly involved in the generation, transmission, or distribution of electricity.

(g) Temporary sets, assemblies, or structures used in commercial motion picture or television production, or any sound-recording equipment used in such production, on or off the premises.

(h) Storage sheds that are not designed for human habitation and that have a floor area of 720 square feet or less are not required to comply with the mandatory wind-borne-debris-impact standards of the Florida Building Code.

(i) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. For purposes of this paragraph, a "chickee" means an open-sided wooden hut with a thatched roof of palm or palmetto or other traditional materials, not incorporating any electrical, plumbing or other nonwood features.

With the exception of paragraphs (a), (b), (c), and (f), in order to preserve the health, safety, and welfare of the public, the Florida Building Commission may, by rule adopted pursuant to chapter 120, provide for exceptions to the broad categories of buildings exempted in this section, including exceptions for application of specific sections of the code or standards adopted therein. The Department of Agriculture and Consumer Services shall have exclusive authority to adopt by rule, pursuant to chapter 120, exceptions to nonresidential farm buildings exempted in paragraph (c) when reasonably necessary to preserve public health, safety, and welfare. The exceptions must be based upon specific criteria, such as under-roof floor area, aggregate electrical service capacity, HVAC system capacity, or other building requirements. Further, the commission may recommend to the Legislature additional categories of buildings, structures, or facilities which should be exempted from the Florida Building Code, to be provided by law.

Section 13. Paragraphs (e) and (h) of subsection (1) and subsections (2) and (6) of section 553.77, Florida Statutes, as amended by section 46 of chapter 98-287, Laws of Florida, as amended by section 78 of chapter 2000-141, Laws of Florida, as amended by section 79 of chapter 2000-141, Laws of Florida, are amended, and subsection (7) is added to that section, to read:

553.77 Specific powers of the commission.—

(1) The commission shall:

(e) When requested in writing by any substantially affected person, state agency, or a local enforcing agency, shall issue declaratory statements pursuant to s. 120.565 relating to this part *and ss. 515.25, 515.27, 515.29, and 515.37*. Actions of the commission are subject to judicial review pursuant to s. 120.68.

(h) Hear appeals of the decisions of local boards of appeal regarding interpretation decisions of local building officials, or if no local board exists, hear appeals of decisions of the building officials regarding interpretations of the code. For such appeals:

1. Local decisions declaring structures to be unsafe and subject to repair or demolition shall not be appealable to the commission if the local governing body finds there is an immediate danger to the health and safety of its citizens.

2. All appeals shall be heard in the county of the jurisdiction defending the appeal.

3. *Hearings shall be conducted pursuant to chapter 120 and the uniform rules of procedure, and decisions* ~~Actions~~ of the commission are subject to judicial review pursuant to s. 120.68.

~~(2) With respect to the qualification program for special inspectors of threshold buildings as required by s. 553.79(5)(c), the commission may prescribe initial and annual renewal fees for certification, by rule, in accordance with chapter 120.~~

(6) The commission may provide by rule for plans review and approval of prototype buildings owned by public and private entities to be replicated throughout the state. *The rule must allow for review and approval of plans for prototype buildings to be performed by a public or private entity with oversight by the commission. The department may charge reasonable fees to cover the administrative costs of the program.* Such approved plans or prototype buildings shall be exempt from further review required by s. 553.79(2), except changes to the prototype design, site plans, and other site-related items. *As provided in s. 553.73, prototype buildings are exempt from*~~, or~~ any *locally adopted* ~~local~~ amendment to any part of the Florida Building Code. Construction or erection of such prototype buildings is subject to local permitting and inspections pursuant to this part.

(7) The commission may produce and distribute a commentary document to accompany the Florida Building Code. The commentary must be limited in effect to providing technical assistance and must not have the effect of binding interpretations of the code document itself.

Section 14. Subsections (2) and (6) of section 553.79, Florida Statutes, as amended by section 49 of chapter 98-287, Laws of Florida, as amended by sections 83 and 84 of chapter 2000-141, Laws of Florida, are amended to read:

553.79 Permits; applications; issuance; inspections.—

(2) *Except as provided in subsection (6), an* ~~No~~ enforcing agency may *not* issue any permit for construction, erection, alteration, modification, repair, or demolition of any building or structure until the local building code administrator or inspector has reviewed the plans and specifications *required by the Florida Building Code, or local amendment thereto,* for such proposal and found the plans to be in compliance with the Florida Building Code. In addition, an enforcing agency may not issue any permit for construction, erection, alteration, modification, repair, or demolition of any building until the appropriate firesafety inspector certified pursuant to s. 633.081 has reviewed the plans and specifications *required by the Florida Building Code, or local amendment thereto,* for such proposal and found that the plans comply with the Florida Fire Prevention Code and the Life Safety Code. Any building or structure which is not subject to a firesafety code shall not be required to have its plans reviewed by the firesafety inspector. Any building or structure that is exempt from the local building permit process may not be required to have its plans reviewed by the local building code administrator. Industrial construction on sites where design, construction, and firesafety are supervised by appropriate design and inspection professionals and which contain adequate in-house fire departments and rescue squads is exempt, subject to local government option, from review of plans and inspections, providing owners certify that applicable codes and standards have been met and supply appropriate approved drawings to local building and firesafety inspectors. The enforcing agency shall issue a permit to construct, erect, alter, modify, repair, or demolish any building or structure when the plans and specifications for such proposal comply with the provisions of the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code as determined by the local authority in accordance with this chapter and chapter 633.

(6) A permit may not be issued for any building construction, erection, alteration, modification, repair, or addition unless the applicant for such permit complies with the requirements for plan review established by the Florida Building Commission within the Florida Building Code. *However, the code shall set standards and criteria to authorize preliminary construction before completion of all building plans review, including, but not limited to, special permits for the foundation only, and such standards shall take effect concurrent with the first effective date of the Florida Building Code.*

Section 15. Effective upon this act becoming a law, section 553.8412, Florida Statutes, is created to read:

553.8412 Legislative intent; delivery of training; outsourcing.—

(1) The number of licensees who will require initial training for the Florida Building Code is in excess of 100,000. It is the intent of the Legislature that the Florida Building Commission make sure that initial training for the Florida Building Code be achieved as soon as practicable to ensure compliance. It is further the intent of the Legislature that the Florida Building Commission encourage and promote improved coordination between industry associations as a way to achieve better compliance with Florida's building codes.

(2) Not more than 60 days after the effective date of this section, the Florida Building Commission and the department shall provide for statewide outreach for training on the Florida Building Code. The Florida Building Commission and the department shall achieve statewide outreach for training through organizations, including, but not limited to, existing licensee trade and professional associations. The Florida Building Commission or the department may not exclude participation in statewide outreach by any trade or professional association that has as its primary constituency members who are required to comply with the training requirements of the Florida Building Code. Wherever possible and by contract pursuant to s. 287.057, the Florida Building Commission and the department shall outsource components, outreach, and coordination of training and the training itself to prevent duplication and ensure the most expeditious and consistent delivery and minimize administrative costs to the commission and the department. This section does not prohibit any qualified entity from providing training on the Florida Building Code.

(3) To the extent available, funding for outreach, coordination of training, or training may come from existing resources. If necessary, the Florida Building Commission or the department may seek additional or supplemental funds pursuant to s. 215.559(5). This section does not preclude the Florida Building Commission from charging fees to fund the building code training program in a self-sufficient manner as provided in s. 553.841(5).

(4) This section is repealed June 30, 2003, unless reenacted by the Legislature.

Section 16. Effective July 1, 2001, section 553.842, Florida Statutes, is amended to read:

553.842 Product evaluation and approval.—

(1) The commission shall *adopt rules under ss. 120.536(1) and 120.54* ~~make recommendations to the President of the Senate and the Speaker of the House of Representatives prior to the 2001 Regular Session~~ to develop and implement a product evaluation and approval system *that applies statewide* to operate in coordination with the Florida Building Code. *The commission may enter into contracts to provide for administration of the product evaluation and approval system.* The product evaluation and approval system shall provide:

(a) Appropriate promotion of innovation and new technologies.

(b) Processing submittals of products from manufacturers in a timely manner.

(c) Independent, third-party qualified and accredited testing and laboratory facilities*, product evaluation entities, quality-assurance agencies, certification agencies, and validation entities*.

(d) An easily accessible product acceptance list to entities subject to the Florida Building Code.

(e) Development of stringent but reasonable testing criteria based upon existing consensus standards, when available, for products.

(f) Long-term approvals, where feasible. *State and local approvals will be valid until the requirements of the code on which the approval is based change, the product changes in a manner affecting its performance as required by the code, or the approval is revoked.*

(g) *Criteria for* ~~recall or~~ revocation of a product approval.

(h) Cost-effectiveness.

(2) The product evaluation and approval system shall rely on ~~regional,~~ national~~,~~ and international consensus standards, whenever adopted by the Florida Building Code, for demonstrating compliance with code standards. Other standards which meet or exceed established state requirements shall also be considered.

(3) Products or methods or systems of construction *that require approval under s. 553.77, that have standardized testing or comparative or rational analysis methods established by the code,* ~~required to be approved~~ and *that are* certified by an approved product evaluation entity*, testing laboratory, or certification agency* as complying with the standards specified by the code shall be *approved for local or statewide use by one of the methods established in subsection (6)* ~~permitted to be used statewide,~~ without further evaluation ~~or approval~~.

(4) *By October 1, 2003, products or methods or systems of construction requiring approval under s. 553.77 must be approved by one of the methods established in subsection (5) or subsection (6) before their use in construction in this state.* Products may be approved either by the commission for statewide use, or by a local building department for use in that department's jurisdiction only. Notwithstanding a local government's authority to amend the Florida Building Code as provided in this act, statewide approval shall preclude local jurisdictions from requiring further testing, evaluation, or submission of other evidence as a condition of using the product so long as the product is being used consistent with the conditions of its approval.

(5) ~~Statewide and~~ Local approval of products or methods or systems of construction *may* ~~shall~~ be achieved by *the local building official through building plans review and inspection to determine that the product, method, or system of construction complies with the prescriptive standards established in the code. Alternatively, local approval may be achieved by one of the methods established in subsection (6).*

(6) Statewide or local approval of products, methods, or systems of construction may be achieved by one of the following methods. One of these methods must be used by local officials or the commission to approve the following categories of products: panel walls, exterior doors, roofing, skylights, windows, shutters, and structural components as established by the commission by rule.

(a) Products for which the code establishes standardized testing or comparative or rational analysis methods shall be approved by submittal and validation of one of the following reports or listings indicating that the product or method or system of construction was evaluated to be in compliance with the Florida Building Code and that the product or method or system of construction is, for the purpose intended, at least equivalent to that required by the Florida Building Code:

1. A certification mark or listing of an approved certification agency;

2. A test report from an approved testing laboratory;

3. A product evaluation report based upon testing or comparative or rational analysis, or a combination thereof, from an approved product evaluation entity; or

4. A product evaluation report based upon testing or comparative or rational analysis, or a combination thereof, developed and signed and sealed by a professional engineer or architect, licensed in this state.

(b) Products, methods, or systems of construction for which there are no specific standardized testing or comparative or rational analysis methods established in the code may be approved by submittal and validation of one of the following:

1. A product evaluation report based upon testing or comparative or rational analysis, or a combination thereof, from an approved product evaluation entity indicating that the product or method or system of construction was evaluated to be in compliance with the intent of the Florida Building Code and that the product or method or system of construction is, for the purpose intended, at least equivalent to that required by the Florida Building Code; or

2. A product evaluation report based upon testing or comparative or rational analysis, or a combination thereof, developed and signed and

sealed by a professional engineer or architect, licensed in this state, who certifies that the product or method or system of construction is, for the purpose intended, at least equivalent to that required by the Florida Building Code.

(7) The commission shall ensure that product manufacturers operate quality-assurance programs for all approved products. The commission shall adopt by rule criteria for operation of the quality-assurance programs.

(8) For local approvals, validation shall be performed by the local building official. The commission shall adopt by rule criteria constituting complete validation by the local official, including, but not limited to, criteria governing verification of a quality-assurance program. For state approvals, validation shall be performed by validation entities approved by the commission. The commission shall adopt by rule criteria for approval of validation entities, which shall be third-party entities independent of the product's manufacturer and which shall certify to the commission the product's compliance with the code.

(9) The commission may adopt rules to approve the following types of entities that produce information on which product approvals are based. All of the following entities, including engineers and architects, must comply with a nationally recognized standard demonstrating independence or no conflict of interest:

(a) Evaluation entities that meet the criteria for approval adopted by the commission by rule. The commission shall specifically approve the National Evaluation Service, the International Conference of Building Officials Evaluation Services, the Building Officials and Code Administrators International Evaluation Services, the Southern Building Code Congress International Evaluation Services, and the Miami-Dade County Building Code Compliance Office Product Control. Architects and engineers licensed in this state are also approved to conduct product evaluations as provided in subsection (6).

(b) Testing laboratories accredited by national organizations, such as A2LA and the National Voluntary Laboratory Accreditation Program, laboratories accredited by evaluation entities approved under paragraph (a), and laboratories that comply with other guidelines for testing laboratories selected by the commission and adopted by rule.

(c) Quality-assurance entities approved by evaluation entities approved under paragraph (a) and by certification agencies approved under paragraph (d) and other quality-assurance entities that comply with guidelines selected by the commission and adopted by rule.

(d) Certification agencies accredited by nationally recognized accreditors and other certification agencies that comply with guidelines selected by the commission and adopted by rule.

(e) Validation entities that comply with accreditation standards established by the commission by rule.~~:~~

~~(a) Submittal and validation of a product evaluation report from an approved product evaluation entity indicating the product or method or system of construction was tested to be in compliance with the Florida Building Code or with the intent of the Florida Building Code and the product or method or system of construction is, for the purpose intended, at least equivalent of that required by the Florida Building Code; or~~

~~(b) Submittal and validation of a product evaluation report or rational analysis which is signed and sealed by a professional engineer or architect, licensed in this state, who has no conflict of interest, as determined by national guidelines, who certifies that the product or method or system of construction is, for the purpose intended, at least equivalent of that required by the Florida Building Code. Any product approved under this procedure shall be required to be manufactured under a quality assurance program, certified by an approved product evaluation entity.~~

(10)~~(6)~~ A building official may deny the local application of a product or method or system of construction which has received statewide approval, based upon a written report signed by the official that concludes the product application is inconsistent with the statewide approval and that states the reasons the application is inconsistent. Such denial is subject to the provisions of s. 553.77 *governing appeal of the building official's interpretation of the code*.

(11)~~(7)~~ Products, other than manufactured buildings, which are custom fabricated or assembled shall not require separate approval under this section provided the component parts have been approved for the fabricated or assembled product's use and the components meet the standards and requirements of the Florida Building Code which applies to the product's intended use.

(12)~~(8)~~ A building official may appeal the required approval for local use of a product or method or system of construction to the commission. The commission shall *conduct a hearing under chapter 120 and the uniform rules of procedure and shall* ~~establish expedited procedures to~~ handle such appeals *in an expedited manner*.

(13)~~(9)~~ The decisions of local building officials shall be appealable to the local board of appeals, if such board exists, *and* then to the commission*, which shall conduct a hearing under chapter 120 and the uniform rules of procedure*. Decisions of the commission regarding statewide product approvals and appeals of local product approval shall be subject to judicial review pursuant to s. 120.68.

(14)~~(10)~~ The commission shall maintain a list of the *state-approved* ~~approved~~ products*,* ~~and~~ product evaluation entities*, testing laboratories, quality-assurance agencies, certification agencies, and validation entities* and make such *lists* ~~list~~ available in the most cost-effective manner. The commission shall establish reasonable timeframes associated with the product approval process and availability of the *lists* ~~list~~.

(15) The commission shall by rule establish criteria for revocation of product approvals as well as revocation of approvals of product evaluation entities, testing laboratories, quality-assurance entities, certification agencies, and validation entities. Revocation is governed by s. 120.60 and the uniform rules of procedure.

(16) The commission shall establish a schedule for adoption of the rules required in this section to ensure that the product manufacturing industry has sufficient time to revise products to meet the requirements for approval and submit them for testing or evaluation before the system taking effect on October 1, 2003, and to ensure that the availability of statewide approval is not delayed.

~~(11) The commission may establish reasonable and appropriate fees for the review of rational analyses and certification of manufactured buildings submitted pursuant to this section and may enter into any contracts the commission deems necessary in order to implement this section.~~

~~(12) Products certified or approved for statewide or local use by an approved product evaluation entity prior to the effective date of this act shall be deemed to be approved for use in this state pursuant to this section and to comply with this section.~~

~~For purposes of this section, an approved product evaluation entity is an entity that has been accredited by a nationally recognized independent evaluation authority or entity otherwise approved by the commission.~~

Section 17. Effective July 1, 2001, subsection (2) of section 553.895, Florida Statutes, is amended to read:

553.895 Firesafety.—

(2) Except for single-family and two-family dwellings, any building which is of three stories or more and for which the construction contract is let after January 1, 1994, regardless of occupancy classification and including any building which is subject to s. 509.215, shall be equipped with an automatic sprinkler system installed in compliance with the provisions of chapter 633 and the rules and codes adopted pursuant thereto. A stand-alone parking garage constructed with noncombustible materials, the design of which is such that all levels of the garage are uniformly open to the atmosphere on all sides with percentages of openings as prescribed in the applicable building code, and which

parking garage is separated from other structures by at least 20 feet, is exempt from the requirements of this subsection. *Telecommunications spaces located within telecommunications buildings, if the spaces are equipped to meet an equivalent fire-prevention standard approved by both the Florida Building Commission and the State Fire Marshal, are exempt from the requirements of this subsection. In a building less than 75 feet in height which is protected throughout with an approved and maintained fire sprinkler system, a manual wet standpipe, as defined in the National Fire Protection Association Standard 14, Standard for the Installation of Standpipe, Private Hydrant, and Hose Systems, shall be allowed.*

Section 18. *Effective upon this act becoming a law, the Florida Building Commission shall research the issue of adopting a rehabilitation code for the state and shall report to the Legislature before the 2002 Regular Session regarding the feasibility of adopting such a code. The commission shall review the rehabilitation codes adopted by other states as part of its research.*

Section 19. *Effective upon this act becoming a law, the Florida Building Commission shall research the issue of requiring all primary elevators in buildings with more than five levels to operate with a universal key, thereby allowing access and operation by emergency personnel. The commission must report its recommendations to the Legislature before the 2002 Regular Session.*

Section 20. *Notwithstanding any other provision in chapter 2000-141, Laws of Florida, effective upon this act becoming a law, the effective date of the following sections of chapter 2000-141, Laws of Florida, is changed to January 1, 2002: sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 32, 36, 39, 44, 47, 48, 49, 52, 54, 56, 58, 59, 60, 62, 70, 71, 72, 75, 79, 81, 84, 86, 87, 88, 91, 92, 93, 94, and 99.*

Section 21. *Notwithstanding any other provision in chapter 2000-141, Laws of Florida, effective upon this act becoming a law, the effective date of the following sections of chapter 98-287, Laws of Florida, as amended by chapter 2000-141, Laws of Florida, is changed to January 1, 2002: sections 1, 2, 4, 5, 7, 9, 13, 14, 15, 16, 17, 18, 21, 24, 29, 31, 32, 34, 36, 38, 40, 44, 46, 47, 49, 51, and 56.*

Section 22. *Notwithstanding any other provision in chapter 2000-141, Laws of Florida, effective upon this act becoming a law, the effective date of section 61 of chapter 98-419, Laws of Florida, as amended by chapter 2000-141, Laws of Florida, is changed to January 1, 2002.*

Section 23. Effective upon this act becoming a law, section 135 of chapter 2000-141, Laws of Florida, is amended to read:

Section 135. Effective *January 1, 2002* ~~July 1, 2001~~, subsection (2) of section 255.21, Florida Statutes, paragraphs (d) and (e) of subsection (1) of section 395.1055, Florida Statutes, and subsection (11) of section 553.79, Florida Statutes, are repealed.

Section 24. Effective upon this act becoming a law, subsection (2) of section 62 of chapter 98-287, Laws of Florida, as amended by section 107 of chapter 2000-141, Laws of Florida, is amended to read:

Section 62.

(2) Effective *January 1, 2002* ~~July 1, 2001~~, all existing local technical amendments to any building code adopted by any local government, except for local ordinances setting forth administrative requirements which are not in conflict with the Florida Building Code, are repealed. Each local government may readopt such amendments pursuant to s. 553.73, Florida Statutes, provided such amendments comply with applicable provisions of the Florida Building Code.

Section 25. Effective upon this act becoming a law, section 68 of chapter 98-287, Laws of Florida, as amended by section 108 of chapter 2000-141, Laws of Florida, is amended to read:

Section 68. Effective *January 1, 2002* ~~July 1, 2001~~, parts I, II, and III of chapter 553, Florida Statutes, consisting of sections 553.01, 553.02, 553.03, 553.04, 553.041, 553.05, 553.06, 553.07, 553.08, 553.10, 553.11, 553.14, 553.15, 553.16, 553.17, 553.18, 553.20, 553.21, 553.22, 553.23, 553.24, 553.25, 553.26, 553.27, and 553.28, Florida Statutes, are repealed, section 553.141, Florida Statutes, is transferred and renumbered as section 553.86, Florida Statutes.

Section 26. *Effective upon this act becoming a law, funds that are available under sections 489.109(3) and 489.509(3), Florida Statutes, shall be allocated and expended by the Florida Building Commission as provided in this section.*

(1) The Florida Building Commission shall appoint those members of the Building Construction Industry Advisory Committee on October 1, 2001, as established by Rule 6A-10.029, Florida Administrative Code, to the Education Technical Advisory Committee of the Florida Building Commission to complete their terms of office. Members of the Florida Building Commission shall also be appointed to the Education Technical Advisory Committee. The members of the committee shall broadly represent the building construction industry and must consist of no fewer than 10 persons. The chairperson of the Florida Building Commission shall annually designate the chairperson of the committee. The terms of the committee members shall be 2 years each and members may be reappointed at the discretion of the Florida Building Commission.

(2) The Educational Technical Advisory Committee shall:

(a) Advise the commission on any policies or procedures needed to administer sections 489.109(3) and 489.509(3), Florida Statutes.

(b) Advise the commission on administering section 553.841, Florida Statutes.

(c) Advise the commission on areas of priority for which funds should be expended for research and continuing education.

(d) Review all proposed research and continuing education projects and recommend to the commission those projects that should be funded and the amount of funds to be provided for each project.

(3) Each biennium, upon receipt of funds by the Department of Community Affairs from the Construction Industry Licensing Board and the Electrical Contractors' Licensing Board provided under sections 489.109(3) and 489.509(3), Florida Statutes, the commission shall determine the amount of funds available for research projects from the proceeds of contractor licensing fees and identify, solicit, and accept funds from other sources for research and continuing education projects.

(4) If funds collected for research projects in any year do not require the use of all available funds, the unused funds shall be carried forward and allocated for use during the following fiscal year.

Section 27. *Effective upon this act becoming a law, the Florida Building Commission shall convene an ad hoc subcommittee to recommend a procedure by which the public could elect to engage an engineer or architect to perform plans review and inspection for the construction, alteration, repair, or improvement of real property, and the appropriate role of the local building official in such an alternative plans review and inspection procedure and in the resulting issuance of a building permit and certificate of occupancy.*

(1) The ad hoc committee shall be composed of 11 members appointed by the chairperson of the commission who shall meet the following qualifications:

(a) Five members from the Building Officials Association of Florida;

(b) Two members from the Associated General Contractors of Florida;

(c) One member from the Florida Homebuilders Association;

(d) One member from the Florida Engineering Society;

(e) One member from the American Institute of Architects; and

(f) One member from the Florida Insurance Council.

(2) The ad hoc subcommittee shall meet at least four times prior to January 1, 2002. Members may participate in any meeting via telephone conference if the technology is available at the meeting location. Members

shall serve on a voluntary basis, without compensation and without reimbursement of per diem and travel expenses.

(3) The ad hoc subcommittee shall examine the various processes used by local building officials throughout the state in conducting plans review for the construction, alteration, repair, or improvement of real property, and approving building permit applications, as well as those processes used by local building officials in conducting required inspections for construction, alteration, repair, or improvement of real property, and issuing certificates of occupancy. The ad hoc subcommittee shall make recommendations on the following:

(a) A procedure by which the public could elect to engage an engineer or architect to perform plans review and inspection for the construction, alteration, repair, or improvement of real property; and

(b) The appropriate role of the local building official in such an alternative plans review and inspection procedure and in the resulting issuance of a building permit and certificate of occupancy.

(4) The ad hoc subcommittee shall submit to the Florida Building Commission its recommendations and findings by January 1, 2002. The commission shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives, before the beginning of the next regularly scheduled legislative session, a report of its findings, which shall include the recommendations of the ad hoc committee.

(5) The Department of Community Affairs shall provide logistical and staff support for the ad hoc subcommittee.

Section 28. Section 627.0629, Florida Statutes, as amended by section 99 of chapter 2000-141, Laws of Florida, is amended to read:

627.0629 Residential property insurance; rate filings.—

(1) A rate filing for residential property insurance must include actuarially reasonable discounts, credits, or other rate differentials, or appropriate reductions in deductibles, for properties on which fixtures or construction techniques demonstrated to reduce the amount of loss in a windstorm have been installed or implemented. The fixtures or construction techniques shall include, but not be limited to, fixtures or construction techniques which enhance roof strength, roof covering performance, roof-to-wall strength, wall-to-floor-to-foundation strength, opening protection, and window, door, and skylight strength. Credits, discounts, or other rate differentials for fixtures and construction techniques which meet the minimum requirements of the Florida Building Code must be included in the rate filing. All insurance companies must make a rate filing which includes the credits, discounts, or other rate differentials by *December 31* ~~June 1~~, 2002.

Section 29. Effective upon this act becoming a law, paragraph (c) of subsection (3) of section 633.0215, Florida Statutes, is amended to read:

633.0215 Florida Fire Prevention Code.—

(3) No later than 180 days before the triennial adoption of the Florida Fire Prevention Code, the State Fire Marshal shall notify each municipal, county, and special district fire department of the triennial code adoption and steps necessary for local amendments to be included within the code. No later than 120 days before the triennial adoption of the Florida Fire Prevention Code, each local jurisdiction shall provide the State Fire Marshal with copies of its local fire code amendments. The State Fire Marshal has the option to process local fire code amendments that are received less than 120 days before the adoption date of the Florida Fire Prevention Code.

(c) Notwithstanding other state or local building and construction code laws to the contrary, locally adopted fire code requirements that were in existence on the effective date of this section shall be deemed local variations of the Florida Fire Prevention Code until the State Fire Marshal takes action to adopt as a statewide firesafety code requirement or rescind such requirements as provided herein, and such action shall take place no later than *January 1, 2002* ~~July 1, 2001~~.

Section 30. *The Florida Building Commission shall research and evaluate the types of specific needs for the state and its localities which are appropriate to justify amendment of the adopted Florida Building Code, as referred to in section 553.73(3), and make recommendations regarding legislative clarification of this issue to the Legislature prior to the 2002 Regular Session. The commission shall consider needs relating to Florida's geographic, climatic, soil, topographic, fire and other conditions as part of its evaluation. The commission shall adopt no amendments to the Florida Building Code until after July 1, 2002, except for the following: emergency amendments, amendments clarifying state agency construction regulations, amendments which eliminate conflicts with Florida law or implement new authorities granted by law, and amendments to implement settlement agreements executed prior to March 1, 2001.*

Section 31. *Effective upon this act becoming a law, the sum of $250,000 is appropriated from the General Revenue Fund to Florida Community College at Jacksonville for the operations of the Institute of Applied Technology in Construction Excellence, and the sum of $250,000 is appropriated from the General Revenue Fund to Miami-Dade Community College for the implementation of the building code training program for inspectors, contractors, architects, and engineers.*

Section 32. Effective upon this act becoming a law, section 1 of chapter 2000-150, Laws of Florida, is repealed.

Section 33. Except as otherwise provided in this act, this act shall take effect January 1, 2002.

And the title is amended as follows:
remove from the title of the bill: entire title

and insert in lieu thereof: A bill to be entitled An act relating to the Florida Building Code; amending s. 235.061, F.S.; delaying the date for rule requirements; amending s. 235.212, F.S.; specifying window standards for relocatable classrooms; amending s. 255.31, F.S.; exempting certain facilities from plans review and inspections by local jurisdictions; amending s. 399.061, F.S.; revising provisions relating to the inspection of elevators; amending s. 373.323, F.S.; authorizing water well contractors to install, repair, or modify specified equipment in accordance with the code; amending s. 489.13, F.S.; creating an exception to the provision defining what constitutes unlicensed contracting; amending s. 489.509, F.S.; transferring specified licensing fees from the Department of Education to the Department of Community Affairs; amending s. 553.36, defining the term "factory-built school shelter"; amending s. 553.415, F.S.; delaying the date for inclusion of the Uniform Code for Public Education Facilities in the Florida Building Code; providing for the department to approve plans for factory-built school shelters; authorizing districts to charge inspection fees; authorizing approved inspection entities to conduct inspections of factory-built school buildings while they are under construction; delaying the deadline for inspecting factory-built buildings currently in use; amending ss. 553.505, 553.507, F.S.; conforming cross-references; amending s. 553.73, F.S.; providing for the uniform implementation of parts of the residential swimming pool safety act; providing a process for the approval of technical amendments to the code; providing for the treatment of permit applications submitted prior to the effective date of the code; exempting specified structures from the wind-borne-debris-impact standards of the Florida Building Code; amending s. 553.77, F.S.; requiring the commission to issue specified declaratory statements; providing for hearings; providing for rules for plan review of prototype buildings; authorizing the commission to produce a commentary to accompany the Florida Building Code; amending s. 553.79, F.S.; requiring the code to establish standards for preliminary construction; creating s. 553.8412, F.S.; providing for statewide outreach for training on the code; amending s. 553.842, F.S.; providing methods for local and statewide approval of products, methods, and systems of construction; providing rulemaking authority; amending s. 553.895, F.S.; exempting specified spaces within telecommunications buildings under specified circumstances; allowing the use of a manual wet standpipe under certain circumstances; directing the commission to research some issues and provide reports to the Legislature; amending s. 135 of ch. 2000-141, Laws of Florida, and ss. 62(2) and 68 of ch. 98-287, Laws of Florida, as amended; providing an effective date for the Florida Building Code; requiring that the

Florida Building Commission appoint members to the commission's Education Technical Advisory Committee; specifying duties of the advisory committee; providing for the carryforward of funds collected for research projects; requiring the Florida Building Commission to convene an ad hoc subcommittee to recommend procedures for engaging an engineer or architect to perform plans review and inspections; requiring recommendations for the role of local building officials in issuing building permits and certificates of occupancy; providing for appointment of members; providing for meetings and staff support by the Department of Community Affairs; requiring a report to the Governor and the Legislature by a specified date; amending s. 627.0629, F.S.; providing a date certain for insurance companies to file rate filings; amending s. 663.0215, F.S.; delaying the date on which the State Fire Marshal is required to adopt a statewide firesafety code; providing an appropriation; repealing section 1 of chapter 2000-150, Laws of Florida, relating to legislative intent regarding the meaning of the terms "net premiums written" and "net premiums collected" as used in chapter 440, F.S.; providing an effective date.

Rep. Diaz-Balart moved the adoption of the amendment.

Representative(s) Diaz-Balart offered the following:

(Amendment Bar Code: 601079)

Amendment 1 to Amendment 1—On page 1, line 30, on page 10, line 28, and on page 12, line 3,
remove from the amendment: *January*

and insert in lieu thereof: *July*

Rep. Diaz-Balart moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Diaz-Balart offered the following:

(Amendment Bar Code: 114717)

Amendment 2 to Amendment 1 (with title amendment)—On page 6, line 6, through page 7, line 2,
remove from the amendment: all of said lines

And the title is amended as follows:

On page 44, lines 12-14, of the amendment
remove: all of said lines

and insert in lieu thereof: code; amending s.

Rep. Diaz-Balart moved the adoption of the amendment to the amendment.

On motion by Rep. Diaz-Balart, further consideration of **CS/HB 1255**, with pending amendments, was temporarily postponed under Rule 11.10.

HB 1923—A bill to be entitled An act relating to the Department of Business and Professional Regulation; amending s. 20.165, F.S.; renaming the Division of Florida Land Sales, Condominiums, and Mobile Homes as the Division of Condominiums, Timeshare, and Mobile Homes; including reference to the Board of Barbering and Cosmetology; revising minimum requirements for the number of consumer members on professional licensing boards; amending ss. 326.001, 326.002, 326.003, 326.004, and 326.006, F.S.; transferring the regulation of yacht and ship brokers and salespersons from the Division of Florida Land Sales, Condominiums, and Mobile Homes to the Division of Professions; revising provisions relating to criminal history checks and administrative and civil penalties; requiring that all funds collected pursuant to such regulation be deposited into the Professional Regulation Trust Fund; revising references; amending s. 455.213, F.S.; providing that all applications for licensure be prescribed by the department; providing for the electronic submission of information to the department; providing that all legal obligations must be met before the issuance or renewal of a license; amending s. 455.224, F.S.; authorizing any division of the department to issue citations in the enforcement of its regulatory provisions in accordance with the provisions established for such purposes for the regulation of professions; amending ss. 468.401, 468.402, 468.403, 468.404, 468.406, 468.407, 468.410, 468.412, 468.413, 468.414, and 468.415, F.S.; providing for registration of talent agencies in lieu of licensure; conforming provisions; providing penalties; repealing ss. 468.405 and 468.408, F.S., relating to qualification for talent agency license and bonding requirements; amending s. 468.609, F.S.; authorizing direct supervision by building code administrators by telecommunications devices in certain localities and under specified circumstances; amending s. 468.627, F.S.; requiring the payment of costs for certain building code enforcement applicants who fail to appear for scheduled examinations, subject to waiver in case of hardship; amending s. 471.025, F.S.; allowing for more than one type of seal to be used by professional engineers; amending s. 472.003, F.S.; providing exemption from ch. 472, F.S., relating to land surveying and mapping, for certain subordinate employees; revising cross references; amending s. 472.005, F.S.; revising and providing definitions; revising cross references; amending s. 472.029, F.S.; revising provisions relating to access to lands of others for surveying or mapping purposes; providing applicability to subordinates; requiring certain notice; amending s. 810.12, F.S.; revising provisions relating to trespass, to conform; amending ss. 472.001, 472.011, 472.015, 472.021, 472.027, 472.031, and 472.037, F.S.; revising cross references; amending s. 476.034, F.S.; redefining the term "board"; amending s. 476.054, F.S.; creating the Board of Barbering and Cosmetology; providing certain compensation; requiring an oath and providing for a certificate of appointment; providing for officers, meetings, and quorum; amending s. 476.064, F.S.; conforming provisions; amending ss. 476.014, 476.074, 476.154, 476.194, 476.214, and 476.234, F.S.; revising references; amending s. 477.013, F.S.; defining the term "board"; repealing s. 477.015, F.S., relating to the Board of Cosmetology; abolishing the Barbers' Board and the Board of Cosmetology; providing for appointment of all members of the Board of Barbering and Cosmetology to staggered terms; providing savings clauses for rules and legal actions; amending s. 477.019, F.S.; eliminating a requirement for refresher courses and examinations for failure of cosmetology licensees to comply with continuing education requirements; amending s. 477.026, F.S.; providing authority for registration renewal and delinquent fees for hair braiders, hair wrappers, and body wrappers; amending s. 481.209, F.S.; revising requirements relating to education for licensure as an architect; amending s. 481.223, F.S.; providing for injunctive relief for certain violations relating to architecture and interior design; amending s. 489.107, F.S.; reducing the number of members on the Construction Industry Licensing Board; relocating the offices of the board; creating s. 489.1133, F.S.; providing for temporary certificates and registrations; amending s. 489.115, F.S.; eliminating references to divisions of the Construction Industry Licensing Board; amending s. 489.118, F.S.; revising grandfathering provisions for certification of registered contractors to qualify persons holding certain registered local specialty licenses; repealing s. 489.507(6), F.S., to delete a duplicate provision relating to appointment of committees of the Construction Industry Licensing Board and the Electrical Contractors' Licensing Board for the purpose of meeting jointly twice each year; requiring the Electrical Contractors' Licensing Board to develop a plan to reduce its annual operating budget by a specified amount and submit such plan to the department by a specified date; amending s. 489.511, F.S.; revising provisions relating to licensure as an electrical or alarm system contractor by endorsement; amending ss. 498.005, 498.019, and 498.049, F.S.; reassigning the regulation of land sales from the Division of Florida Land Sales, Condominiums, and Mobile Homes to the Division of Real Estate; requiring all funds collected by the department pursuant to the regulation of land sales to be deposited in the Professional Regulation Trust Fund; amending s. 190.009, F.S.; conforming terminology; amending ss. 718.103, 718.105, 718.1255, 718.501, 718.502, 718.504, 718.508, 718.509, 718.608, 719.103, 719.1255, 719.501, 719.502, 719.504, 719.508, 719.608, 721.05, 721.07, 721.08, 721.26, 721.28, 721.301, 721.50, 723.003, 723.006, 723.0065, and 723.009, F.S.; renaming the Division of Florida Land Sales, Condominiums, and Mobile Homes as the Division of Condominiums, Timeshare, and Mobile Homes; renaming the Division of Florida Land Sales, Condominiums, and Mobile Homes Trust Fund as the Division of Condominiums, Timeshare, and Mobile Homes Trust Fund; conforming provisions; providing division enforcement powers and duties; providing

for injunction, restitution, and civil penalties; providing certain immunity; providing for use of certain documents as evidence; providing for certain notice; providing for intervention in suits; locating the executive offices of the division in Tallahassee; authorizing branch offices; providing for adoption and use of a seal; providing applicability to specified chapters of the Florida Statutes; amending ss. 73.073, 192.037, 213.053, 215.20, 380.0651, 455.116, 475.455, 509.512, and 559.935, F.S.; conforming terminology; providing effective dates.

—was read the second time by title.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 634683)

Amendment 1 (with directory language amendment)—On page 58, between lines 28 and 29,
remove from the bill: nothing

and insert in lieu thereof:

(4) The board shall be divided into two divisions, Division I and Division II.

(a) Division I is comprised of the general contractor, building contractor, and residential contractor members of the board; ~~one of the members appointed pursuant to paragraph (2)(j),~~ and ~~one of~~ the *member* ~~members~~ appointed pursuant to paragraph (2)(k). Division I has jurisdiction over the regulation of general contractors, building contractors, and residential contractors.

(b) Division II is comprised of the roofing contractor, sheet metal contractor, air-conditioning contractor, mechanical contractor, pool contractor, plumbing contractor, and underground utility and excavation contractor members of the board; *and* ~~one of~~ the *member* ~~members~~ appointed pursuant to paragraph (2)(j)~~; and one of the members appointed pursuant to paragraph (2)(k)~~. Division II has jurisdiction over the regulation of contractors defined in s. 489.105(3)(d)-(p).

(c) Jurisdiction for the regulation of specialty contractors defined in s. 489.105(3)(q) shall lie with the division having jurisdiction over the scope of work of the specialty contractor as defined by board rule.

And the directory language is amended as follows:

On page 57, lines 28 and 29,
remove: all of said lines

and insert in lieu thereof:

Section 54. Effective July 1, 2001, subsections (2) and (4) of section 489.107, Florida Statutes, are amended, and subsection

The Council for Smarter Government offered the following:

(Amendment Bar Code: 661661)

Amendment 2—On page 81, line 28, after *chapter 719,* of the bill

insert: *parts I and II of*

The Council for Smarter Government offered the following:

(Amendment Bar Code: 945791)

Amendment 3—On page 134, line 9,
remove from the bill: 498, 718,

and insert in lieu thereof: ~~498,~~ 718,

The Council for Smarter Government offered the following:

(Amendment Bar Code: 622899)

Amendment 4—On page 48, line 30, through page 49, line 9,
remove from the bill: all of said lines

and insert in lieu thereof:

(2) *Two* ~~Five~~ members of the board *must* ~~shall~~ be *licensed* barbers who have practiced ~~the occupation of~~ barbering in this state for at least 5 years. *Three members must be licensed cosmetologists who have practiced cosmetology in this state for at least 5 years, and one member must be a registered cosmetology specialist who has practiced his or her specialty in this state for at least 5 years.* The remaining *member must* ~~two members of the board shall~~ be *a resident* ~~citizens~~ of the state who *is* ~~are~~ not presently *a* licensed *barber or cosmetologist* ~~barbers~~. No person *may* ~~shall~~ be appointed to the board who is ~~in any way~~ connected with the manufacture, rental, or wholesale distribution of barber *or cosmetology* equipment and supplies.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 512939)

Amendment 5 (with title amendment)—On page 54, lines 4-28,
remove from the bill: all of said lines

and insert in lieu thereof:

(7)(a) The board shall prescribe by rule continuing education requirements intended to ensure protection of the public through updated training of licensees and registered specialists, not to exceed 16 hours biennially, as a condition for renewal of a license or registration as a specialist under this chapter. Continuing education courses shall include, but not be limited to, the following subjects as they relate to the practice of cosmetology: human immunodeficiency virus and acquired immune deficiency syndrome; Occupational Safety and Health Administration regulations; workers' compensation issues; state and federal laws and rules as they pertain to cosmetologists, cosmetology, salons, specialists, specialty salons, and booth renters; chemical makeup as it pertains to hair, skin, and nails; and environmental issues. ~~Courses given at cosmetology conferences may be counted toward the number of continuing education hours required if approved by the board.~~

(b) Any person whose occupation or practice is confined solely to hair braiding, hair wrapping, or body wrapping is exempt from the continuing education requirements of this subsection.

(c) *The board shall by rule establish criteria for the approval of continuing education courses and providers.* ~~The board may, by rule, require any licensee in violation of a continuing education requirement to take a refresher course or refresher course and examination in addition to any other penalty. The number of hours for the refresher course may not exceed 48 hours.~~

(d) The department shall approve all continuing education courses and providers as set forth in this subsection. The department may not approve any course which does not substantially and exclusively relate to the practice of cosmetology and serve to ensure the protection of the public. Courses given at cosmetology conferences may be counted toward the number of continuing education hours required if approved by the department.

(e) Correspondence courses may be approved if offered by a provider approved by the department under paragraph (d) and meet all relevant course criteria established by the board. Correspondence courses must include a written post course examination developed and graded by the course provider which demonstrates the licensee's understanding of the subject matter taught by the course. The board may, by rule, set the minimum allowed passing score for such examinations.

And the title is amended as follows:

On page 3,line 22, after the semicolon

insert: revising requirements related to continuing education providers and courses;

The Council for Smarter Government offered the following:

(Amendment Bar Code: 472871)

Amendment 6 (with title amendment)—On page 17, lines 26-28,
remove from the bill: all of said lines

and insert in lieu thereof: include the applicant's social security number. *Notwithstanding any other provision of law, the department shall be responsible for the printed or electronic content of all initial licensure and licensure renewal documents. Such documents shall require information including, as appropriate: demographics, education, work history, personal background, criminal history, finances, business information, complaints, inspections, investigations, discipline, bonding, signature notarization, photographs, performance periods, reciprocity, local government approvals, supporting documentation, periodic reporting requirements, fingerprint requirements, continuing education requirements, and ongoing education monitoring.* The application shall be supplemented as

And the title is amended as follows:

On page 1, lines 22 and 23,
remove from the title of the bill: all of said lines

and insert in lieu thereof: 455.213, F.S.; providing for the content of licensure and renewal documents;

The Council for Smarter Government offered the following:

(Amendment Bar Code: 981001)

Amendment 7 (with title amendment)—On page 66, line 10, through page 72, line 7,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 68. Section 718.1255, Florida Statutes, is amended to read:

718.1255 Alternative dispute resolution; ~~voluntary mediation;~~ mandatory nonbinding arbitration *and mediation; local resolution; exemptions*; legislative findings.—

(1) *APPLICABILITY* ~~DEFINITIONS~~.—

(a) The provisions of subsection (3) apply to ~~As used in this section, the term "dispute" means~~ any disagreement between two or more parties that involves~~:~~

~~(a) The authority of the board of directors, under this chapter or association document to:~~

~~1. Require any owner to take any action, or not to take any action, involving that owner's unit or the appurtenances thereto.~~

~~2. Alter or add to a common area or element.~~

~~(b)~~ the failure of a governing body, when required by this chapter or an association document, to~~:~~

~~1.~~ properly conduct elections *or to recall a board member*.

(b) The provisions of subsection (4) apply to any disagreement between two or more parties that involves:

1. The authority of the board of directors, under this chapter or an association document, to:

a. Require any owner to take any action, or not to take any action, involving that owner's unit or the appurtenances thereto; or

b. Alter or add to a common area or element.

2. The failure of a governing body, when required by this chapter or an association document, to:

a.~~2.~~ Give adequate notice of meetings or other actions*;*~~.~~

b.~~3.~~ Properly conduct meetings*; or*~~.~~

c.~~4.~~ Allow inspection of books and records.

~~"Dispute" does not include any disagreement that primarily involves: title to any unit or common element; the interpretation or enforcement of any warranty; the levy of a fee or assessment, or the collection of an assessment levied against a party; the eviction or other removal of a tenant from a unit; alleged breaches of fiduciary duty by one or more directors; or claims for damages to a unit based upon the alleged failure of the association to maintain the common elements or condominium property.~~

~~(2) VOLUNTARY MEDIATION.—Voluntary mediation through Citizen Dispute Settlement Centers as provided for in s. 44.201 is encouraged.~~

(2)~~(3)~~ LEGISLATIVE FINDINGS.—

(a) The Legislature finds that unit owners are frequently at a disadvantage when litigating against an association. Specifically, a condominium association, with its statutory assessment authority, is often more able to bear the costs and expenses of litigation than the unit owner who must rely on his or her own financial resources to satisfy the costs of litigation against the association.

(b) The Legislature finds that the courts are becoming overcrowded with condominium and other disputes, and further finds that alternative dispute resolution has been making progress in reducing court dockets and trials and in offering a more efficient, cost-effective option to court litigation. However, the Legislature also finds that alternative dispute resolution should not be used as a mechanism to encourage the filing of frivolous or nuisance suits.

(c) There exists a need to develop a flexible means of alternative dispute resolution that directs disputes to the most efficient means of resolution.

(d) The high cost and significant delay of circuit court litigation faced by unit owners in the state can be alleviated by requiring nonbinding arbitration and mediation in appropriate cases, thereby reducing delay and attorney's fees while preserving the right of either party to have its case heard by a jury, if applicable, in a court of law.

(3)~~(4)~~ MANDATORY NONBINDING ARBITRATION AND MEDIATION OF DISPUTES.—The division ~~of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation~~ shall *provide* ~~employ full-time attorneys to act as~~ arbitrators to conduct the arbitration hearings *as required* ~~provided~~ by this chapter. The *department may employ attorneys to act as arbitrators, and the* division may also certify attorneys who are not employed by the division to act as arbitrators to conduct the arbitration hearings provided by this *chapter* ~~section~~. No person may be employed by the department as *an* ~~a full-time~~ arbitrator unless he or she is a member in good standing of The Florida Bar. The department shall promulgate rules of procedure to govern such arbitration hearings including mediation incident thereto. The decision of an arbitrator shall be final; however, such a decision shall not be deemed final agency action. Nothing in this provision shall be construed to foreclose parties from proceeding in a trial de novo unless the parties have agreed that the arbitration is binding. If such judicial proceedings are initiated, the final decision of the arbitrator shall be admissible in evidence in the trial de novo.

(a) Prior to the institution of court litigation, a party to a dispute shall petition the division for nonbinding arbitration. The petition must be accompanied by a filing fee in the amount of $50. Filing fees collected under this section must be used to defray the expenses of the alternative dispute resolution program.

(b) The petition must recite, and have attached thereto, supporting proof that the petitioner gave the respondents:

1. Advance written notice of the specific nature of the dispute;

2. A demand for relief, and a reasonable opportunity to comply or to provide the relief; and

3. Notice of the intention to file an arbitration petition or other legal action in the absence of a resolution of the dispute.

Failure to include the allegations or proof of compliance with these prerequisites requires dismissal of the petition without prejudice.

(c) Upon receipt, the petition shall be promptly reviewed by the division to determine the existence of a dispute and compliance with the requirements of paragraphs (a) and (b). If emergency relief is required and is not available through arbitration, a motion to stay the arbitration may be filed. The motion must be accompanied by a verified petition alleging facts that, if proven, would support entry of a temporary injunction, and if an appropriate motion and supporting papers are filed, the division may abate the arbitration pending a court hearing and disposition of a motion for temporary injunction.

(d) Upon determination by the division that a dispute exists and that the petition substantially meets the requirements of paragraphs (a) and (b) and any other applicable rules, a copy of the petition shall forthwith be served by the division upon all respondents.

(e) Either before or after the filing of the respondents' answer to the petition, any party may request that the arbitrator refer the case to mediation under this section and any rules adopted by the division. Upon receipt of a request for mediation, the division shall promptly contact the parties to determine if there is agreement that mediation would be appropriate. If all parties agree, the dispute must be referred to mediation. Notwithstanding a lack of an agreement by all parties, the arbitrator may refer a dispute to mediation at any time.

(f) Upon referral of a case to mediation, the parties must select a mutually acceptable mediator. To assist in the selection, the arbitrator shall provide the parties with a list of both volunteer and paid mediators that have been certified by the division under s. 718.501. If the parties are unable to agree on a mediator within the time allowed by the arbitrator, the arbitrator shall appoint a mediator from the list of certified mediators. If a case is referred to mediation, the parties shall attend a mediation conference, as scheduled by the parties and the mediator. If any party fails to attend a duly noticed mediation conference, without the permission or approval of the arbitrator or mediator, the arbitrator must impose sanctions against the party, including the striking of any pleadings filed, the entry of an order of dismissal or default if appropriate, and the award of costs and attorneys' fees incurred by the other parties. Unless otherwise agreed to by the parties or as provided by order of the arbitrator, a party is deemed to have appeared at a mediation conference by the physical presence of the party or its representative having full authority to settle without further consultation, provided that an association may comply by having one or more representatives present with full authority to negotiate a settlement and recommend that the board of administration ratify and approve such a settlement within 5 days from the date of the mediation conference. The parties shall share equally the expense of mediation, unless they agree otherwise.

(g) The purpose of mediation as provided for by this section is to present the parties with an opportunity to resolve the underlying dispute in good faith, and with a minimum expenditure of time and resources.

(h) Mediation proceedings must generally be conducted in accordance with the Florida Rules of Civil Procedure, and these proceedings are privileged and confidential to the same extent as court-ordered mediation. Persons who are not parties to the dispute are not allowed to attend the mediation conference without the consent of all parties, with the exception of counsel for the parties and corporate representatives designated to appear for a party. If the mediator declares an impasse after a mediation conference has been held, the arbitration proceeding terminates, unless all parties agree in writing to continue the arbitration proceeding, in which case the arbitrator's decision shall be either binding or nonbinding, as agreed upon by the parties; in the arbitration proceeding, the arbitrator shall not consider any evidence relating to the unsuccessful mediation except in a proceeding to impose sanctions for failure to appear at the mediation conference. If the parties do not agree to continue arbitration, the arbitrator shall enter an order of dismissal, and either party may institute a suit in a court of competent jurisdiction. The parties may seek to recover any costs and attorneys' fees incurred in connection with arbitration and mediation proceedings under this section as part of the costs and fees that may be recovered by the prevailing party in any subsequent litigation.

(i) Arbitration shall be conducted according to rules promulgated by the division. The filing of a petition for arbitration shall toll the applicable statute of limitations.

(j) At the request of any party to the arbitration, such arbitrator shall issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence and any party on whose behalf a subpoena is issued may apply to the court for orders compelling such attendance and production. Subpoenas shall be served and shall be enforceable in the manner provided by the Florida Rules of Civil Procedure. Discovery may, in the discretion of the arbitrator, be permitted in the manner provided by the Florida Rules of Civil Procedure. Rules adopted by the division may authorize any reasonable sanctions except contempt for a violation of the arbitration procedural rules of the division or for the failure of a party to comply with a reasonable nonfinal order issued by an arbitrator which is not under judicial review.

(k) The arbitration decision shall be presented to the parties in writing. An arbitration decision is final in those disputes in which the parties have agreed to be bound. An arbitration decision is also final if a complaint for a trial de novo is not filed in a court of competent jurisdiction in which the condominium is located within 30 days. The right to file for a trial de novo entitles the parties to file a complaint in the appropriate trial court for a judicial resolution of the dispute. The prevailing party in an arbitration proceeding shall be awarded the costs of the arbitration and reasonable attorney's fees in an amount determined by the arbitrator. Such an award shall include the costs and reasonable attorney's fees incurred in the arbitration proceeding as well as the costs and reasonable attorney's fees incurred in preparing for and attending any scheduled mediation.

(l) The party who files a complaint for a trial de novo shall be assessed the other party's arbitration costs, court costs, and other reasonable costs, including attorney's fees, investigation expenses, and expenses for expert or other testimony or evidence incurred after the arbitration hearing if the judgment upon the trial de novo is not more favorable than the arbitration decision. If the judgment is more favorable, the party who filed a complaint for trial de novo shall be awarded reasonable court costs and attorney's fees.

(m) Any party to an arbitration proceeding may enforce an arbitration award by filing a petition in a court of competent jurisdiction in which the condominium is located. A petition may not be granted unless the time for appeal by the filing of a complaint for trial de novo has expired. If a complaint for a trial de novo has been filed, a petition may not be granted with respect to an arbitration award that has been stayed. If the petition for enforcement is granted, the petitioner shall recover reasonable attorney's fees and costs incurred in enforcing the arbitration award. A mediation settlement may also be enforced through the county or circuit court, as applicable, and any costs and fees incurred in the enforcement of a settlement agreement reached at mediation must be awarded to the prevailing party in any enforcement action.

(4) DISPUTES SUBJECT TO LOCAL RESOLUTION.—Disputes shall be resolved in the county in which the dispute has occurred by a local government alternative dispute resolution, mediation, or arbitration program. Such cases shall be handled by these programs without the necessity of the case being filed in the court system. In the resolution of these cases on the local level, past precedent of prior division arbitration decisions shall be considered and followed where appropriate. Local government alternative dispute resolution, mediation, or arbitration programs may charge fees for handling these cases. The division shall handle any of these cases arising in counties which do not have local government alternative dispute resolution, mediation, or arbitration programs. The division shall provide a list of these programs to anyone requesting this information and shall act as a clearinghouse for disputes, directing affected parties to the appropriate local alternative dispute resolution, mediation, or arbitration program within the county in which the dispute has occurred.

(5) EXEMPTIONS.—A dispute is not subject to resolution under this section if it includes any disagreement that primarily involves:

(a) Title to any unit or common element;

(b) The interpretation or enforcement of any warranty;

(c) The levy of a fee or assessment or the collection of an assessment levied against a party;

(d) The eviction or other removal of a tenant from a unit;

(e) Alleged breaches of fiduciary duty by one or more directors; or

(f) Claims for damages to a unit based upon the alleged failure of the association to maintain the common elements or condominium property.

Section 69. *The Division of Condominiums, Timeshare, and Mobile Homes of the Department of Business and Professional Regulation shall continue the arbitration of any cases which qualified for arbitration on the date the case was filed with the division and which were filed with the division prior to the date on which this act becomes law.*

Section 70. *There is hereby appropriated 1 FTE and $440,626 from the Division of Condominiums, Timeshare, and Mobile Homes Trust Fund to the Department of Business and Professional Regulation for the purpose of investigating and resolving disputes and dealing with compliance issues relating to condominiums and cooperatives. This appropriation shall not take effect if a similar amount of funding is included in the various appropriations for compliance and enforcement in the Florida Condominiums, Timeshare, and Mobile Homes program in the fiscal year 2001-2002 General Appropriations Act.*

And the title is amended as follows:

On page 5, line 18,

after the second semicolon insert: providing and limiting arbitration of disputes by the division to those regarding elections and the recall of board members; deleting reference to voluntary mediation; providing for the resolution of certain other complaints at the local level; providing exemptions; requiring the continuation of arbitration of cases filed by a certain date; providing a contingent appropriation;

The Council for Smarter Government offered the following:

(Amendment Bar Code: 365231)

Amendment 8 (with title amendment)—On page 17, between lines 18 and 19, of the bill

insert:

Section 8. Section 399.061, Florida Statutes, is amended to read:

399.061 Inspections; correction of deficiencies.—

(1)(a) All elevators *or other conveyances* subject to this chapter must be *annually* inspected *by a certified elevator inspector through a third-party inspection service, or by a municipality or county under contract with the division* pursuant to s. 399.13*. If the elevator or other conveyance is* ~~by a third-party inspection service certified as a qualified elevator inspector or~~ maintained pursuant to a service maintenance contract continuously in force*, it shall be inspected at least once every two years by a certified elevator inspector not employed by or otherwise associated with the maintenance company; however, if the elevator is not an escalator or a dumbwaiter and the elevator serves only two adjacent floors and is covered by a service maintenance contract, no inspection shall be required so long as the service contract remains in effect*. A statement verifying the existence, performance, and cancellation of each service maintenance contract must be filed annually with the division as prescribed by rule. ~~All elevators covered by a service maintenance contract shall be inspected by a certificate of competency holder at least once every 2 years; however, if the elevator is not an escalator or a dumbwaiter and the elevator serves only two adjacent floors and is covered by a service maintenance contract, no inspection shall be required so long as the service contract remains in effect.~~

(b) The division may inspect an elevator whenever necessary to ensure its safe operation *or when a third-party inspection service is not available for routine inspection*.

(2) The division *may* ~~shall~~ employ state elevator inspectors to conduct the inspections *as* required by subsection (1) *and may charge an inspection fee for each inspection sufficient to cover the costs of that inspection, as provided by rule*. Each state elevator inspector shall hold a certificate of competency issued by the division.

(3) Whenever the division determines from the results of any inspection that, in the interest of the public safety, an elevator is in an unsafe condition, the division may seal the elevator or order the discontinuance of the use of the elevator until the division determines by inspection that such elevator has been satisfactorily repaired or replaced so that the elevator may be operated in a safe manner.

(4) When the division determines that an elevator is in violation of this chapter, the division may issue an order to the elevator owner requiring correction of the violation.

And the title is amended as follows:

On page 1, at the end of line 21,
remove from the title of the bill: nothing

and insert in lieu thereof: 399.061, F.S.; revising provisions relating to the inspection of elevators; amending s.

On motion by Rep. Kyle, the council amendments failed of adoption *en bloc*.

Representative(s) Kyle offered the following:

(Amendment Bar Code: 613059)

Amendment 9 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Subsection (7) is repealed and paragraph (d) of subsection (2), paragraph (a) of subsection (4), and subsection (6) of section 20.165, Florida Statutes, are amended to read:

20.165 Department of Business and Professional Regulation.—There is created a Department of Business and Professional Regulation.

(2) The following divisions of the Department of Business and Professional Regulation are established:

(d) Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes.

(4)(a) The following boards are established within the Division of Professions:

1. Board of Architecture and Interior Design, created under part I of chapter 481.

2. Florida Board of Auctioneers, created under part VI of chapter 468.

3. ~~Barbers'~~ Board *of Barbering and Cosmetology*, created under chapter 476.

4. Florida Building Code Administrators and Inspectors Board, created under part XII of chapter 468.

5. Construction Industry Licensing Board, created under part I of chapter 489.

~~6. Board of Cosmetology, created under chapter 477.~~

6.~~7.~~ Electrical Contractors' Licensing Board, created under part II of chapter 489.

7.~~8.~~ Board of Employee Leasing Companies, created under part XI of chapter 468.

8.~~9.~~ Board of Funeral Directors and Embalmers, created under chapter 470.

9.~~10.~~ Board of Landscape Architecture, created under part II of chapter 481.

10.~~11.~~ Board of Pilot Commissioners, created under chapter 310.

11.~~12.~~ Board of Professional Engineers, created under chapter 471.

12.~~13.~~ Board of Professional Geologists, created under chapter 492.

13.~~14.~~ Board of Professional Surveyors and Mappers, created under chapter 472.

14.~~15.~~ Board of Veterinary Medicine, created under chapter 474.

(6) Each board with ~~five or~~ more *than seven* members shall have at least two consumer members who are not, and have never been, members or practitioners of the profession regulated by such board or of any closely related profession. Each board with *seven or* fewer ~~than five~~ members shall have at least one consumer member who is not, and has never been, a member or practitioner of the profession regulated by such board or of any closely related profession.

~~(7) No board, with the exception of joint coordinatorships, shall be transferred from its present location unless authorized by the Legislature in the General Appropriations Act.~~

Section 2. Section 326.001, Florida Statutes, is amended to read:

326.001 Short title.—*This chapter* ~~Sections 326.001-326.006~~ may be cited as the "Yacht and Ship Brokers' Act."

Section 3. Section 326.002, Florida Statutes, is amended to read:

326.002 Definitions.—As used in *this chapter* ~~ss. 326.001-326.006~~, the term:

(1) "Broker" means a person who, for or in expectation of compensation: sells, offers, or negotiates to sell; buys, offers, or negotiates to buy; solicits or obtains listings of; or negotiates the purchase, sale, or exchange of, yachts for other persons.

(2) *"Department"* ~~"Division"~~ means the ~~Division of Florida Land Sales, Condominiums, and Mobile Homes of the~~ Department of Business and Professional Regulation.

(3) "Salesperson" means a person who, for or in expectation of compensation, is employed by a broker to perform any acts of a broker.

(4) "Yacht" means any vessel which is propelled by sail or machinery in the water which exceeds 32 feet in length, and which weighs less than 300 gross tons.

(5) "Person" means an individual, partnership, firm, corporation, association, or other entity.

Section 4. Section 326.003, Florida Statutes, is amended to read:

326.003 Administration.—The *department* ~~division~~ shall:

(1) Administer ~~ss. 326.001-326.006~~ and collect fees sufficient to administer *this chapter* ~~ss. 326.001-326.006~~.

(2) Adopt rules pursuant to ss. 120.536(1) and 120.54 *necessary* to *administer this chapter* ~~implement ss. 326.001-326.006~~ and to classify brokers and salespersons and regulate their activities.

(3) Enforce the provisions of *this chapter* ~~ss. 326.001-326.006~~ against any person who operates as a broker or salesperson without a license.

Section 5. Section 326.004, Florida Statutes, is amended to read:

326.004 Licensing.—

(1) A person may not act as a broker or salesperson unless licensed under the Yacht and Ship Brokers' Act. The *department* ~~division~~ shall adopt rules establishing a procedure for the biennial renewal of licenses.

(2) A broker may not engage in business as a broker under a fictitious name unless his or her license is issued in such name.

(3) A license is not required for:

(a) A person who sells his or her own yacht.

(b) An attorney at law for services rendered in his or her professional capacity.

(c) A receiver, trustee, or other person acting under a court order.

(d) A transaction involving the sale of a new yacht.

(e) A transaction involving the foreclosure of a security interest in a yacht.

(4) Any person who purchases a used yacht for resale must transfer title to such yacht into his or her name and maintain the title or bill of sale in his or her possession to be exempt from licensure.

(5) The *department* ~~division~~ by rule shall establish fees for application, initial licensing, biennial renewal, and reinstatement of licenses in an amount not to exceed $500. The fees must be set in an amount that is adequate to proportionately fund the expenses of the *department* ~~division~~ in *this chapter* ~~ss. 326.001-326.006~~.

(6) The *department* ~~division~~ may deny a license *or license renewal* to any applicant who does not:

(a) Furnish proof satisfactory to the *department* ~~division~~ that he or she is of good moral character.

(b) Certify that he or she has never been convicted of a felony.

(c) Post the bond required by the Yacht and Ship Brokers' Act.

(d) Demonstrate that he or she is a resident of this state or that he or she conducts business in this state.

(e) Furnish a full set of fingerprints taken within the 6 months immediately preceding the submission of the application.

(f) Have a current license and has operated as a broker or salesperson without a license.

(7)(a) Before any license may be issued to a yacht or ship broker, he or she must deliver to the *department* ~~division~~ a good and sufficient surety bond or irrevocable letter of credit, executed by the broker as principal, in the sum of $25,000.

(b) Surety bonds and irrevocable letters of credit must be in a form to be approved by the *department* ~~division~~ and must be conditioned upon the broker complying with the terms of any written contract made by such broker in connection with the sale or exchange of any yacht or ship and not violating any of the provisions of the Yacht and Ship Brokers' Act in the conduct of the business for which he or she is licensed. The bonds and letters of credit must be delivered to the *department* ~~division~~ and in favor of any person in a transaction who suffers any loss as a result of any violation of the conditions in *this chapter* ~~ss. 326.001-326.006~~. When the *department* ~~division~~ determines that a person has incurred a loss as a result of a violation of the Yacht and Ship Brokers' Act, it shall notify the person in writing of the existence of the bond or letter of credit. The bonds and letters of credit must cover the license period, and a new bond or letter of credit or a proper continuation certificate must be delivered to the *department* ~~division~~ at the beginning of each license period. However, the aggregate liability of the surety in any one year may not exceed the sum of the bond or, in the case of a letter of credit, the aggregate liability of the issuing bank may not exceed the sum of the credit.

(c) Surety bonds must be executed by a surety company authorized to do business in the state as surety, and irrevocable letters of credit must be issued by a bank authorized to do business in the state as a bank.

(d) Irrevocable letters of credit must be engaged by a bank as an agreement to honor demands for payment as specified in this section.

The security for a broker must remain on deposit for a period of 1 year after he or she ceases to be a broker.

(8) A person may not be licensed as a broker unless he or she has been a salesperson for at least 2 consecutive years, and may not be

licensed as a broker after October 1, 1990, unless he or she has been licensed as a salesperson for at least 2 consecutive years.

(9) An applicant for a salesperson's license or its renewal must deposit with the *department* ~~division~~ a bond or equivalent securities in the sum of $10,000 subject to the conditions in subsection (7).

(10) Upon a final judgment being rendered against a yacht broker or salesperson for a violation of *this chapter* ~~ss. 326.001-326.006~~ which results in any action being commenced on the bond or letter of credit, the *department* ~~division~~ may require the filing of a new bond or letter of credit and immediately on the recovery in any action on such bond or letter of credit, the broker or salesperson involved must file a new bond or letter of credit. His or her failure to do so within 10 days constitutes grounds for the suspension or revocation of his or her license.

(11) Any person injured by the fraud, deceit, or willful negligence of any broker or salesperson or by the failure of any broker or salesperson to comply with the Yacht and Ship Brokers' Act or other law may file an action for damages upon the respective bonds against the principals and the surety.

(12) If a surety notifies the *department* ~~division~~ that it is no longer the surety for a licensee, the *department* ~~division~~ shall notify the licensee of such withdrawal by certified mail, return receipt requested, addressed to the licensee's principal office. Upon the termination of such surety the licensee's license is automatically suspended until he or she files a new bond with the *department* ~~division~~.

(13) Each broker must maintain a principal place of business in this state and may establish branch offices in the state. A separate license must be maintained for each branch office. The *department* ~~division~~ shall establish by rule a fee not to exceed $100 for each branch office license.

(14)(a) Each license must be prominently displayed in the office of the broker.

(b) Each salesperson's license must remain in the possession of the employing broker until canceled or until the salesperson leaves such employment. Immediately upon a salesperson's withdrawal from the employment of a broker, the broker must return the salesperson's license to the *department* ~~division~~ for cancellation.

(15) The *department* ~~division~~ shall provide by rule for the issuance of a temporary 90-day license to an applicant while the Florida Department of Law Enforcement *and the Federal Bureau of Investigation conduct* ~~conducts~~ a national criminal history analysis of the applicant by means of fingerprint identification.

Section 6. Section 326.006, Florida Statutes, is amended to read:

326.006 Powers and duties of *department* ~~division~~.—

(1) Proceedings under the Yacht and Ship Brokers' Act shall be conducted pursuant to chapter 120.

(2) The *department may* ~~division has the power to~~ enforce and ensure compliance with the provisions of this chapter and rules adopted under this chapter relating to the sale and ownership of yachts and ships. In performing its duties, the *department* ~~division~~ has the following powers and duties:

(a) The *department* ~~division~~ may make necessary public or private investigations within or outside this state to determine whether any person has violated this chapter or any rule or order issued under this chapter, to aid in the enforcement of this chapter, or to aid in the adoption of rules or forms under this chapter.

(b) The *department* ~~division~~ may require or permit any person to file a statement in writing, under oath or otherwise, as the *department* ~~division~~ determines, as to the facts and circumstances concerning a matter to be investigated.

(c) For the purpose of any investigation under this chapter, the *secretary of the department* ~~division director~~ or any officer or employee designated by the *secretary* ~~division director~~ may administer oaths or affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any matter that is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence. Upon the failure by a person to obey a subpoena or to answer questions propounded by the *department* ~~investigating officer~~ and upon reasonable notice to all persons affected thereby, the *department* ~~division~~ may apply to the circuit court for an order compelling compliance*, may impose a civil penalty, and may suspend or revoke the licensee's license*.

(d) Notwithstanding any remedies available to a yacht or ship purchaser, if the *department* ~~division~~ has reasonable cause to believe that a violation of any provision of this chapter or rule adopted under this chapter has occurred, the *department* ~~division~~ may institute enforcement proceedings in its own name against any broker or salesperson or any of his or her assignees or agents, or against any unlicensed person or any of his or her assignees or agents, as follows:

1. The *department* ~~division~~ may permit a person whose conduct or actions are under investigation to waive formal proceedings and enter into a consent proceeding whereby orders, rules, or letters of censure or warning, whether formal or informal, may be entered against the person.

2. The *department* ~~division~~ may issue an order requiring the broker or salesperson or any of his or her assignees or agents, or requiring any unlicensed person or any of his or her assignees or agents, to cease and desist from the unlawful practice and take such affirmative action as in the judgment of the *department* ~~division~~ will carry out the purposes of this chapter.

3. The *department* ~~division~~ may bring an action in circuit court on behalf of a class of yacht or ship purchasers for declaratory relief, injunctive relief, or restitution.

4. The *department* ~~division~~ may impose a civil penalty against a broker or salesperson or any of his or her assignees or agents, or against an unlicensed person or any of his or her assignees or agents, for any violation of this chapter or a rule adopted under this chapter. A penalty may be imposed for each day of continuing violation, but in no event may the penalty for any offense exceed $10,000. All amounts collected must be deposited with the Treasurer to the credit of the *Professional Regulation* ~~Division of Florida Land Sales, Condominiums, and Mobile Homes~~ Trust Fund. If a broker, salesperson, or unlicensed person working for a broker, fails to pay the civil penalty, the *department* ~~division~~ shall thereupon issue an order suspending the broker's license until such time as the civil penalty is paid or may pursue enforcement of the penalty in a court of competent jurisdiction. The order imposing the civil penalty or the order of suspension may not become effective until 20 days after the date of such order. Any action commenced by the *department* ~~division~~ must be brought in the county in which the *department* ~~division~~ has its executive offices or in the county where the violation occurred.

(e) The *department* ~~division~~ may suspend or revoke the license of a broker or salesperson who:

1. Makes a substantial and intentional misrepresentation, with respect to a transaction involving a yacht, upon which any person has relied.

2. Makes a false warranty, with respect to a transaction involving a yacht, of a character likely to influence, persuade, or induce any person with whom business is transacted.

3. Engages in continued misrepresentation or makes false warranties with respect to transactions involving a yacht, whether or not relied upon by another person.

4. Acts for both the buyer and seller in a transaction involving a yacht without the knowledge and written consent of both parties.

5. Commingles the money or other property of his or her principal with his or her own.

6. Commits fraud or dishonest acts in the conduct of any transaction involving a yacht.

7. Allows an unlicensed person to use his or her name to evade the provisions of the Yacht and Ship Brokers' Act.

8. Violates any law governing the transactions involving a yacht, including any provision relating to the collection or payment of sales or use taxes.

9. Engages in acts that are evidence of a lack of good moral character.

10. Is convicted of a felony.

(f) The *department* ~~division~~ may suspend or revoke the license of a broker or salesperson who has:

1. Procured a license for himself or herself or another by fraud, misrepresentation, falsification, or deceit.

2. Been found guilty of a felony or a crime of moral turpitude.

3. Had a license or registration revoked, suspended, or sanctioned in another state.

(3) All fees must be deposited in the *Professional Regulation* ~~Division of Florida Land Sales, Condominiums, and Mobile Homes~~ Trust Fund as provided by law.

Section 7. *The regulation of yacht and ship brokers and salespersons is reassigned within the Department of Business and Professional Regulation from the Division of Florida Land Sales, Condominiums, and Mobile Homes to the Division of Professions. All funds collected by the department pursuant to the regulation of yacht and ship brokers and salespersons and all funds in the account created within the Florida Land Sales, Condominiums, and Mobile Homes Trust Fund for such regulation shall be deposited in an account created within the Professional Regulation Trust Fund for the same purpose.*

Section 8. Effective upon this act becoming a law, section 399.061, Florida Statutes, is amended to read:

399.061 Inspections; correction of deficiencies.—

(1)(a) All elevators *or other conveyances* subject to this chapter must be *annually* inspected *by a certified elevator inspector through a third-party inspection service, or by a municipality or county under contract with the division* pursuant to s. 399.13*. If the elevator or other conveyance is* ~~by a third-party inspection service certified as a qualified elevator inspector or~~ maintained pursuant to a service maintenance contract continuously in force*, it shall be inspected at least once every two years by a certified elevator inspector not employed by or otherwise associated with the maintenance company; however, if the elevator is not an escalator or a dumbwaiter and the elevator serves only two adjacent floors and is covered by a service maintenance contract, no inspection shall be required so long as the service contract remains in effect*. A statement verifying the existence, performance, and cancellation of each service maintenance contract must be filed annually with the division as prescribed by rule. ~~All elevators covered by a service maintenance contract shall be inspected by a certificate-of-competency holder at least once every 2 years; however, if the elevator is not an escalator or a dumbwaiter and the elevator serves only two adjacent floors and is covered by a service maintenance contract, no inspection shall be required so long as the service contract remains in effect.~~

(b) The division may inspect an elevator whenever necessary to ensure its safe operation *or when a third-party inspection service is not available for routine inspection*.

(2) The division *may* ~~shall~~ employ state elevator inspectors to conduct the inspections *as* required by subsection (1) *and may charge an inspection fee for each inspection sufficient to cover the costs of that inspection, as provided by rule*. Each state elevator inspector shall hold a certificate of competency issued by the division.

(3) Whenever the division determines from the results of any inspection that, in the interest of the public safety, an elevator is in an unsafe condition, the division may seal the elevator or order the discontinuance of the use of the elevator until the division determines by inspection that such elevator has been satisfactorily repaired or replaced so that the elevator may be operated in a safe manner.

(4) When the division determines that an elevator is in violation of this chapter, the division may issue an order to the elevator owner requiring correction of the violation.

Section 9. Effective July 1, 2001, subsection (1) of section 455.213, Florida Statutes, is amended, and subsections (11) and (12) are added to that section, to read:

455.213 General licensing provisions.—

(1) Any person desiring to be licensed shall apply to the department in writing. The application for licensure shall be made on a form prepared and furnished by the department and include the applicant's social security number. *Notwithstanding any other provision of law, the department is responsible for the printed or electronic content of all initial licensure and licensure renewal documents. Such documents must require information including as appropriate demographics, education, work history, personal background, criminal history, finances, business information, complaints, inspections, investigations, discipline, bonding, signature notarization, photographs, performance periods, reciprocity, local government approvals, supporting documentation, periodic reporting requirements, fingerprint requirements, continuing education requirements, and ongoing education monitoring.* The application shall be supplemented as needed to reflect any material change in any circumstance or condition stated in the application which takes place between the initial filing of the application and the final grant or denial of the license and which might affect the decision of the department. In order to further the economic development goals of the state, and notwithstanding any law to the contrary, the department may enter into an agreement with the county tax collector for the purpose of appointing the county tax collector as the department's agent to accept applications for licenses and applications for renewals of licenses. The agreement must specify the time within which the tax collector must forward any applications and accompanying application fees to the department. In cases where a person applies or schedules directly with a national examination organization or examination vendor to take an examination required for licensure, any organization- or vendor-related fees associated with the examination may be paid directly to the organization or vendor.

(11) Any submission required to be in writing may be made by electronic means.

(12) The department may not issue or renew a license to any person who is not in compliance with all provisions of a final order of a board or the department until that person is in compliance with all terms and conditions of the final order. The department may not issue or renew a license to any person who is not in compliance with all legal obligations under this chapter or the relevant practice act, including, but not limited to, the obligation to pay all fees and assessments that are owed and to complete all continuing education requirements. This subsection applies to all divisions within the department.

Section 10. Section 455.224, Florida Statutes, is amended to read:

455.224 Authority to issue citations.—

(1) Notwithstanding s. 455.225, the board or the department shall adopt rules to permit the issuance of citations. The citation shall be issued to the subject and shall contain the subject's name and address, the subject's license number if applicable, a brief factual statement, the sections of the law allegedly violated, and the penalty imposed. The citation must clearly state that the subject may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the subject disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the subject does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes

discipline. The penalty shall be a fine or other conditions as established by rule.

(2) The board, or the department when there is no board, shall adopt rules designating violations for which a citation may be issued. Such rules shall designate as citation violations those violations for which there is no substantial threat to the public health, safety, and welfare.

(3) The department shall be entitled to recover the costs of investigation, in addition to any penalty provided according to board or department rule, as part of the penalty levied pursuant to the citation.

(4) A citation must be issued within 6 months after the filing of the complaint that is the basis for the citation.

(5) Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the subject's last known address.

(6) Within its jurisdiction, the department has exclusive authority to, and shall adopt rules to, designate those violations for which the licensee is subject to the issuance of a citation and designate the penalties for those violations if any board fails to incorporate this section into rules by January 1, 1992. A board created on or after January 1, 1992, has 6 months in which to enact rules designating violations and penalties appropriate for citation offenses. Failure to enact such rules gives the department exclusive authority to adopt rules as required for implementing this section. A board has continuous authority to amend its rules adopted pursuant to this section.

(7) Notwithstanding s. 455.017, any division within the department may establish a citation program pursuant to the provisions of this section in the enforcement of its regulatory provisions. Any citation issued by a division pursuant to this section must clearly state that the subject may choose, in lieu of accepting the citation, to follow the existing procedures established by law. If the subject does not dispute the matter in the citation with the division within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. The penalty shall be a fine or other conditions as established by rule of the appropriate division.

Section 11. Subsections (10) and (11) of section 468.401, Florida Statutes, are amended to read:

468.401 Regulation of talent agencies; definitions.—As used in this part or any rule adopted pursuant hereto:

(10) *"Registration"* ~~"License"~~ means a *registration* ~~license~~ issued by the department ~~of Business and Professional Regulation~~ to carry on the business of a talent agency under this part.

(11) *"Registrant"* ~~"Licensee"~~ means a talent agency *that* ~~which~~ holds a valid unrevoked and unforfeited *registration* ~~license~~ issued under this part.

Section 12. Section 468.402, Florida Statutes, is amended to read:

468.402 *Operation of a talent agency* ~~Duties of the department; authority to issue and revoke license~~; adoption of rules.—

(1) *It is unlawful to have* ~~The department may take any one or more of the actions specified in subsection (5) against any person who has~~:

(a) Obtained or attempted to obtain *a registration* ~~any license~~ by means of fraud, misrepresentation, or concealment.

(b) Violated any provision of this part, chapter 455, any lawful disciplinary order of the department, or any rule of the department.

(c) Been found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime involving moral turpitude or dishonest dealings under the laws of this state or any other state or government.

(d) Made, printed, published, distributed, or caused, authorized, or knowingly permitted the making, printing, publication, or distribution of any false statement, description, or promise of such a character as to reasonably induce any person to act to his or her damage or injury, if such statement, description, or promises were purported to be performed by the talent agency and if the owner or operator then knew, or by the exercise of reasonable care and inquiry, could have known, of the falsity of the statement, description, or promise.

(e) Knowingly committed or been a party to any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person lawfully relying upon the work, representation, or conduct of the talent agency acts or has acted to his or her injury or damage.

(f) Failed or refused upon demand to disclose any information, as required by this part, within his or her knowledge, or failed or refused to produce any document, book, or record in his or her possession for inspection *as required by* ~~to the department or any authorized agent thereof acting within its jurisdiction or by authority of~~ law.

(g) Established the talent agency within any place where intoxicating liquors are sold, any place where gambling is permitted, or any house of prostitution.

(h) Charged, collected, or received compensation for any service performed by the talent agency greater than specified in its schedule of maximum fees, charges, and commissions ~~previously filed with the department~~.

(i) Had a license *or registration* to operate a talent agency revoked, suspended, or otherwise acted against, including, but not limited to, having been denied a license *or registration* for good cause by the licensing authority of another state, territory, or country.

(j) Willfully made or filed a report or record that the *registrant* ~~licensee~~ knew to be false, failed to file a report or record required by state or federal law, impeded or obstructed such filing, or induced another person to impede or obstruct such filing. Such reports or records shall include only those that are signed in the *registrant's* ~~licensee's~~ capacity as a *registered* ~~licensed~~ talent agency.

(k) Advertised goods or services in a manner that was fraudulent, false, deceptive, or misleading in form or content.

(l) Advertised, operated, or attempted to operate under a name other than the name appearing on the *registration* ~~license~~.

(m) Been found guilty of fraud or deceit in the operation of a talent agency.

(n) Operated with a revoked, suspended, inactive, or delinquent *registration* ~~license~~.

(o) Permitted, aided, assisted, procured, or advised any ~~unlicensed~~ person to operate a talent agency contrary to this part or *other law* ~~to a rule of the department~~.

(p) Failed to perform any statutory or legal obligation placed on a ~~licensed~~ talent agency.

(q) Practiced or offered to practice beyond the scope permitted by law or has accepted and performed professional responsibilities that the *registrant* ~~licensee~~ knows or has reason to know that he or she is not competent to perform.

(r) Conspired with ~~another licensee or with~~ any other person to commit an act, or has committed an act, that would tend to coerce, intimidate, or preclude another *registrant* ~~licensee~~ from advertising his or her services.

(s) Solicited business, either personally or through an agent or through any other person, through the use of fraud or deception or by other means; through the use of misleading statements; or through the exercise of intimidation or undue influence.

(t) Exercised undue influence on the artist in such a manner as to exploit the artist for financial gain of the *registrant* ~~licensee~~ or a third party, which includes, but is not limited to, the promoting or selling of services to the artist.

~~(2) The department may revoke any license that is issued as a result of the mistake or inadvertence of the department.~~

(2)~~(3)~~ The department *may* ~~has authority to~~ adopt rules pursuant to ss. 120.536(1) and 120.54 *necessary* to *administer* ~~implement the provisions of~~ this part.

(3)~~(4)~~ A revoked or suspended *registration* ~~license~~ must be returned to the department within 7 days after the time for appeal has elapsed.

(4)~~(5)~~ Upon a finding of a violation of any one or more of the grounds enumerated in subsection (1) or any other section of this part, the department may ~~take the following actions~~:

(a) Deny an application for *registration* ~~licensure~~ as a talent agency.

(b) ~~Permanently~~ Revoke or suspend the *registration* ~~license~~ of a talent agency.

~~(c) Impose an administrative fine, not to exceed $5,000, for each count or separate offense.~~

~~(d) Require restitution.~~

~~(e) Issue a public reprimand.~~

~~(f) Place the licensee on probation, subject to such conditions as the department may specify.~~

~~(6) A person shall be subject to the disciplinary actions specified in subsection (5) for violations of subsection (1) by that person's agents or employees in the course of their employment with that person.~~

(5)~~(7)~~ The department may deny a *registration* ~~license~~ if any owner or operator listed on the application has been associated with a talent agency whose *registration* ~~license~~ has been revoked or otherwise disciplined.

Section 13. Section 468.403, Florida Statutes, is amended to read:

468.403 *Registration* ~~License~~ requirements.—

(1) A person may not own, operate, solicit business, or otherwise engage in or carry on the occupation of a talent agency in this state unless such person first *registers with* ~~procures a license for the talent agency from~~ the department. However, a *registration* ~~license~~ is not required for a person who acts as an agent for herself or himself, a family member, or exclusively for one artist.

(2) Each application for a *registration* ~~license~~ must be accompanied by an application fee set by the department not to exceed $300~~, plus the actual cost for fingerprint analysis for each owner application, to cover the costs of investigating the applicant~~. Each application for a change of operator must be accompanied by an application fee of $150. These fees are not refundable.

~~(3)(a) Each owner of a talent agency if other than a corporation and each operator of a talent agency shall submit to the department with the application for licensure of the agency a full set of fingerprints and a photograph of herself or himself taken within the preceding 2 years. The department shall conduct an examination of fingerprint records and police records.~~

~~(b) Each owner of a talent agency that is a corporation shall submit to the department, with the application for licensure of the agency, a full set of fingerprints of the principal officer signing the application form and the bond form, and a full set of fingerprints of each operator, and a photograph of each taken within the preceding 2 years. The department shall conduct an examination of fingerprint records and police records.~~

(3)~~(4)~~ Each application must include:

(a) The name and address of the owner of the talent agency.

~~(b) Proof of at least 1 year of direct experience or similar experience of the operator of such agency in the talent agency business or as a subagent, casting director, producer, director, advertising agency, talent coordinator, or musical booking agent.~~

(b)~~(c)~~ The street and number of the building or place where the talent agency is to be located.

~~(5) The department shall investigate the owner of an applicant talent agency only to determine her or his ability to comply with this part and shall investigate the operator of an applicant talent agency to determine her or his employment experience and qualifications.~~

(4)~~(6)~~ If the applicant is other than a corporation, the application shall also include the names and addresses of all persons, except bona fide employees on stated salaries, financially interested, either as partners, associates, or profit sharers, in the operation of the talent agency in question, together with the amount of their respective interest.

(5)~~(7)~~ If the applicant is a corporation, the application shall include the corporate name and the names, residential addresses, and telephone numbers of all persons actively participating in the business of the corporation and shall include the names of all persons exercising managing responsibility in the applicant's or *registrant's* ~~licensee's~~ office.

~~(8) The application must be accompanied by affidavits of at least five reputable persons, other than artists, who have known or have been associated with the applicant for at least 3 years, stating that the applicant is a person of good moral character or, in the case of a corporation, has a reputation for fair dealing.~~

(6)~~(9)~~ If any information in the application supplied to the department by the applicant or *registrant* ~~licensee~~ changes in any manner whatsoever, the applicant or *registrant* ~~licensee~~ shall submit such changes to the department within 30 days after the date of such change or after the date such change is known or should have been known to the applicant or *registrant* ~~licensee~~.

Section 14. Section 468.404, Florida Statutes, is amended to read:

468.404 *Registration* ~~License~~; fees; renewals.—

(1) The department by rule shall establish biennial fees for initial *registration* ~~licensing~~, renewal of *registration* ~~license~~, and reinstatement of *registration* ~~license~~, none of which fees shall exceed $400. The department may by rule establish a delinquency fee of no more than $50. The fees shall be adequate to proportionately fund the expenses of the department which are allocated to the *registering* ~~regulation~~ of talent agencies and shall be based on the department's estimate of the revenue required to administer this part.

(2) If one or more individuals on the basis of whose qualifications a talent agency *registration* ~~license~~ has been obtained cease to be connected with the agency for any reason, the agency business may be carried on for a temporary period, not to exceed 90 days, under such terms and conditions as the department provides by rule for the orderly closing of the business or the replacement and qualifying of a new owner or operator. The *registrant's* ~~licensee's~~ good standing under this part shall be contingent upon the department's approval of any such new owner or operator.

(3) No *registration* ~~license~~ shall be valid to protect any business transacted under any name other than that designated *on* ~~in~~ the *registration* ~~license~~, unless consent is first obtained from the department~~, unless written consent of the surety or sureties on the original bond required by s. 468.408 is filed with the department,~~ and unless the *registration* ~~license~~ is returned to the department for the recording thereon of such changes. A charge of $25 shall be made by the department for the recording of authorization for each change of name or change of location.

(4) No *registration* ~~license~~ issued under this part shall be assignable.

Section 15. Section 468.406, Florida Statutes, is amended to read:

468.406 Fees to be charged by talent agencies; rates; display.—

(1) Each *talent agency* ~~applicant for a license~~ shall *maintain and provide to its artists or potential clients* ~~file with the application~~ an

itemized schedule of maximum fees, charges, and commissions which it intends to charge and collect for its services. This schedule may thereafter be raised only by *notifying its artists* ~~filing with the department an amended or supplemental schedule~~ at least 30 days before the change is to become effective. The schedule shall be posted in a conspicuous place in each place of business of the agency and shall be printed in not less than a 30-point boldfaced type, except that an agency that uses written contracts containing maximum fee schedules need not post such schedules.

(2) All money collected by a talent agency from an employer for the benefit of an artist shall be paid to the artist, less the talent agency's fee, within 5 business days after the receipt of such money by the talent agency. No talent agency is required to pay money to an artist until the talent agency receives payment from the employer or buyer.

Section 16. Section 468.407, Florida Statutes, is amended to read:

468.407 *Registration* ~~License~~; content; posting.—

(1) The talent agency *registration* ~~license~~ shall be valid for the biennial period in which issued and shall be in such form as may be determined by the department, but shall at least specify the name under which the applicant is to operate, the address of the place of business, the expiration date of the *registration* ~~license~~, the full names and titles of the owner and the operator, and the number of the *registration* ~~license~~.

(2) The talent agency *registration* ~~license~~ shall at all times be displayed conspicuously in the place of business in such manner as to be open to the view of the public and subject to the inspection of all duly authorized officers of the state and county.

(3) If a *registrant* ~~licensee~~ desires to cancel his or her *registration* ~~license~~, he or she must notify the department and forthwith return to the department the *registration* ~~license~~ so canceled. No *registration* ~~license~~ fee may be refunded upon cancellation of the *registration* ~~license~~.

Section 17. Subsection (3) of section 468.410, Florida Statutes, is amended to read:

468.410 Prohibition against registration fees; referral.—

(3) A talent agency shall give each applicant a copy of a contract which lists the services to be provided and the fees to be charged. The contract shall state that the talent agency is *registered with* ~~regulated by~~ the department and shall list the address and telephone number of the department.

Section 18. Section 468.412, Florida Statutes, is amended to read:

468.412 Talent agency *requirements* ~~regulations~~.—

(1) A talent agency shall maintain a record sheet for each booking. This shall be the only required record of placement and shall be kept for a period of 1 year after the date of the last entry in the buyer's file.

(2) Each talent agency shall keep records in which shall be entered:

(a) The name and address of each artist employing such talent agency;

(b) The amount of fees received from each such artist; *and*

(c) The employment in which each such artist is engaged at the time of employing such talent agency and the amount of compensation of the artist in such employment, if any, and the employments subsequently secured by such artist during the term of the contract between the artist and the talent agency and the amount of compensation received by the artist pursuant thereto.~~; and~~

~~(d) Other information which the department may require from time to time.~~

~~(3) All books, records, and other papers kept pursuant to this act by any talent agency shall be open at all reasonable hours to the inspection of the department and its agents. Each talent agency shall furnish to the department, upon request, a true copy of such books, records, and papers, or any portion thereof, and shall make such reports as the department may prescribe from time to time.~~

(3)~~(4)~~ Each talent agency shall post in a conspicuous place in the office of such talent agency a printed copy of this part ~~and of the rules adopted under this part. Such copies shall also contain the name and address of the officer charged with enforcing this part~~. The department shall furnish to talent agencies printed copies of any statute ~~or rule~~ required to be posted under this subsection.

(4)~~(5)~~ No talent agency may knowingly issue a contract for employment containing any term or condition which, if complied with, would be in violation of law, or attempt to fill an order for help to be employed in violation of law.

(5)~~(6)~~ No talent agency may publish or cause to be published any false, fraudulent, or misleading information, representation, notice, or advertisement. All advertisements of a talent agency by means of card, circulars, or signs, and in newspapers and other publications, and all letterheads, receipts, and blanks shall be printed and contain the *registered* ~~licensed~~ name, department *registration* ~~license~~ number, and address of the talent agency and the words "talent agency." No talent agency may give any false information or make any false promises or representations concerning an engagement or employment to any applicant who applies for an engagement or employment.

(6)~~(7)~~ No talent agency may send or cause to be sent any person as an employee to any house of ill fame, to any house or place of amusement for immoral purposes, to any place resorted to for the purposes of prostitution, to any place for the modeling or photographing of a minor in the nude in the absence of written permission from the minor's parents or legal guardians, the character of which places the talent agency could have ascertained upon reasonable inquiry.

(7)~~(8)~~ No talent agency may divide fees with anyone, including, but not limited to, an agent or other employee of an employer, a buyer, a casting director, a producer, a director, or any venue that uses entertainment.

(8)~~(9)~~ If a talent agency collects from an artist a fee or expenses for obtaining employment for the artist, and the artist fails to procure such employment, or the artist fails to be paid for such employment if procured, such talent agency shall, upon demand therefor, repay to the artist the fee and expenses so collected. Unless repayment thereof is made within 48 hours after demand therefor, the talent agency shall pay to the artist an additional sum equal to the amount of the fee.

(9)~~(10)~~ Each talent agency must maintain a permanent office and must maintain regular operating hours at that office.

Section 19. Section 468.413, Florida Statutes, is amended to read:

468.413 *Unlawful acts* ~~Legal requirements~~; penalties.—

(1) Each of the following acts constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Owning or operating, or soliciting business as, a talent agency in this state without first *registering with* ~~procuring a license from~~ the department.

(b) Obtaining or attempting to obtain a *registration* ~~license~~ by means of fraud, misrepresentation, or concealment.

(2) Each of the following acts constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083:

(a) Relocating a business as a talent agency, or operating under any name other than that designated on the *registration* ~~license~~, ~~unless written notification is given to the department and to the surety or sureties on the original bond, and~~ unless the *registration* ~~license~~ is returned to the department for the recording thereon of such changes.

(b) Assigning or attempting to assign a *registration* ~~license~~ issued under this part.

(c) Failing to show on a *registration* ~~license~~ application whether or not the agency or any owner of the agency is financially interested in any

other business of like nature and, if so, failing to specify such interest or interests.

(d) Failing to maintain the records required by s. 468.409 or knowingly making false entries in such records.

(e) Requiring as a condition to registering or obtaining employment or placement for any applicant that the applicant subscribe to, purchase, or attend any publication, postcard service, advertisement, resume service, photography service, school, acting school, workshop, or acting workshop.

(f) Failing to give each applicant a copy of a contract which lists the services to be provided and the fees to be charged, which states that the talent agency is *registered with* ~~regulated by~~ the department~~, and which lists the address and telephone number of the department~~.

(g) Failing to maintain a record sheet as required by s. 468.412(1).

(h) Knowingly sending or causing to be sent any artist to a prospective employer or place of business, the character or operation of which employer or place of business the talent agency knows to be in violation of the laws of the United States or of this state.

(3) The court may, in addition to other punishment provided for in *subsection (1) or* subsection (2), suspend or revoke the *registration* ~~license~~ of any *person* ~~licensee~~ under this part who has been found guilty of any *violation of subsection (1) or* ~~misdemeanor listed in~~ subsection (2).

(4) *If a* ~~In the event the department or any~~ state attorney *finds* ~~shall have~~ probable cause to believe that a talent agency or other person has violated any provision of subsection (1) *or subsection (2)*, an action may be brought by the department or any state attorney to enjoin such talent agency or any person from continuing such violation, or engaging therein or doing any acts in furtherance thereof, and for such other relief as to the court seems appropriate. In addition to this remedy, the department may *permanently prohibit a person from operating or working for a talent agency* ~~assess a penalty against any talent agency or any person in an amount not to exceed $1,000~~.

(5) Any person injured by a prohibited act or practice in violation of this part may bring a civil action in circuit court for temporary or permanent injunctive relief and may seek appropriate civil relief, including, but not limited to, a civil penalty not to exceed $5,000 for each violation, restitution and treble damages for injured parties, and court costs and reasonable attorney's fees.

Section 20. Section 468.414, Florida Statutes, is amended to read:

468.414 Collection and deposit of moneys; appropriation.—Proceeds from the ~~fines,~~ fees~~, and penalties~~ imposed pursuant to this part shall be deposited in the Professional Regulation Trust Fund, created by s. 215.37.

Section 21. Section 468.415, Florida Statutes, is amended to read:

468.415 Sexual misconduct in the operation of a talent agency.—The talent agent-artist relationship is founded on mutual trust. Sexual misconduct in the operation of a talent agency means violation of the talent agent-artist relationship through which the talent agent uses the relationship to induce or attempt to induce the artist to engage or attempt to engage in sexual activity. Sexual misconduct is prohibited in the operation of a talent agency. If any agent, owner, or operator of a *registered* ~~licensed~~ talent agency is found to have committed sexual misconduct in the operation of a talent agency, the agency *registration* ~~license~~ shall be permanently revoked. Such agent, owner, or operator shall be permanently disqualified from present and future *registration* ~~licensure~~ as owner or operator of a Florida talent agency.

Section 22. *Sections 468.405 and 468.408, Florida Statutes, are repealed.*

Section 23. Subsection (7) of section 468.609, Florida Statutes, is amended to read:

468.609 Administration of this part; standards for certification; additional categories of certification.—

(7)(a) The board may provide for the issuance of provisional certificates valid for such period, not less than 3 years nor more than 5 years, as specified by board rule, to any newly employed or promoted building code inspector or plans examiner who meets the eligibility requirements described in subsection (2) and any newly employed or promoted building code administrator who meets the eligibility requirements described in subsection (3).

(b) No building code administrator, plans examiner, or building code inspector may have a provisional certificate extended beyond the specified period by renewal or otherwise.

(c) The board may provide for appropriate levels of provisional certificates and may issue these certificates with such special conditions or requirements relating to the place of employment of the person holding the certificate, the supervision of such person on a consulting or advisory basis, or other matters as the board may deem necessary to protect the public safety and health.

(d)*1.* A newly employed or hired person may perform the duties of a plans examiner or building code inspector for 90 days if a provisional certificate application has been submitted, provided such person is under the direct supervision of a certified building code administrator who holds a standard certification and who has found such person qualified for a provisional certificate. ~~However,~~

2. Direct supervision and the determination of qualifications under this paragraph may be provided by a building code administrator who holds a limited or provisional certificate in any county with a population of less than 75,000 and in any municipality located within such a county.

3. Direct supervision under this paragraph may be provided in any county with a population of less than 75,000 and in any municipality within such county by telecommunication devices if the supervision is appropriate for the facts surrounding the performance of the duties being supervised.

Section 24. Subsection (4) of section 468.627, Florida Statutes, is amended to read:

468.627 Application; examination; renewal; fees.—

(4) Employees of local government agencies having responsibility for building code inspection, building construction regulation, and enforcement of building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other construction codes shall pay no application fees or examination fees. *However, the fee charged by the examination contract vendor to the department for scheduling an examination of an employee of a local government shall be recovered from any employee who does not report for the scheduled examination. The department shall have the final approval for excusing applicants from a scheduled examination and may waive recovery of the fee in case of hardship.*

Section 25. Subsection (1) of section 471.025, Florida Statutes, is amended to read:

471.025 Seals.—

(1) The board shall prescribe, by rule, *the forms* ~~a form~~ of *seals* ~~seal~~ to be used by registrants holding valid certificates of registration. Each registrant shall obtain *at least one* ~~an impression-type metal~~ seal in the form *approved by board rule* ~~aforesaid~~ and may, in addition, register his or her seal electronically in accordance with ss. 282.70-282.75. All final drawings, specifications, plans, reports, or documents prepared or issued by the registrant and being filed for public record and all final bid documents provided to the owner or the owner's representative shall be signed by the registrant, dated, and stamped with said seal. Such signature, date, and seal shall be evidence of the authenticity of that to which they are affixed. Drawings, specifications, plans, reports, final bid documents, or documents prepared or issued by a registrant may be transmitted electronically and may be signed by the registrant, dated, and stamped electronically with said seal in accordance with ss. 282.70-282.75.

Section 26. Section 472.001, Florida Statutes, is amended to read:

472.001 Purpose.—The Legislature deems it necessary to regulate surveyors and mappers as provided in *this chapter* ~~ss. 472.001-472.041~~.

Section 27. Section 472.003, Florida Statutes, is amended to read:

472.003 *Exemptions* ~~Persons not affected by ss. 472.001-472.041~~.—*This chapter does* ~~Sections 472.001-472.041 do~~ not apply to:

(1) Any surveyor and mapper working as a salaried employee of the United States Government when engaged in work solely for the United States Government.

(2) A registered professional engineer who takes or contracts for professional surveying and mapping services incidental to her or his practice of engineering and who delegates such surveying and mapping services to a registered professional surveyor and mapper qualified within her or his firm or contracts for such professional surveying and mapping services to be performed by others who are registered professional surveyors and mappers under *this chapter* ~~the provisions of ss. 472.001-472.041~~.

(3) The following persons when performing construction layout from boundary, horizontal, and vertical controls that have been established by a registered professional surveyor and mapper:

(a) Contractors performing work on bridges, roads, streets, highways, or railroads, or utilities and services incidental thereto, or employees who are subordinates of such contractors provided that the employee does not hold herself or himself out for hire or engage in such contracting except as an employee;

(b) Certified or registered contractors licensed pursuant to part I of chapter 489 or employees who are subordinates of such contractors provided that the employee does not hold herself or himself out for hire or engage in contracting except as an employee; and

(c) Registered professional engineers licensed pursuant to chapter 471 and employees of a firm, corporation, or partnership who are the subordinates of the registered professional engineer in responsible charge.

(4) Persons employed by county property appraisers, as defined at s. 192.001(3), and persons employed by the Department of Revenue, to prepare maps for property appraisal purposes only, but only to the extent that they perform mapping services which do not include any surveying activities as described in s. 472.005(4)~~(a) and (b)~~.

(5)(a) Persons who are employees of any state, county, municipal, or other governmental unit of this state and who are the subordinates of a person in responsible charge registered under this chapter, to the extent that the supervision meets standards adopted by rule of the board, if any.

(b) Persons who are employees of any employee leasing company licensed pursuant to part XI of chapter 468 and who work as subordinates of a person in responsible charge registered under this chapter.

(c) Persons who are employees of an individual registered or legal entity certified under this chapter and who are the subordinates of a person in responsible charge registered under this chapter, to the extent that the supervision meets standards adopted by rule of the board, if any.

Section 28. Section 472.005, Florida Statutes, is amended to read:

472.005 Definitions.—As used in *this chapter* ~~ss. 472.001-472.041~~:

(1) "Board" means the Board of Professional Surveyors and Mappers.

(2) "Department" means the Department of Business and Professional Regulation.

(3) "Surveyor and mapper" includes the term "professional surveyor and mapper" and means a person who is registered to engage in the practice of surveying and mapping under *this chapter* ~~ss. 472.001-472.041~~. For the purposes of this *subsection* ~~statute~~, a surveyor and mapper means a person who determines and displays the facts of size, shape, topography, tidal datum planes, legal or geodetic location or relation, and orientation of improved or unimproved real property through direct measurement or from certifiable measurement through accepted photogrammetric procedures.

(4)(a) "Practice of surveying and mapping" means, among other things, any professional service or work, the adequate performance of which involves the application of special knowledge of the principles of mathematics, the related physical and applied sciences, and the relevant requirements of law for adequate evidence of the act of measuring, locating, establishing, or reestablishing lines, angles, elevations, natural and manmade features in the air, on the surface and immediate subsurface of the earth, within underground workings, and on the beds or surface of bodies of water, for the purpose of determining, establishing, describing, displaying, or interpreting the facts of size, shape, topography, tidal datum planes, legal or geodetic location or relocation, and orientation of improved or unimproved real property and appurtenances thereto, including acreage and condominiums.

(b) The practice of surveying and mapping also includes, but is not limited to, photogrammetric control; the monumentation and remonumentation of property boundaries and subdivisions; the measurement of and preparation of plans showing existing improvements after construction; the layout of proposed improvements; the preparation of descriptions for use in legal instruments of conveyance of real property and property rights; the preparation of subdivision planning maps and record plats, as provided for in chapter 177; the determination of, but not the design of, grades and elevations of roads and land in connection with subdivisions or divisions of land; and the creation and perpetuation of alignments related to maps, record plats, field note records, reports, property descriptions, and plans and drawings that represent them.

(5) ~~The term~~ "Surveyor and mapper intern" includes ~~the term~~ "surveyor-mapper-in-training" and means a person who complies with the requirements *of this chapter* ~~provided by ss. 472.001-472.041~~ and who has passed an examination as provided by rules adopted by the board.

(6) ~~The term~~ "Responsible charge" means direct control and personal supervision of surveying and mapping work, but does not include experience as a chainperson, rodperson, instrumentperson, ordinary draftsperson, digitizer, scriber, photo lab technician, ordinary stereo plotter operator, aerial photo pilot, photo interpreter, and other positions of routine work.

(7) ~~The term~~ "License" means the registration of surveyors and mappers or the certification of businesses to practice surveying and mapping in this state.

(8) "Photogrammetric mapper" means any person who engages in the practice of surveying and mapping using aerial or terrestrial photography or other sources of images.

(9) "Employee" means a person who receives compensation from and is under the supervision and control of an employer who regularly deducts the F.I.C.A. and withholding tax and provides workers' compensation, all as prescribed by law.

(10) "Subordinate" means an employee who performs work under the direction, supervision, and responsible charge of a person who is registered under this chapter.

(11) "Monument" means an artificial or natural object that is permanent or semipermanent and used or presumed to occupy any real property corner, any point on a boundary line, or any reference point or other point to be used for horizontal or vertical control.

(12) "Legal entity" means a corporation, partnership, association, or person practicing under a fictitious name who is certified under s. 472.021.

Section 29. Subsection (1) of section 472.011, Florida Statutes, is amended to read:

472.011 Fees.—

(1) The board, by rule, may establish fees to be paid for applications, examination, reexamination, licensing and renewal, inactive status application and reactivation of inactive licenses, recordmaking and recordkeeping, and applications for providers of continuing education. The board may also establish by rule a delinquency fee. The board shall establish fees that are adequate to ensure the continued operation of the board. Fees shall be based on department estimates of the revenue required to implement *this chapter* ~~ss. 472.001-472.041~~ and the provisions of law with respect to the regulation of surveyors and mappers.

Section 30. Subsection (4) of section 472.015, Florida Statutes, is amended to read:

472.015 Licensure.—

(4) The department shall not issue a license by endorsement to any applicant who is under investigation in another state for any act that would constitute a violation of *this chapter* ~~ss. 472.001-472.041~~ or chapter 455 until such time as the investigation is complete and disciplinary proceedings have been terminated.

Section 31. Subsection (1) of section 472.021, Florida Statutes, is amended to read:

472.021 Certification of partnerships and corporations.—

(1) The practice of or the offer to practice surveying and mapping by registrants through a corporation or partnership offering surveying and mapping services to the public, or by a corporation or partnership offering said services to the public through registrants under *this chapter* ~~ss. 472.001-472.041~~ as agents, employees, officers, or partners, is permitted subject to the provisions of *this chapter* ~~ss. 472.001-472.041~~, provided that one or more of the principal officers of the corporation or one or more partners of the partnership and all personnel of the corporation or partnership who act in its behalf as surveyors and mappers in this state are registered as provided by *this chapter* ~~ss. 472.001-472.041,~~ and~~,~~ further~~,~~ provided that the corporation or partnership has been issued a certificate of authorization by the board as provided in this section. All final drawings, specifications, plans, reports, or other papers or documents involving the practice of surveying and mapping which are prepared or approved for the use of the corporation or partnership or for delivery to any person or for public record within the state must be dated and must bear the signature and seal of the registrant who prepared or approved them. Nothing in this section shall be construed to allow a corporation to hold a certificate of registration to practice surveying and mapping. No corporation or partnership shall be relieved of responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with this section, nor shall any individual practicing surveying and mapping be relieved of responsibility for professional services performed by reason of his or her employment or relationship with a corporation or partnership.

Section 32. Section 472.027, Florida Statutes, is amended to read:

472.027 Minimum technical standards for surveying and mapping.—The board shall adopt rules relating to the practice of surveying and mapping which establish minimum technical standards to ensure the achievement of no less than minimum degrees of accuracy, completeness, and quality in order to assure adequate and defensible real property boundary locations and other pertinent information provided by surveyors and mappers under the authority of *this chapter* ~~ss. 472.001-472.041~~.

Section 33. Section 472.029, Florida Statutes, is amended to read:

472.029 *Authorization* ~~Surveyors and mappers authorized~~ to enter lands of third parties*;* ~~under certain~~ conditions.—Surveyors and mappers *and their subordinates* may go on, over, and upon the lands of others when necessary to make surveys and maps *or to search for, uncover, locate, or set monuments*, and, in so doing, may carry with them their agents and employees necessary for that purpose. Entry under the right hereby granted does not constitute trespass, and surveyors and mappers and their *subordinates and* duly authorized agents or employees so entering are not liable to arrest or to a civil action by reason of such entry *as long as the entering is in compliance with all federal, state, and local regulations pertaining to premises security, agricultural protections, and other health and safety requirements.*~~;~~ However, this section does not give authority to registrants, *subordinates,* agents, or employees to destroy, injure, damage, or *otherwise* move *any physical improvements* ~~anything~~ on lands of another without the written permission of the landowner. *No landowner shall be liable to any third party for any civil or criminal act, or any damages, which result in whole or in part through the negligent or intentional conduct of any person regulated by this section. If written notice is delivered to a landowner or the landowner's registered agent three business days prior to entry on a parcel containing more than 160 acres classified as agricultural land, the duty of care owed to those regulated by this section shall be that due to a licensee under this chapter; however, if no such notice is given, the landowner's duty of care shall be that due to an unforeseen trespasser.*

Section 34. Subsection (5) of section 810.12, Florida Statutes, is amended to read:

810.12 Unauthorized entry on land; prima facie evidence of trespass.—

(5) However, this section shall not apply to any official or employee of the state or a county, municipality, or other governmental agency now authorized by law to enter upon lands or to registered engineers*,* ~~and~~ surveyors and mappers*, and other persons* authorized to enter lands pursuant to ss. 471.027 and 472.029. The provisions of this section shall not apply to the trimming or cutting of trees or timber by municipal or private public utilities, or their employees, contractors, or subcontractors, when such trimming is required for the establishment or maintenance of the service furnished by any such utility.

Section 35. Subsection (1) of section 472.031, Florida Statutes, is amended to read:

472.031 Prohibitions; penalties.—

(1) No person shall:

(a) Practice surveying and mapping unless such person is registered *under this chapter* ~~pursuant to ss. 472.001-472.041~~;

(b) Use the name or title "registered surveyor and mapper" when such person has not registered *under this chapter* ~~pursuant to ss. 472.001-472.041~~;

(c) Present as his or her own the registration of another;

(d) Knowingly give false or forged evidence to the board or a member thereof; or

(e) Use or attempt to use a registration that has been suspended or revoked.

Section 36. Section 472.037, Florida Statutes, is amended to read:

472.037 Application of *chapter* ~~ss. 472.001-472.041~~.—

(1) Nothing contained in *this chapter* ~~ss. 472.001-472.041~~ shall be construed to repeal, amend, limit, or otherwise affect any local building code or zoning law or ordinance, now or hereafter enacted, which is more restrictive with respect to the services of registered surveyors and mappers than the provisions of *this chapter* ~~ss. 472.001-472.041~~.

(2) In counties or municipalities that issue building permits, such permits shall not be issued in any case where it is apparent from the application for such building permit that the provisions of *this chapter* ~~ss. 472.001-472.041~~ have been violated. However, this shall not authorize the withholding of building permits in any cases within the exempt classes set forth in *this chapter* ~~ss. 472.001-472.041~~.

Section 37. Section 476.014, Florida Statutes, is amended to read:

476.014 Short title.—This *chapter* ~~act~~ may be cited as the "Barbers' Act."

Section 38. Section 476.034, Florida Statutes, is amended to read:

476.034 Definitions.—As used in this *chapter* ~~act~~:

(1) "Barber" means a person who is licensed to engage in the practice of barbering in this state under the authority of this chapter.

(2) "Barbering" means any of the following practices when done for remuneration and for the public, but not when done for the treatment of disease or physical or mental ailments: shaving, cutting, trimming, coloring, shampooing, arranging, dressing, curling, or waving the hair or beard or applying oils, creams, lotions, or other preparations to the face, scalp, or neck, either by hand or by mechanical appliances.

(3) "Barbershop" means any place of business wherein the practice of barbering is carried on.

(4) "Board" means the ~~Barbers'~~ Board *of Barbering and Cosmetology*.

(5) "Department" means the Department of Business and Professional Regulation.

Section 39. Section 476.054, Florida Statutes, is amended to read:

476.054 ~~Barbers'~~ Board *of Barbering and Cosmetology*.—

(1) There is created within the department the ~~Barbers'~~ Board *of Barbering and Cosmetology*, consisting of seven members who shall be appointed by the Governor, subject to confirmation by the Senate.

(2) *Two* ~~Five~~ members of the board *must* ~~shall~~ be *licensed* barbers who have practiced ~~the occupation of~~ barbering in this state for at least 5 years. *Three members must be licensed cosmetologists who have practiced cosmetology in this state for at least 5 years, and one member must be a registered cosmetology specialist who has practiced his or her specialty in this state for a least 5 years.* The remaining *member must* ~~two members of the board shall~~ be *a resident* ~~citizens~~ of the state who *is* ~~are~~ not presently *a* licensed *barber or cosmetologist* ~~barbers~~. No person *may* ~~shall~~ be appointed to the board who is ~~in any way~~ connected with the manufacture, rental, or wholesale distribution of barber *or cosmetology* equipment and supplies.

(3) As the terms of the members expire, the Governor shall appoint successors for terms of 4 years; and such members shall serve until their successors are appointed and qualified. The Governor may remove any member for cause.

(4) No person *may* ~~shall~~ be appointed to serve more than two consecutive terms. Any vacancy shall be filled by appointment by the Governor for the unexpired portion of the term.

(5) Each board member shall receive *$50 per day, up to a maximum of $2,000 per year, for time spent on board business, plus* per diem and mileage allowances as provided in s. 112.061 from the place of her or his residence to the place of meeting and the return therefrom.

(6) Before beginning duties as a board member, each appointee must take the constitutional oath of office and file it with the Department of State, which shall issue to such member a certificate of appointment.

(7) The board shall, each January, elect from among its members a chair and a vice chair.

(8) The board shall hold such meetings during the year as necessary, one of which shall be the annual meeting. The chair may call other meetings. A quorum shall consist of not fewer than four members.

(9)~~(6)~~ Each board member shall be held accountable to the Governor for the proper performance of all duties and obligations of such board member's office. The Governor shall cause to be investigated any complaints or unfavorable reports received concerning the actions of the board or its individual members and shall take appropriate action thereon, which may include removal of any board member for malfeasance, misfeasance, neglect of duty, commission of a felony, drunkenness, incompetency, or permanent inability to perform her or his official duties.

Section 40. Section 476.064, Florida Statutes, is amended to read:

476.064 Organization; headquarters; personnel; meetings.—

(1) ~~The board shall annually elect a chair and a vice chair from its number.~~ The board shall maintain its headquarters in Tallahassee.

(2) The department shall appoint or employ such personnel as ~~may be~~ necessary to assist the board in exercising the powers and performing the duties and obligations set forth in this *chapter* ~~act~~. Such personnel need not be licensed barbers *or cosmetologists* and shall not be members of the board. Such personnel shall be authorized to do and perform such duties and work as may be assigned by the board.

~~(3) The board shall hold an annual meeting and such other meetings during the year as it may determine to be necessary. The chair of the board may call other meetings at her or his discretion. A quorum of the board shall consist of not less than four members.~~

(3)~~(4)~~ The board has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 *necessary* to *administer* ~~implement the provisions of~~ this chapter.

Section 41. Subsections (1) and (2) of section 476.074, Florida Statutes, are amended to read:

476.074 Legal, investigative, and inspection services.—

(1) The department shall provide all legal services needed to carry out the provisions of this *chapter* ~~act~~.

(2) The department shall provide all investigative services required by the board or the department in carrying out the provisions of this *chapter* ~~act~~.

Section 42. Subsection (2) of section 476.154, Florida Statutes, is amended to read:

476.154 Biennial renewal of licenses.—

(2) Any license or certificate of registration issued pursuant to this *chapter* ~~act~~ for a period less than the established biennial issuance period may be issued for that lesser period of time, and the department shall adjust the required fee accordingly. The board shall adopt rules providing for such partial period fee adjustments.

Section 43. Paragraphs (a) and (b) of subsection (1) of section 476.194, Florida Statutes, are amended to read:

476.194 Prohibited acts.—

(1) It is unlawful for any person to:

(a) Engage in the practice of barbering without an active license as a barber issued pursuant to the provisions of this *chapter* ~~act~~ by the department.

(b) Engage in willful or repeated violations of this *chapter* ~~act~~ or of any of the rules adopted by the board.

Section 44. Subsections (1) and (3) of section 476.214, Florida Statutes, are amended to read:

476.214 Grounds for suspending, revoking, or refusing to grant license or certificate.—

(1) The board shall have the power to revoke or suspend any license, registration card, or certificate of registration issued pursuant to this *chapter* ~~act~~, or to reprimand, censure, deny subsequent licensure of, or otherwise discipline any holder of a license, registration card, or certificate of registration issued pursuant to this *chapter* ~~act~~, for any of the following causes:

(a) Gross malpractice or gross incompetency in the practice of barbering;

(b) Practice by a person knowingly having an infectious or contagious disease; or

(c) Commission of any of the offenses described in s. 476.194.

(3) The board shall keep a record of its disciplinary proceedings against holders of licenses or certificates of registration issued pursuant to this *chapter* ~~act~~.

Section 45. Section 476.234, Florida Statutes, is amended to read:

476.234 Civil proceedings.—In addition to any other remedy, the department may file a proceeding in the name of the state seeking issuance of a restraining order, injunction, or writ of mandamus against any person who is or has been violating any of the provisions of this *chapter* ~~act~~ or the lawful rules or orders of the board, commission, or department.

Section 46. Subsection (1) of section 477.013, Florida Statutes, is amended to read:

477.013 Definitions.—As used in this chapter:

(1) "Board" means the Board of *Barbering and* Cosmetology.

Section 47. *Section 477.015, Florida Statutes, is repealed.*

Section 48. *The Barbers' Board created pursuant to section 476.054, Florida Statutes, and the Board of Cosmetology created pursuant to section 477.015, Florida Statutes, are abolished. All rules of the Barbers' Board and the Board of Cosmetology in effect on the effective date of this act shall remain in full force and shall become rules of the Board of Barbering and Cosmetology.*

Section 49. *The Board of Barbering and Cosmetology is created by this act by the amendment of section 476.054, Florida Statutes, and the repeal of section 477.015, Florida Statutes. Appointments to this board are new and shall be made by the Governor, subject to confirmation by the Senate, for initial terms of 4 years or less so that no more than two terms expire in any one year. The board shall assume responsibilities for the regulation of barbering pursuant to chapter 476, Florida Statutes, and the regulation of cosmetology pursuant to chapter 477, Florida Statutes, as provided in those chapters.*

Section 50. *The Board of Barbering and Cosmetology shall be replaced as the party of interest for any legal actions naming the Barbers' Board or the Board of Cosmetology as a party.*

Section 51. Subsection (7) of section 477.019, Florida Statutes, is amended to read:

477.019 Cosmetologists; qualifications; licensure; supervised practice; license renewal; endorsement; continuing education.—

(7)(a) The board shall prescribe by rule continuing education requirements intended to ensure protection of the public through updated training of licensees and registered specialists, not to exceed 16 hours biennially, as a condition for renewal of a license or registration as a specialist under this chapter. Continuing education courses shall include, but not be limited to, the following subjects as they relate to the practice of cosmetology: human immunodeficiency virus and acquired immune deficiency syndrome; Occupational Safety and Health Administration regulations; workers' compensation issues; state and federal laws and rules as they pertain to cosmetologists, cosmetology, salons, specialists, specialty salons, and booth renters; chemical makeup as it pertains to hair, skin, and nails; and environmental issues. ~~Courses given at cosmetology conferences may be counted toward the number of continuing education hours required if approved by the board.~~

(b) Any person whose occupation or practice is confined solely to hair braiding, hair wrapping, or body wrapping is exempt from the continuing education requirements of this subsection.

(c) *The board shall by rule establish criteria for the approval of continuing education courses and providers.* ~~The board may, by rule, require any licensee in violation of a continuing education requirement to take a refresher course or refresher course and examination in addition to any other penalty. The number of hours for the refresher course may not exceed 48 hours.~~

(d) The department shall approve all continuing education courses and providers as set forth in this subsection. The board may not approve any course which does not substantially and exclusively relate to the practice of cosmetology and serve to ensure the protection of the public. Courses given at cosmetology conferences may be counted toward the number of continuing education hours required if approved by the department.

(e) Correspondence courses may be approved if offered by a provider approved by the board under paragraph (d) and meet all relevant course criteria established by the board. Correspondence courses must include a written post course examination developed and graded by the course provider which demonstrates the licensee's understanding of the subject matter taught by the course. The board may, by rule, set the minimum allowed passing score for such examinations.

Section 52. Subsection (1) of section 477.026, Florida Statutes, is amended to read:

477.026 Fees; disposition.—

(1) The board shall set fees according to the following schedule:

(a) For cosmetologists, fees for original licensing, license renewal, and delinquent renewal shall not exceed $25.

(b) For cosmetologists, fees for endorsement application, examination, and reexamination shall not exceed $50.

(c) For cosmetology and specialty salons, fees for license application, original licensing, license renewal, and delinquent renewal shall not exceed $50.

(d) For specialists, fees for application and endorsement registration shall not exceed $30.

(e) For specialists, fees for initial registration, registration renewal, and delinquent renewal shall not exceed $50.

(f) For hair braiders, hair wrappers, and body wrappers, fees for *initial* registration*, registration renewal, and delinquent renewal* shall not exceed $25.

Section 53. Subsection (1) of section 481.209, Florida Statutes, is amended to read:

481.209 Examinations.—

(1) A person desiring to be licensed as a registered architect shall apply to the department to take the licensure examination. The department shall administer the licensure examination for architects to each applicant who the board certifies:

(a) Has completed the application form and remitted a nonrefundable application fee and an examination fee which is refundable if the applicant is found to be ineligible to take the examination;

(b)1. ~~Has successfully completed all architectural curriculum courses required by and~~ Is a graduate of a school or college of architecture accredited by the National Architectural Accreditation Board; or

2. Is a graduate of an approved architectural curriculum, evidenced by a degree from an unaccredited school or college of architecture approved by the board. The board shall adopt rules providing for the review and approval of unaccredited schools and colleges of architecture and courses of architectural study based on a review and inspection by the board of the curriculum of accredited schools and colleges of architecture in the United States~~, including those schools and colleges accredited by the National Architectural Accreditation Board~~; and

(c) Has completed, prior to examination, 1 year of the internship experience required by s. 481.211(1).

Section 54. Section 481.223, Florida Statutes, is amended to read:

481.223 Prohibitions; penalties*; injunctive relief*.—

(1) A person may not knowingly:

(a) Practice architecture unless the person is an architect or a registered architect;

(b) Practice interior design unless the person is a registered interior designer unless otherwise exempted herein;

(c) Use the name or title "architect" or "registered architect," or "interior designer" or "registered interior designer," or words to that effect, when the person is not then the holder of a valid license issued pursuant to this part;

(d) Present as his or her own the license of another;

(e) Give false or forged evidence to the board or a member thereof;

(f) Use or attempt to use an architect or interior designer license that has been suspended, revoked, or placed on inactive or delinquent status;

(g) Employ unlicensed persons to practice architecture or interior design; or

(h) Conceal information relative to violations of this part.

(2) Any person who violates any provision of *subsection (1)* ~~this section~~ commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3)(a) Notwithstanding chapter 455 or any other provision of law to the contrary, an affected person may maintain an action for injunctive relief to restrain or prevent a person from violating paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c). The prevailing party shall be entitled to actual costs and attorney's fees.

(b) For purposes of this subsection, "affected person" means a person directly affected by the actions of a person suspected of violating paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c) and includes, but is not limited to, the department, any person who received services from the alleged violator, or any private association composed primarily of members of the profession the alleged violator is practicing or offering to practice or holding himself or herself out as qualified to practice.

Section 55. Effective July 1, 2001, subsections (2) and (4) of section 489.107, Florida Statutes, are amended to read:

489.107 Construction Industry Licensing Board.—

(2) The board shall consist of *16* ~~18~~ members, of whom:

(a) Four are primarily engaged in business as general contractors;

(b) Three are primarily engaged in business as building contractors or residential contractors, however, at least one building contractor and one residential contractor shall be appointed;

(c) One is primarily engaged in business as a roofing contractor;

(d) One is primarily engaged in business as a sheet metal contractor;

(e) One is primarily engaged in business as an air-conditioning contractor;

(f) One is primarily engaged in business as a mechanical contractor;

(g) One is primarily engaged in business as a pool contractor;

(h) One is primarily engaged in business as a plumbing contractor;

(i) One is primarily engaged in business as an underground utility and excavation contractor;

(j) *Notwithstanding the provisions of s. 20.165(6), one is a* ~~Two are~~ consumer *member* ~~members~~ who *is* ~~are~~ not, and *has* ~~have~~ never been, *a member* ~~members~~ or *practitioner* ~~practitioners~~ of a profession regulated by the board or *a member* ~~members~~ of any closely related profession; and

(k) *One is a* ~~Two are~~ building *official* ~~officials~~ of a municipality or county.

(l) On the date the reduction of the number of members on the board made by this act becomes effective, the affected appointments shall be those in the reduced membership class whose terms next expire.

(4) The board shall be divided into two divisions, Division I and Division II.

(a) Division I is comprised of the general contractor, building contractor, and residential contractor members of the board; ~~one of the members appointed pursuant to paragraph (2)(j);~~ and ~~one of~~ the *member* ~~members~~ appointed pursuant to paragraph (2)(k). Division I has jurisdiction over the regulation of general contractors, building contractors, and residential contractors.

(b) Division II is comprised of the roofing contractor, sheet metal contractor, air-conditioning contractor, mechanical contractor, pool contractor, plumbing contractor, and underground utility and excavation contractor members of the board; *and* ~~one of~~ the *member* ~~members~~ appointed pursuant to paragraph (2)(j)~~; and one of the members appointed pursuant to paragraph (2)(k)~~. Division II has jurisdiction over the regulation of contractors defined in s. 489.105(3)(d)-(p).

(c) Jurisdiction for the regulation of specialty contractors defined in s. 489.105(3)(q) shall lie with the division having jurisdiction over the scope of work of the specialty contractor as defined by board rule.

Section 56. Section 489.1133, Florida Statutes, is created to read:

489.1133 Temporary certificate or registration.—The department may issue a temporary certificate or registration to any applicant who has submitted a completed application and who appears to meet all qualifications for certification or registration, pending final approval of the application and the granting of a permanent certificate or registration by the board. If the board determines that the applicant does not meet all of the requirements for certification or registration under this part, the board shall, upon notifying the applicant of his or her failure to qualify, revoke the applicant's temporary certificate or registration.

Section 57. Paragraph (b) of subsection (4) of section 489.115, Florida Statutes, as amended by chapters 98-287 and 2000-141, Laws of Florida, is amended to read:

489.115 Certification and registration; endorsement; reciprocity; renewals; continuing education.—

(4)

(b)1. Each certificateholder or registrant shall provide proof, in a form established by rule of the board, that the certificateholder or registrant has completed at least 14 classroom hours of at least 50 minutes each of continuing education courses during each biennium since the issuance or renewal of the certificate or registration. The board shall establish by rule that a portion of the required 14 hours must deal with the subject of workers' compensation, business practices, and workplace safety. The board shall by rule establish criteria for the approval of continuing education courses and providers, including requirements relating to the content of courses and standards for approval of providers, and may by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis. The board shall prescribe by rule the continuing education, if any, which is required during the first biennium of initial licensure. A person who has been licensed for less than an entire biennium must not be required to complete the full 14 hours of continuing education.

2. In addition, the board may approve specialized continuing education courses on compliance with the wind resistance provisions for one and two family dwellings contained in the Florida Building Code and any alternate methodologies for providing such wind resistance which have been approved for use by the Florida Building Commission. *Contractors defined in s. 489.105(3)(a)-(c)* ~~Division I certificateholders or registrants~~ who demonstrate proficiency upon completion of such

specialized courses may certify plans and specifications for one and two family dwellings to be in compliance with the code or alternate methodologies, as appropriate, except for dwellings located in floodways or coastal hazard areas as defined in ss. 60.3D and E of the National Flood Insurance Program.

3. Each certificateholder or registrant shall provide to the board proof of completion of the core curriculum courses, or passing the equivalency test of the Building Code Training Program established under s. 553.841, specific to the licensing category sought, within 2 years after commencement of the program or of initial certification or registration, whichever is later. Classroom hours spent taking core curriculum courses shall count toward the number required for renewal of certificates or registration. A certificateholder or registrant who passes the equivalency test in lieu of taking the core curriculum courses shall receive full credit for core curriculum course hours.

4. The board shall require, by rule adopted pursuant to ss. 120.536(1) and 120.54, a specified number of hours in specialized or advanced module courses, approved by the Florida Building Commission, on any portion of the Florida Building Code, adopted pursuant to part VII of chapter 553, relating to the contractor's respective discipline.

Section 58. Subsection (1) of section 489.118, Florida Statutes, is amended to read:

489.118 Certification of registered contractors; grandfathering provisions.—The board shall, upon receipt of a completed application and appropriate fee, issue a certificate in the appropriate category to any contractor registered under this part who makes application to the board and can show that he or she meets each of the following requirements:

(1) Currently holds a valid registered local license in one of the contractor categories defined in s. 489.105(3)(a)-(p) *or holds a valid registered local specialty license which substantially corresponds to a type of specialty contractor recognized for state certification pursuant to board rule under s. 489.113(6)*.

Section 59. Subsection (1) of section 489.13, Florida Statutes is amended to read:

489.13 Unlicensed contracting; authority to issue or receive a building permit.—

(1) Any person performing an activity requiring licensure under this part as a construction contractor is guilty of unlicensed contracting if he or she does not hold a valid active certificate or registration authorizing him or her to perform such activity, regardless of whether he or she holds a local construction contractor license or local certificate of competency*, except where he or she holds a valid local specialty license as defined in s. 489.105(3)(q)*. Persons working outside the geographical scope of their registration are guilty of unlicensed activity for purposes of this part.

Section 60. *Subsection (6) of section 489.507, Florida Statutes, is repealed.*

Section 61. *The Electrical Contractors' Licensing Board shall review its operations and its regular board meeting lengths and locations and develop a plan to reduce its annual operating budget by $25,000, and shall submit the plan to the Department of Business and Professional Regulation by January 1, 2002.*

Section 62. Subsection (6) of section 489.511, Florida Statutes, is amended to read:

489.511 Certification; application; examinations; endorsement.—

(6) The board shall certify as qualified for certification by endorsement any individual *who applies from a state that has a mutual reciprocity endorsement agreement with the board and* ~~applying for certification~~ who~~:~~

~~(a)~~ meets the requirements for certification ~~as set forth~~ in this section; has passed a national, regional, state, or United States territorial licensing examination that is substantially equivalent to the examination required by this part; and has satisfied the requirements set forth in s. 489.521.~~; or~~

~~(b) Holds a valid license to practice electrical or alarm system contracting issued by another state or territory of the United States, if the criteria for issuance of such license was substantially equivalent to the certification criteria that existed in this state at the time the certificate was issued.~~

Section 63. Subsection (5) of section 498.005, Florida Statutes, is amended to read:

498.005 Definitions.—As used in this chapter, unless the context otherwise requires, the term:

(5) "Division" means the Division of *Real Estate* ~~Florida Land Sales, Condominiums, and Mobile Homes~~ of the Department of Business and Professional Regulation.

Section 64. Section 498.019, Florida Statutes, is amended to read:

498.019 *Professional Regulation* ~~Division of Florida Land Sales, Condominiums, and Mobile Homes~~ Trust Fund.—

~~(1) There is created within the State Treasury the Division of Florida Land Sales, Condominiums, and Mobile Homes Trust Fund to be used for the administration and operation of this chapter and chapters 718, 719, 721, and 723 by the division.~~

~~(2)~~ All moneys collected by the division from fees, fines, or penalties or from costs awarded to the division by a court shall be paid into the *Professional Regulation* ~~Division of Florida Land Sales, Condominiums, and Mobile Homes~~ Trust Fund *to be used to administer and enforce this chapter and rules adopted thereunder. The department shall maintain a separate account in the trust fund and shall administer the account pursuant to s. 455.219*. The Legislature shall appropriate funds from this trust fund sufficient to carry out the provisions of this chapter ~~and the provisions of law with respect to each category of business covered by this trust fund. The division shall maintain separate revenue accounts in the trust fund for each of the businesses regulated by the division. The division shall provide for the proportionate allocation among the accounts of expenses incurred by the division in the performance of its duties with respect to each of these businesses. As part of its normal budgetary process, the division shall prepare an annual report of revenue and allocated expenses related to the operation of each of these businesses which may be used to determine fees charged by the division. This subsection shall operate pursuant to the provisions of s. 215.20~~.

Section 65. Subsection (5) of section 498.049, Florida Statutes, is amended to read:

498.049 Suspension; revocation; civil penalties.—

(5) Each person who materially participates in any offer or disposition of any interest in subdivided lands in violation of this chapter or relevant rules involving fraud, deception, false pretenses, misrepresentation, or false advertising or the disposition, concealment, or diversion of any funds or assets of any person which adversely affects the interests of a purchaser of any interest in subdivided lands, and who directly or indirectly controls a subdivider or is a general partner, officer, director, agent, or employee of a subdivider shall also be liable under this subsection jointly and severally with and to the same extent as the subdivider, unless that person did not know, and in the exercise of reasonable care could not have known, of the existence of the facts creating the alleged liability. Among these persons a right of contribution shall exist, except that a creditor of a subdivider shall not be jointly and severally liable unless the creditor has assumed managerial or fiduciary responsibility in a manner related to the basis for the liability of the subdivider under this subsection. Civil penalties shall be limited to $10,000 for each offense, and all amounts collected shall be deposited with the Treasurer to the credit of the *Professional Regulation* ~~Division of Florida Land Sales, Condominiums, and Mobile Homes~~ Trust Fund. No order requiring the payment of a civil penalty

shall become effective until 20 days after the date of the order, unless otherwise agreed in writing by the person on whom the penalty is imposed.

Section 66. Subsection (2) of section 190.009, Florida Statutes, is amended to read:

190.009 Disclosure of public financing.—

(2) The Division of *Real Estate* ~~Florida Land Sales, Condominiums, and Mobile Homes~~ of the Department of Business and Professional Regulation shall ensure that disclosures made by developers pursuant to chapter 498 meet the requirements of subsection (1).

Section 67. *The regulation of land sales pursuant to chapter 498, Florida Statutes, shall remain under the Department of Business and Professional Regulation but is reassigned from the Division of Florida Land Sales, Condominiums, and Mobile Homes to the Division of Real Estate. All funds collected by the department pursuant to this regulation and all funds in the account created within the Florida Land Sales, Condominiums, and Mobile Homes Trust Fund for the purpose of this regulation shall be deposited in an account created within the Professional Regulation Trust Fund for this same purpose.*

Section 68. Subsection (17) of section 718.103, Florida Statutes, is amended to read:

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

(17) "Division" means the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes of the Department of Business and Professional Regulation.

Section 69. Paragraph (c) of subsection (4) of section 718.105, Florida Statutes, is amended to read:

718.105 Recording of declaration.—

(4)

(c) If the sum of money held by the clerk has not been paid to the developer or association as provided in paragraph (b) by 3 years after the date the declaration was originally recorded, the clerk in his or her discretion may notify, in writing, the registered agent of the association that the sum is still available and the purpose for which it was deposited. If the association does not record the certificate within 90 days after the clerk has given the notice, the clerk may disburse the money to the developer. If the developer cannot be located, the clerk shall disburse the money to the division ~~of Florida Land Sales, Condominiums, and Mobile Homes~~ for deposit in the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund.

Section 70. Paragraph (f) of subsection (2) of section 718.112, Florida Statutes, is amended to read:

718.112 Bylaws.—

(2) REQUIRED PROVISIONS.—The bylaws shall provide for the following and, if they do not do so, shall be deemed to include the following:

(f) Annual budget.—

1. The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to, those expenses listed in s. 718.504(21). A multicondominium association shall adopt a separate budget of common expenses for each condominium the association operates and shall adopt a separate budget of common expenses for the association. In addition, if the association maintains limited common elements with the cost to be shared only by those entitled to use the limited common elements as provided for in s. 718.113(1), the budget or a schedule attached thereto shall show amounts budgeted therefor. If, after turnover of control of the association to the unit owners, any of the expenses listed in s. 718.504(21) are not applicable, they need not be listed.

2. In addition to annual operating expenses, the budget *may* ~~shall~~ include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the deferred maintenance expense or replacement cost exceeds $10,000. The amount to be reserved shall be computed by means of a formula which is based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The association may adjust replacement reserve assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. This subsection *applies* ~~does not apply~~ to an adopted budget in which the members of an association have determined, by a majority vote at a duly called meeting of the association, to provide *the* ~~no~~ reserves *as described in* ~~or less reserves than required by~~ this subsection. However, prior to turnover of control of an association by a developer to unit owners other than a developer pursuant to s. 718.301, the developer may vote to waive the reserves or reduce the funding of reserves for the first 2 fiscal years of the association's operation, beginning with the fiscal year in which the initial declaration is recorded, after which time reserves may be *required* ~~waived or reduced~~ only upon the vote of a majority of all nondeveloper voting interests voting in person or by limited proxy at a duly called meeting of the association. ~~If a meeting of the unit owners has been called to determine whether to waive or reduce the funding of reserves, and no such result is achieved or a quorum is not attained, the reserves as included in the budget shall go into effect.~~ After the turnover, the developer may vote its voting interest to *provide for* ~~waive or reduce~~ the funding of reserves.

3. Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and shall be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a majority vote at a duly called meeting of the association. Prior to turnover of control of an association by a developer to unit owners other than the developer pursuant to s. 718.301, the developer-controlled association shall not vote to use reserves for purposes other than that for which they were intended without the approval of a majority of all nondeveloper voting interests, voting in person or by limited proxy at a duly called meeting of the association.

4. In a multicondominium association, the only voting interests which are eligible to vote on questions that involve waiving or reducing the funding of reserves, or using existing reserve funds for purposes other than purposes for which the reserves were intended, are the voting interests of the units subject to assessment to fund the reserves in question.

Section 71. Section 718.1255, Florida Statutes, is amended to read:

718.1255 Alternative dispute resolution; ~~voluntary mediation;~~ mandatory nonbinding arbitration *and mediation; local resolution; exemptions*; legislative findings.—

(1) *APPLICABILITY* ~~DEFINITIONS~~.—

(a) The provisions of subsection (3) apply to ~~As used in this section, the term "dispute" means~~ any disagreement between two or more parties that involves~~:~~

~~(a) The authority of the board of directors, under this chapter or association document to:~~

~~1. Require any owner to take any action, or not to take any action, involving that owner's unit or the appurtenances thereto.~~

~~2. Alter or add to a common area or element.~~

~~(b)~~ the failure of a governing body, when required by this chapter or an association document, to~~:~~

~~1.~~ properly conduct elections *or to recall a board member*.

(b) The provisions of paragraph (3)(f)-(n) apply to any disagreement between two or more parties that involves:

1. The authority of the board of directors, under this chapter or an association document, to:

a. Require any owner to take any action, or not to take any action, involving that owner's unit or the appurtenances thereto; or

b. Alter or add to a common area or element.

2. The failure of a governing body, when required by this chapter or an association document, to:

a.~~2.~~ Give adequate notice of meetings or other actions*;*~~.~~

b.~~3.~~ Properly conduct meetings*; or*~~.~~

c.~~4.~~ Allow inspection of books and records.

~~"Dispute" does not include any disagreement that primarily involves: title to any unit or common element; the interpretation or enforcement of any warranty; the levy of a fee or assessment, or the collection of an assessment levied against a party; the eviction or other removal of a tenant from a unit; alleged breaches of fiduciary duty by one or more directors; or claims for damages to a unit based upon the alleged failure of the association to maintain the common elements or condominium property.~~

~~(2) VOLUNTARY MEDIATION.—Voluntary mediation through Citizen Dispute Settlement Centers as provided for in s. 44.201 is encouraged.~~

(2)~~(3)~~ LEGISLATIVE FINDINGS.—

(a) The Legislature finds that unit owners are frequently at a disadvantage when litigating against an association. Specifically, a condominium association, with its statutory assessment authority, is often more able to bear the costs and expenses of litigation than the unit owner who must rely on his or her own financial resources to satisfy the costs of litigation against the association.

(b) The Legislature finds that the courts are becoming overcrowded with condominium and other disputes, and further finds that alternative dispute resolution has been making progress in reducing court dockets and trials and in offering a more efficient, cost-effective option to court litigation. However, the Legislature also finds that alternative dispute resolution should not be used as a mechanism to encourage the filing of frivolous or nuisance suits.

(c) There exists a need to develop a flexible means of alternative dispute resolution that directs disputes to the most efficient means of resolution.

(d) The high cost and significant delay of circuit court litigation faced by unit owners in the state can be alleviated by requiring nonbinding arbitration and mediation in appropriate cases, thereby reducing delay and attorney's fees while preserving the right of either party to have its case heard by a jury, if applicable, in a court of law.

(3)~~(4)~~ MANDATORY NONBINDING ARBITRATION AND MEDIATION OF DISPUTES.—The division ~~of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation~~ shall *provide* ~~employ full-time attorneys to act as~~ arbitrators to conduct the arbitration hearings *as required* ~~provided~~ by this chapter. The *department may employ attorneys to act as arbitrators, and the* division may also certify attorneys who are not employed by the division to act as arbitrators to conduct the arbitration hearings provided by this *chapter* ~~section~~. No person may be employed by the department as *an* ~~a full-time~~ arbitrator unless he or she is a member in good standing of The Florida Bar. The department shall promulgate rules of procedure to govern such arbitration hearings including mediation incident thereto. The decision of an arbitrator shall be final; however, such a decision shall not be deemed final agency action. Nothing in this provision shall be construed to foreclose parties from proceeding in a trial de novo unless the parties have agreed that the arbitration is binding. If such judicial proceedings are initiated, the final decision of the arbitrator shall be admissible in evidence in the trial de novo.

(a) Prior to the institution of court litigation, a party to a dispute shall petition the division for nonbinding arbitration. The petition must be accompanied by a filing fee in the amount of $50. Filing fees collected under this section must be used to defray the expenses of the alternative dispute resolution program.

(b) The petition must recite, and have attached thereto, supporting proof that the petitioner gave the respondents:

1. Advance written notice of the specific nature of the dispute;

2. A demand for relief, and a reasonable opportunity to comply or to provide the relief; and

3. Notice of the intention to file an arbitration petition or other legal action in the absence of a resolution of the dispute.

Failure to include the allegations or proof of compliance with these prerequisites requires dismissal of the petition without prejudice.

(c) Upon receipt, the petition shall be promptly reviewed by the division to determine the existence of a dispute and compliance with the requirements of paragraphs (a) and (b). If emergency relief is required and is not available through arbitration, a motion to stay the arbitration may be filed. The motion must be accompanied by a verified petition alleging facts that, if proven, would support entry of a temporary injunction, and if an appropriate motion and supporting papers are filed, the division may abate the arbitration pending a court hearing and disposition of a motion for temporary injunction.

(d) Upon determination by the division that a dispute exists and that the petition substantially meets the requirements of paragraphs (a) and (b) and any other applicable rules, a copy of the petition shall forthwith be served by the division upon all respondents.

(e) Either before or after the filing of the respondents' answer to the petition, any party may request that the arbitrator refer the case to mediation under this section and any rules adopted by the division. Upon receipt of a request for mediation, the division shall promptly contact the parties to determine if there is agreement that mediation would be appropriate. If all parties agree, the dispute must be referred to mediation. Notwithstanding a lack of an agreement by all parties, the arbitrator may refer a dispute to mediation at any time.

(f) *The arbitrator or the division may refer the parties to a Citizens Dispute Settlement Center under s. 44.201 in the county in which the dispute arose* ~~Upon referral of a case to mediation~~, *or* the parties *may agree on* ~~must select~~ a mutually acceptable mediator. To assist in the selection, the arbitrator shall provide the parties with a list of both volunteer and paid mediators that have been certified by the division under s. 718.501. If the parties are unable to agree on a mediator within the time allowed by the arbitrator *or the division*, the arbitrator *or the division* shall appoint a mediator from the list of certified mediators. If a case is referred to mediation, the parties shall attend a mediation conference, as scheduled by the parties and the mediator. If any party fails to attend a duly noticed mediation conference, without the permission or approval of the arbitrator or mediator, the arbitrator *or the division may* ~~must~~ impose sanctions against the party, including the striking of any pleadings filed, the entry of an order of dismissal or default if appropriate, and the award of costs and attorneys' fees incurred by the other parties. Unless otherwise agreed to by the parties or as provided by order of the arbitrator, a party is deemed to have appeared at a mediation conference by the physical presence of the party or its representative having full authority to settle without further consultation, provided that an association may comply by having one or more representatives present with full authority to negotiate a settlement and recommend that the board of administration ratify and approve such a settlement within 5 days from the date of the mediation conference. *The mediator or Citizens Dispute Settlement Center may charge fees for handling these cases.* The parties shall share equally the expense of mediation, unless they agree otherwise.

(g) The purpose of mediation as provided for by this section is to present the parties with an opportunity to resolve the underlying dispute ~~in good faith, and~~ with a minimum expenditure of time and resources.

(h) Mediation proceedings must generally be conducted in accordance with the Florida Rules of Civil Procedure, and these proceedings are privileged and confidential to the same extent as court-ordered mediation. Persons who are not parties to the dispute are not allowed to attend the mediation conference without the consent of all parties, with the exception of counsel for the parties and corporate representatives designated to appear for a party. If the *case was referred to mediation by an arbitrator and the* ~~mediator declares an impasse after a~~ mediation conference *ends in an impasse* ~~has been held~~, the arbitration proceeding terminates, unless all parties agree in writing to continue the arbitration proceeding, in which case the arbitrator's decision shall be either binding or nonbinding, as agreed upon by the parties; in the arbitration proceeding, the arbitrator shall not consider any evidence relating to the unsuccessful mediation except in a proceeding to impose sanctions for failure to appear at the mediation conference. If the parties do not agree to continue arbitration, the arbitrator shall enter an order of dismissal, and either party may institute a suit in a court of competent jurisdiction. *If the case was referred to mediation by the division and ends in an impasse, either party may institute a suit in a court of competent jurisdiction.* The parties may seek to recover any costs and attorneys' fees incurred in connection with arbitration and mediation proceedings under this section as part of the costs and fees that may be recovered by the prevailing party in any subsequent litigation.

(i) Arbitration shall be conducted according to rules promulgated by the division. The filing of a petition for arbitration shall toll the applicable statute of limitations.

(j) At the request of any party to the arbitration, such arbitrator shall issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence and any party on whose behalf a subpoena is issued may apply to the court for orders compelling such attendance and production. Subpoenas shall be served and shall be enforceable in the manner provided by the Florida Rules of Civil Procedure. Discovery may, in the discretion of the arbitrator, be permitted in the manner provided by the Florida Rules of Civil Procedure. Rules adopted by the division may authorize any reasonable sanctions except contempt for a violation of the arbitration procedural rules of the division or for the failure of a party to comply with a reasonable nonfinal order issued by an arbitrator which is not under judicial review.

(k) The arbitration decision shall be presented to the parties in writing. An arbitration decision is final in those disputes in which the parties have agreed to be bound. An arbitration decision is also final if a complaint for a trial de novo is not filed in a court of competent jurisdiction in which the condominium is located within 30 days. The right to file for a trial de novo entitles the parties to file a complaint in the appropriate trial court for a judicial resolution of the dispute. The prevailing party in an arbitration proceeding shall be awarded the costs of the arbitration and reasonable attorney's fees in an amount determined by the arbitrator. Such an award shall include the costs and reasonable attorney's fees incurred in the arbitration proceeding as well as the costs and reasonable attorney's fees incurred in preparing for and attending any scheduled mediation.

(l) The party who files a complaint for a trial de novo shall be assessed the other party's arbitration costs, court costs, and other reasonable costs, including attorney's fees, investigation expenses, and expenses for expert or other testimony or evidence incurred after the arbitration hearing if the judgment upon the trial de novo is not more favorable than the arbitration decision. If the judgment is more favorable, the party who filed a complaint for trial de novo shall be awarded reasonable court costs and attorney's fees.

(m) Any party to an arbitration proceeding may enforce an arbitration award by filing a petition in a court of competent jurisdiction in which the condominium is located. A petition may not be granted unless the time for appeal by the filing of a complaint for trial de novo has expired. If a complaint for a trial de novo has been filed, a petition may not be granted with respect to an arbitration award that has been stayed. If the petition for enforcement is granted, the petitioner shall recover reasonable attorney's fees and costs incurred in enforcing the arbitration award. A mediation settlement may also be enforced through the county or circuit court, as applicable, *by the filing of a court case.* ~~and~~ Any costs and fees incurred in the enforcement of a settlement agreement reached at mediation must be awarded to the prevailing party in any enforcement action.

(n) In the resolution of these cases on the local level, past precedent of prior division arbitration decisions shall be considered and followed where appropriate.

(4) EXEMPTIONS.—A dispute is not subject to resolution under this section if it includes any disagreement that primarily involves:

(a) Title to any unit or common element;

(b) The interpretation or enforcement of any warranty;

(c) The levy of a fee or assessment or the collection of an assessment levied against a party;

(d) The eviction or other removal of a tenant from a unit;

(e) Alleged breaches of fiduciary duty by one or more directors; or

(f) Claims for damages to a unit based upon the alleged failure of the association to maintain the common elements or condominium property.

(5) DISPUTES INVOLVING ELECTION IRREGULARITIES.—Every arbitration petition received by the division and required to be filed under this section challenging the legality of the election of any director of the board of administration shall be handled on an expedited basis in the manner provided by division rules for recall arbitration disputes.

Section 72. *The Division of Condominiums, Timeshare, and Mobile Homes of the Department of Business and Professional Regulation shall continue the arbitration of any cases which qualified for arbitration on the date the case was filed with the division and which were filed with the division prior to the date on which this act becomes law.*

Section 73. *There is appropriated 1 FTE and $440,626 from the Division of Condominiums, Timeshare, and Mobile Homes Trust Fund to the Department of Business and Professional Regulation for the purpose of investigating and resolving disputes and dealing with compliance issues relating to condominiums and cooperatives. This appropriation shall not take effect if a similar amount of funding is included in the various appropriations for compliance and enforcement in the Florida Condominiums, Timeshare, and Mobile Homes program in the fiscal year 2001-2002 General Appropriations Act.*

Section 74. Section 718.501, Florida Statutes, is amended to read:

718.501 Powers and duties of Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes.—

(1) The Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes of the Department of Business and Professional Regulation, referred to as the "division" in this part, in addition to other powers and duties prescribed by chapter 498, has the power to enforce and ensure compliance with the provisions of this chapter and rules *adopted* ~~promulgated~~ pursuant hereto relating to the development, construction, sale, lease, ownership, operation, and management of residential condominium units. In performing its duties, the division has the following powers and duties:

(a) The division may make necessary public or private investigations within or outside this state to determine whether any person has violated this chapter or any rule or order hereunder, to aid in the enforcement of this chapter, or to aid in the adoption of rules or forms hereunder.

(b) The division may require or permit any person to file a statement in writing, under oath or otherwise, as the division determines, as to the facts and circumstances concerning a matter to be investigated.

(c) For the purpose of any investigation under this chapter, the division director or any officer or employee designated by the division

director may administer oaths or affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence. Upon the failure by a person to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the division may apply to the circuit court for an order compelling compliance.

(d) Notwithstanding any remedies available to unit owners and associations, if the division has reasonable cause to believe that a violation of any provision of this chapter or rule promulgated pursuant hereto has occurred, the division may institute enforcement proceedings in its own name against any developer, association, officer, or member of the board of administration, or its assignees or agents, as follows:

1. The division may permit a person whose conduct or actions may be under investigation to waive formal proceedings and enter into a consent proceeding whereby orders, rules, or letters of censure or warning, whether formal or informal, may be entered against the person.

2. The division may issue an order requiring the developer, association, officer, or member of the board of administration, or its assignees or agents, to cease and desist from the unlawful practice and take such affirmative action as in the judgment of the division will carry out the purposes of this chapter. Such affirmative action may include, but is not limited to, an order requiring a developer to pay moneys determined to be owed to a condominium association.

3. The division may bring an action in circuit court on behalf of a class of unit owners, lessees, or purchasers for declaratory relief, injunctive relief, or restitution.

4. The division may impose a civil penalty against a developer or association, or its assignee or agent, for any violation of this chapter or a rule promulgated pursuant hereto. The division may impose a civil penalty individually against any officer or board member who willfully and knowingly violates a provision of this chapter, a rule adopted pursuant hereto, or a final order of the division. The term "willfully and knowingly" means that the division informed the officer or board member that his or her action or intended action violates this chapter, a rule adopted under this chapter, or a final order of the division and that the officer or board member refused to comply with the requirements of this chapter, a rule adopted under this chapter, or a final order of the division. The division, prior to initiating formal agency action under chapter 120, shall afford the officer or board member an opportunity to voluntarily comply with this chapter, a rule adopted under this chapter, or a final order of the division. An officer or board member who complies within 10 days is not subject to a civil penalty. A penalty may be imposed on the basis of each day of continuing violation, but in no event shall the penalty for any offense exceed $5,000. By January 1, 1998, the division shall adopt, by rule, penalty guidelines applicable to possible violations or to categories of violations of this chapter or rules adopted by the division. The guidelines must specify a meaningful range of civil penalties for each such violation of the statute and rules and must be based upon the harm caused by the violation, the repetition of the violation, and upon such other factors deemed relevant by the division. For example, the division may consider whether the violations were committed by a developer or owner-controlled association, the size of the association, and other factors. The guidelines must designate the possible mitigating or aggravating circumstances that justify a departure from the range of penalties provided by the rules. It is the legislative intent that minor violations be distinguished from those which endanger the health, safety, or welfare of the condominium residents or other persons and that such guidelines provide reasonable and meaningful notice to the public of likely penalties that may be imposed for proscribed conduct. This subsection does not limit the ability of the division to informally dispose of administrative actions or complaints by stipulation, agreed settlement, or consent order. All amounts collected shall be deposited with the Treasurer to the credit of the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund. If a developer fails to pay the civil penalty, the division shall thereupon issue an order directing that such developer cease and desist from further operation until such time as the civil penalty is paid or may pursue enforcement of the penalty in a court of competent jurisdiction. If an association fails to pay the civil penalty, the division shall thereupon pursue enforcement in a court of competent jurisdiction, and the order imposing the civil penalty or the cease and desist order will not become effective until 20 days after the date of such order. Any action commenced by the division shall be brought in the county in which the division has its executive offices or in the county where the violation occurred.

(e) The division is authorized to prepare and disseminate a prospectus and other information to assist prospective owners, purchasers, lessees, and developers of residential condominiums in assessing the rights, privileges, and duties pertaining thereto.

(f) The division has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement and enforce the provisions of this chapter.

(g) The division shall establish procedures for providing notice to an association when the division is considering the issuance of a declaratory statement with respect to the declaration of condominium or any related document governing in such condominium community.

(h) The division shall furnish each association which pays the fees required by paragraph (2)(a) a copy of this act, subsequent changes to this act on an annual basis, an amended version of this act as it becomes available from the Secretary of State's office on a biennial basis, and the rules promulgated pursuant thereto on an annual basis.

(i) The division shall annually provide each association with a summary of declaratory statements and formal legal opinions relating to the operations of condominiums which were rendered by the division during the previous year.

(j) The division shall provide training programs for condominium association board members and unit owners.

(k) The division shall maintain a toll-free telephone number accessible to condominium unit owners.

(l) The division shall develop a program to certify both volunteer and paid mediators to provide mediation of condominium disputes. The division shall provide, upon request, a list of such mediators to any association, unit owner, or other participant in arbitration proceedings under s. 718.1255 requesting a copy of the list. The division shall include on the list of volunteer mediators only the names of persons who have received at least 20 hours of training in mediation techniques or who have mediated at least 20 disputes. In order to become initially certified by the division, paid mediators must be certified by the Supreme Court to mediate court cases in either county or circuit courts. However, the division may adopt, by rule, additional factors for the certification of paid mediators, which factors must be related to experience, education, or background. Any person initially certified as a paid mediator by the division must, in order to continue to be certified, comply with the factors or requirements imposed by rules adopted by the division.

(m) When a complaint is made, the division shall conduct its inquiry with due regard to the interests of the affected parties. Within 30 days after receipt of a complaint, the division shall acknowledge the complaint in writing and notify the complainant whether the complaint is within the jurisdiction of the division and whether additional information is needed by the division from the complainant. The division shall conduct its investigation and shall, within 90 days after receipt of the original complaint or of timely requested additional information, take action upon the complaint. However, the failure to complete the investigation within 90 days does not prevent the division from continuing the investigation, accepting or considering evidence obtained or received after 90 days, or taking administrative action if reasonable cause exists to believe that a violation of this chapter or a rule of the

division has occurred. If an investigation is not completed within the time limits established in this paragraph, the division shall, on a monthly basis, notify the complainant in writing of the status of the investigation. When reporting its action to the complainant, the division shall inform the complainant of any right to a hearing pursuant to ss. 120.569 and 120.57.

(2)(a) Effective January 1, 1992, each condominium association which operates more than two units shall pay to the division an annual fee in the amount of $4 for each residential unit in condominiums operated by the association. If the fee is not paid by March 1, then the association shall be assessed a penalty of 10 percent of the amount due, and the association will not have standing to maintain or defend any action in the courts of this state until the amount due, plus any penalty, is paid.

(b) All fees shall be deposited in the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund as provided by law.

Section 75. Paragraph (a) of subsection (2) of section 718.502, Florida Statutes, is amended to read:

718.502 Filing prior to sale or lease.—

(2)(a) Prior to filing as required by subsection (1), and prior to acquiring an ownership, leasehold, or contractual interest in the land upon which the condominium is to be developed, a developer shall not offer a contract for purchase of a unit or lease of a unit for more than 5 years. However, the developer may accept deposits for reservations upon the approval of a fully executed escrow agreement and reservation agreement form properly filed with the division ~~of Florida Land Sales, Condominiums, and Mobile Homes~~. Each filing of a proposed reservation program shall be accompanied by a filing fee of $250. Reservations shall not be taken on a proposed condominium unless the developer has an ownership, leasehold, or contractual interest in the land upon which the condominium is to be developed. The division shall notify the developer within 20 days of receipt of the reservation filing of any deficiencies contained therein. Such notification shall not preclude the determination of reservation filing deficiencies at a later date, nor shall it relieve the developer of any responsibility under the law. The escrow agreement and the reservation agreement form shall include a statement of the right of the prospective purchaser to an immediate unqualified refund of the reservation deposit moneys upon written request to the escrow agent by the prospective purchaser or the developer.

Section 76. Section 718.504, Florida Statutes, is amended to read:

718.504 Prospectus or offering circular.—Every developer of a residential condominium which contains more than 20 residential units, or which is part of a group of residential condominiums which will be served by property to be used in common by unit owners of more than 20 residential units, shall prepare a prospectus or offering circular and file it with the division ~~of Florida Land Sales, Condominiums, and Mobile Homes~~ prior to entering into an enforceable contract of purchase and sale of any unit or lease of a unit for more than 5 years and shall furnish a copy of the prospectus or offering circular to each buyer. In addition to the prospectus or offering circular, each buyer shall be furnished a separate page entitled "Frequently Asked Questions and Answers," which shall be in accordance with a format approved by the division and a copy of the financial information required by s. 718.111. This page shall, in readable language, inform prospective purchasers regarding their voting rights and unit use restrictions, including restrictions on the leasing of a unit; shall indicate whether and in what amount the unit owners or the association is obligated to pay rent or land use fees for recreational or other commonly used facilities; shall contain a statement identifying that amount of assessment which, pursuant to the budget, would be levied upon each unit type, exclusive of any special assessments, and which shall further identify the basis upon which assessments are levied, whether monthly, quarterly, or otherwise; shall state and identify any court cases in which the association is currently a party of record in which the association may face liability in excess of $100,000; and which shall further state whether membership in a recreational facilities association is mandatory, and if so, shall identify the fees currently charged per unit type. The division shall by rule require such other disclosure as in its judgment will assist prospective purchasers. The prospectus or offering circular may include more than one condominium, although not all such units are being offered for sale as of the date of the prospectus or offering circular. The prospectus or offering circular must contain the following information:

(1) The front cover or the first page must contain only:

(a) The name of the condominium.

(b) The following statements in conspicuous type:

1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.

2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES MATERIALS.

3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT REPRESENTATIONS.

(2) Summary: The next page must contain all statements required to be in conspicuous type in the prospectus or offering circular.

(3) A separate index of the contents and exhibits of the prospectus.

(4) Beginning on the first page of the text (not including the summary and index), a description of the condominium, including, but not limited to, the following information:

(a) Its name and location.

(b) A description of the condominium property, including, without limitation:

1. The number of buildings, the number of units in each building, the number of bathrooms and bedrooms in each unit, and the total number of units, if the condominium is not a phase condominium, or the maximum number of buildings that may be contained within the condominium, the minimum and maximum numbers of units in each building, the minimum and maximum numbers of bathrooms and bedrooms that may be contained in each unit, and the maximum number of units that may be contained within the condominium, if the condominium is a phase condominium.

2. The page in the condominium documents where a copy of the plot plan and survey of the condominium is located.

3. The estimated latest date of completion of constructing, finishing, and equipping. In lieu of a date, the description shall include a statement that the estimated date of completion of the condominium is in the purchase agreement and a reference to the article or paragraph containing that information.

(c) The maximum number of units that will use facilities in common with the condominium. If the maximum number of units will vary, a description of the basis for variation and the minimum amount of dollars per unit to be spent for additional recreational facilities or enlargement of such facilities. If the addition or enlargement of facilities will result in a material increase of a unit owner's maintenance expense or rental expense, if any, the maximum increase and limitations thereon shall be stated.

(5)(a) A statement in conspicuous type describing whether the condominium is created and being sold as fee simple interests or as leasehold interests. If the condominium is created or being sold on a leasehold, the location of the lease in the disclosure materials shall be stated.

(b) If timeshare estates are or may be created with respect to any unit in the condominium, a statement in conspicuous type stating that timeshare estates are created and being sold in units in the condominium.

(6) A description of the recreational and other commonly used facilities that will be used only by unit owners of the condominium, including, but not limited to, the following:

(a) Each room and its intended purposes, location, approximate floor area, and capacity in numbers of people.

(b) Each swimming pool, as to its general location, approximate size and depths, approximate deck size and capacity, and whether heated.

(c) Additional facilities, as to the number of each facility, its approximate location, approximate size, and approximate capacity.

(d) A general description of the items of personal property and the approximate number of each item of personal property that the developer is committing to furnish for each room or other facility or, in the alternative, a representation as to the minimum amount of expenditure that will be made to purchase the personal property for the facility.

(e) The estimated date when each room or other facility will be available for use by the unit owners.

(f)1. An identification of each room or other facility to be used by unit owners that will not be owned by the unit owners or the association;

2. A reference to the location in the disclosure materials of the lease or other agreements providing for the use of those facilities; and

3. A description of the terms of the lease or other agreements, including the length of the term; the rent payable, directly or indirectly, by each unit owner, and the total rent payable to the lessor, stated in monthly and annual amounts for the entire term of the lease; and a description of any option to purchase the property leased under any such lease, including the time the option may be exercised, the purchase price or how it is to be determined, the manner of payment, and whether the option may be exercised for a unit owner's share or only as to the entire leased property.

(g) A statement as to whether the developer may provide additional facilities not described above; their general locations and types; improvements or changes that may be made; the approximate dollar amount to be expended; and the maximum additional common expense or cost to the individual unit owners that may be charged during the first annual period of operation of the modified or added facilities.

Descriptions as to locations, areas, capacities, numbers, volumes, or sizes may be stated as approximations or minimums.

(7) A description of the recreational and other facilities that will be used in common with other condominiums, community associations, or planned developments which require the payment of the maintenance and expenses of such facilities, either directly or indirectly, by the unit owners. The description shall include, but not be limited to, the following:

(a) Each building and facility committed to be built.

(b) Facilities not committed to be built except under certain conditions, and a statement of those conditions or contingencies.

(c) As to each facility committed to be built, or which will be committed to be built upon the happening of one of the conditions in paragraph (b), a statement of whether it will be owned by the unit owners having the use thereof or by an association or other entity which will be controlled by them, or others, and the location in the exhibits of the lease or other document providing for use of those facilities.

(d) The year in which each facility will be available for use by the unit owners or, in the alternative, the maximum number of unit owners in the project at the time each of all of the facilities is committed to be completed.

(e) A general description of the items of personal property, and the approximate number of each item of personal property, that the developer is committing to furnish for each room or other facility or, in the alternative, a representation as to the minimum amount of expenditure that will be made to purchase the personal property for the facility.

(f) If there are leases, a description thereof, including the length of the term, the rent payable, and a description of any option to purchase.

Descriptions shall include location, areas, capacities, numbers, volumes, or sizes and may be stated as approximations or minimums.

(8) Recreation lease or associated club membership:

(a) If any recreational facilities or other facilities offered by the developer and available to, or to be used by, unit owners are to be leased or have club membership associated, the following statement in conspicuous type shall be included: THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS CONDOMINIUM. There shall be a reference to the location in the disclosure materials where the recreation lease or club membership is described in detail.

(b) If it is mandatory that unit owners pay a fee, rent, dues, or other charges under a recreational facilities lease or club membership for the use of facilities, there shall be in conspicuous type the applicable statement:

1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS MANDATORY FOR UNIT OWNERS; or

2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP, TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

4. A similar statement of the nature of the organization or the manner in which the use rights are created, and that unit owners are required to pay.

Immediately following the applicable statement, the location in the disclosure materials where the development is described in detail shall be stated.

(c) If the developer, or any other person other than the unit owners and other persons having use rights in the facilities, reserves, or is entitled to receive, any rent, fee, or other payment for the use of the facilities, then there shall be the following statement in conspicuous type: THE UNIT OWNERS OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately following this statement, the location in the disclosure materials where the rent or land use fees are described in detail shall be stated.

(d) If, in any recreation format, whether leasehold, club, or other, any person other than the association has the right to a lien on the units to secure the payment of assessments, rent, or other exactions, there shall appear a statement in conspicuous type in substantially the following form:

1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE FOR THE USE, MAINTENANCE,

UPKEEP, OR REPAIR OF THE RECREATIONAL OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

Immediately following the applicable statement, the location in the disclosure materials where the lien or lien right is described in detail shall be stated.

(9) If the developer or any other person has the right to increase or add to the recreational facilities at any time after the establishment of the condominium whose unit owners have use rights therein, without the consent of the unit owners or associations being required, there shall appear a statement in conspicuous type in substantially the following form: RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this statement, the location in the disclosure materials where such reserved rights are described shall be stated.

(10) A statement of whether the developer's plan includes a program of leasing units rather than selling them, or leasing units and selling them subject to such leases. If so, there shall be a description of the plan, including the number and identification of the units and the provisions and term of the proposed leases, and a statement in boldfaced type that: THE UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

(11) The arrangements for management of the association and maintenance and operation of the condominium property and of other property that will serve the unit owners of the condominium property, and a description of the management contract and all other contracts for these purposes having a term in excess of 1 year, including the following:

(a) The names of contracting parties.

(b) The term of the contract.

(c) The nature of the services included.

(d) The compensation, stated on a monthly and annual basis, and provisions for increases in the compensation.

(e) A reference to the volumes and pages of the condominium documents and of the exhibits containing copies of such contracts.

Copies of all described contracts shall be attached as exhibits. If there is a contract for the management of the condominium property, then a statement in conspicuous type in substantially the following form shall appear, identifying the proposed or existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH (NAME OF THE CONTRACT MANAGER). Immediately following this statement, the location in the disclosure materials of the contract for management of the condominium property shall be stated.

(12) If the developer or any other person or persons other than the unit owners has the right to retain control of the board of administration of the association for a period of time which can exceed 1 year after the closing of the sale of a majority of the units in that condominium to persons other than successors or alternate developers, then a statement in conspicuous type in substantially the following form shall be included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS HAVE BEEN SOLD. Immediately following this statement, the location in the disclosure materials where this right to control is described in detail shall be stated.

(13) If there are any restrictions upon the sale, transfer, conveyance, or leasing of a unit, then a statement in conspicuous type in substantially the following form shall be included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR CONTROLLED. Immediately following this statement, the location in the disclosure materials where the restriction, limitation, or control on the sale, lease, or transfer of units is described in detail shall be stated.

(14) If the condominium is part of a phase project, the following information shall be stated:

(a) A statement in conspicuous type in substantially the following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following this statement, the location in the disclosure materials where the phasing is described shall be stated.

(b) A summary of the provisions of the declaration which provide for the phasing.

(c) A statement as to whether or not residential buildings and units which are added to the condominium may be substantially different from the residential buildings and units originally in the condominium. If the added residential buildings and units may be substantially different, there shall be a general description of the extent to which such added residential buildings and units may differ, and a statement in conspicuous type in substantially the following form shall be included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND UNITS IN THE CONDOMINIUM. Immediately following this statement, the location in the disclosure materials where the extent to which added residential buildings and units may substantially differ is described shall be stated.

(d) A statement of the maximum number of buildings containing units, the maximum and minimum numbers of units in each building, the maximum number of units, and the minimum and maximum square footage of the units that may be contained within each parcel of land which may be added to the condominium.

(15) If the condominium is or may become part of a multicondominium, the following information must be provided:

(a) A statement in conspicuous type in substantially the following form: THIS CONDOMINIUM IS (MAY BE) PART OF A MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following this statement, the location in the prospectus or offering circular and its exhibits where the multicondominium aspects of the offering are described must be stated.

(b) A summary of the provisions in the declaration, articles of incorporation, and bylaws which establish and provide for the operation of the multicondominium, including a statement as to whether unit owners in the condominium will have the right to use recreational or other facilities located or planned to be located in other condominiums operated by the same association, and the manner of sharing the common expenses related to such facilities.

(c) A statement of the minimum and maximum number of condominiums, and the minimum and maximum number of units in each of those condominiums, which will or may be operated by the association, and the latest date by which the exact number will be finally determined.

(d) A statement as to whether any of the condominiums in the multicondominium may include units intended to be used for nonresidential purposes and the purpose or purposes permitted for such use.

(e) A general description of the location and approximate acreage of any land on which any additional condominiums to be operated by the association may be located.

(16) If the condominium is created by conversion of existing improvements, the following information shall be stated:

(a) The information required by s. 718.616.

(b) A caveat that there are no express warranties unless they are stated in writing by the developer.

(17) A summary of the restrictions, if any, to be imposed on units concerning the use of any of the condominium property, including statements as to whether there are restrictions upon children and pets, and reference to the volumes and pages of the condominium documents where such restrictions are found, or if such restrictions are contained

elsewhere, then a copy of the documents containing the restrictions shall be attached as an exhibit.

(18) If there is any land that is offered by the developer for use by the unit owners and that is neither owned by them nor leased to them, the association, or any entity controlled by unit owners and other persons having the use rights to such land, a statement shall be made as to how such land will serve the condominium. If any part of such land will serve the condominium, the statement shall describe the land and the nature and term of service, and the declaration or other instrument creating such servitude shall be included as an exhibit.

(19) The manner in which utility and other services, including, but not limited to, sewage and waste disposal, water supply, and storm drainage, will be provided and the person or entity furnishing them.

(20) An explanation of the manner in which the apportionment of common expenses and ownership of the common elements has been determined.

(21) An estimated operating budget for the condominium and the association, and a schedule of the unit owner's expenses shall be attached as an exhibit and shall contain the following information:

(a) The estimated monthly and annual expenses of the condominium and the association that are collected from unit owners by assessments.

(b) The estimated monthly and annual expenses of each unit owner for a unit, other than common expenses paid by all unit owners, payable by the unit owner to persons or entities other than the association, as well as to the association, including fees assessed pursuant to s. 718.113(1) for maintenance of limited common elements where such costs are shared only by those entitled to use the limited common element, and the total estimated monthly and annual expense. There may be excluded from this estimate expenses which are not provided for or contemplated by the condominium documents, including, but not limited to, the costs of private telephone; maintenance of the interior of condominium units, which is not the obligation of the association; maid or janitorial services privately contracted for by the unit owners; utility bills billed directly to each unit owner for utility services to his or her unit; insurance premiums other than those incurred for policies obtained by the condominium; and similar personal expenses of the unit owner. A unit owner's estimated payments for assessments shall also be stated in the estimated amounts for the times when they will be due.

(c) The estimated items of expenses of the condominium and the association, except as excluded under paragraph (b), including, but not limited to, the following items, which shall be stated either as an association expense collectible by assessments or as unit owners' expenses payable to persons other than the association:

1. Expenses for the association and condominium:

a. Administration of the association.

b. Management fees.

c. Maintenance.

d. Rent for recreational and other commonly used facilities.

e. Taxes upon association property.

f. Taxes upon leased areas.

g. Insurance.

h. Security provisions.

i. Other expenses.

j. Operating capital.

k. Reserves.

l. Fees payable to the division.

2. Expenses for a unit owner:

a. Rent for the unit, if subject to a lease.

b. Rent payable by the unit owner directly to the lessor or agent under any recreational lease or lease for the use of commonly used facilities, which use and payment is a mandatory condition of ownership and is not included in the common expense or assessments for common maintenance paid by the unit owners to the association.

(d) The estimated amounts shall be stated for a period of at least 12 months and may distinguish between the period prior to the time unit owners other than the developer elect a majority of the board of administration and the period after that date.

(22) A schedule of estimated closing expenses to be paid by a buyer or lessee of a unit and a statement of whether title opinion or title insurance policy is available to the buyer and, if so, at whose expense.

(23) The identity of the developer and the chief operating officer or principal directing the creation and sale of the condominium and a statement of its and his or her experience in this field.

(24) Copies of the following, to the extent they are applicable, shall be included as exhibits:

(a) The declaration of condominium, or the proposed declaration if the declaration has not been recorded.

(b) The articles of incorporation creating the association.

(c) The bylaws of the association.

(d) The ground lease or other underlying lease of the condominium.

(e) The management agreement and all maintenance and other contracts for management of the association and operation of the condominium and facilities used by the unit owners having a service term in excess of 1 year.

(f) The estimated operating budget for the condominium and the required schedule of unit owners' expenses.

(g) A copy of the floor plan of the unit and the plot plan showing the location of the residential buildings and the recreation and other common areas.

(h) The lease of recreational and other facilities that will be used only by unit owners of the subject condominium.

(i) The lease of facilities used by owners and others.

(j) The form of unit lease, if the offer is of a leasehold.

(k) A declaration of servitude of properties serving the condominium but not owned by unit owners or leased to them or the association.

(l) The statement of condition of the existing building or buildings, if the offering is of units in an operation being converted to condominium ownership.

(m) The statement of inspection for termite damage and treatment of the existing improvements, if the condominium is a conversion.

(n) The form of agreement for sale or lease of units.

(o) A copy of the agreement for escrow of payments made to the developer prior to closing.

(p) A copy of the documents containing any restrictions on use of the property required by subsection (16).

(25) Any prospectus or offering circular complying, prior to the effective date of this act, with the provisions of former ss. 711.69 and 711.802 may continue to be used without amendment or may be amended to comply with the provisions of this chapter.

(26) A brief narrative description of the location and effect of all existing and intended easements located or to be located on the condominium property other than those described in the declaration.

(27) If the developer is required by state or local authorities to obtain acceptance or approval of any dock or marina facilities intended to serve the condominium, a copy of any such acceptance or approval acquired by the time of filing with the division under s. 718.502(1) or a statement that such acceptance or approval has not been acquired or received.

(28) Evidence demonstrating that the developer has an ownership, leasehold, or contractual interest in the land upon which the condominium is to be developed.

Section 77. Section 718.508, Florida Statutes, is amended to read:

718.508 Regulation by Division of Hotels and Restaurants.—In addition to the authority, regulation, or control exercised by the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes pursuant to this act with respect to condominiums, buildings included in a condominium property shall be subject to the authority, regulation, or control of the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, to the extent provided for in chapter 399.

Section 78. Section 718.509, Florida Statutes, is amended to read:

718.509 Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund.—

(1) There is created within the State Treasury the Division of Condominiums, Timeshare, and Mobile Homes Trust Fund, to be used for the administration and operation of this chapter and chapters 719, 721, and 723 by the division.

(2) All funds collected by the division and any amount paid for a fee or penalty under this chapter shall be deposited in the State Treasury to the credit of the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund created by s. *718.509* ~~498.019~~. *The division shall maintain separate revenue accounts in the trust fund for each business regulated by the division, and shall provide for the proportionate allocation among the accounts of expenses incurred in the performance of its duties for each of these businesses. As part of its normal budgetary process, the division shall prepare an annual report of revenue and allocated expenses related to the operation of each of these businesses, which may be used to determine fees charged by the division. The provisions of s. 215.20 apply to the trust fund.*

Section 79. Paragraph (a) of subsection (2) of section 718.608, Florida Statutes, is amended to read:

718.608 Notice of intended conversion; time of delivery; content.—

(2)(a) Each notice of intended conversion shall be dated and in writing. The notice shall contain the following statement, with the phrases of the following statement which appear in upper case printed in conspicuous type:

These apartments are being converted to condominium by . . .(name of developer). . ., the developer.

1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL AGREEMENT AS FOLLOWS:

a. If you have continuously been a resident of these apartments during the last 180 days and your rental agreement expires during the next 270 days, you may extend your rental agreement for up to 270 days after the date of this notice.

b. If you have not been a continuous resident of these apartments for the last 180 days and your rental agreement expires during the next 180 days, you may extend your rental agreement for up to 180 days after the date of this notice.

c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE DATE OF THIS NOTICE.

2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS, you may extend your rental agreement for up to 45 days after the date of this notice while you decide whether to extend your rental agreement as explained above. To do so, you must notify the developer in writing. You will then have the full 45 days to decide whether to extend your rental agreement as explained above.

3. During the extension of your rental agreement you will be charged the same rent that you are now paying.

4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION OF THE RENTAL AGREEMENT AS FOLLOWS:

a. If your rental agreement began or was extended or renewed after May 1, 1980, and your rental agreement, including extensions and renewals, has an unexpired term of 180 days or less, you may cancel your rental agreement upon 30 days' written notice and move. Also, upon 30 days' written notice, you may cancel any extension of the rental agreement.

b. If your rental agreement was not begun or was not extended or renewed after May 1, 1980, you may not cancel the rental agreement without the consent of the developer. If your rental agreement, including extensions and renewals, has an unexpired term of 180 days or less, you may, however, upon 30 days' written notice cancel any extension of the rental agreement.

5. All notices must be given in writing and sent by mail, return receipt requested, or delivered in person to the developer at this address: . . .(name and address of developer). . . .

6. If you have continuously been a resident of these apartments during the last 180 days:

a. You have the right to purchase your apartment and will have 45 days to decide whether to purchase. If you do not buy the unit at that price and the unit is later offered at a lower price, you will have the opportunity to buy the unit at the lower price. However, in all events your right to purchase the unit ends when the rental agreement or any extension of the rental agreement ends or when you waive this right in writing.

b. Within 90 days you will be provided purchase information relating to your apartment, including the price of your unit and the condition of the building. If you do not receive this information within 90 days, your rental agreement and any extension will be extended 1 day for each day over 90 days until you are given the purchase information. If you do not want this rental agreement extension, you must notify the developer in writing.

7. If you have any questions regarding this conversion or the Condominium Act, you may contact the developer or the state agency which regulates condominiums: The Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes, . . .(Tallahassee address and telephone number of division). . . .

Section 80. Subsection (17) of section 719.103, Florida Statutes, is amended to read:

719.103 Definitions.—As used in this chapter:

(17) "Division" means the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes of the Department of Business and Professional Regulation.

Section 81. Section 719.1255, Florida Statutes, is amended to read:

719.1255 Alternative resolution of disputes.—The division ~~of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation~~ shall provide for alternative dispute resolution in accordance with s. 718.1255.

Section 82. Section 719.501, Florida Statutes, is amended to read:

719.501 Powers and duties of Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes.—

(1) The Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes of the Department of Business and Professional

Regulation, referred to as the "division" in this part, in addition to other powers and duties prescribed by chapter 498, has the power to enforce and ensure compliance with the provisions of this chapter and rules *adopted* ~~promulgated~~ pursuant hereto relating to the development, construction, sale, lease, ownership, operation, and management of residential cooperative units. In performing its duties, the division shall have the following powers and duties:

(a) The division may make necessary public or private investigations within or outside this state to determine whether any person has violated this chapter or any rule or order hereunder, to aid in the enforcement of this chapter, or to aid in the adoption of rules or forms hereunder.

(b) The division may require or permit any person to file a statement in writing, under oath or otherwise, as the division determines, as to the facts and circumstances concerning a matter to be investigated.

(c) For the purpose of any investigation under this chapter, the division director or any officer or employee designated by the division director may administer oaths or affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence. Upon failure by a person to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the division may apply to the circuit court for an order compelling compliance.

(d) Notwithstanding any remedies available to unit owners and associations, if the division has reasonable cause to believe that a violation of any provision of this chapter or rule promulgated pursuant hereto has occurred, the division may institute enforcement proceedings in its own name against a developer, association, officer, or member of the board, or its assignees or agents, as follows:

1. The division may permit a person whose conduct or actions may be under investigation to waive formal proceedings and enter into a consent proceeding whereby orders, rules, or letters of censure or warning, whether formal or informal, may be entered against the person.

2. The division may issue an order requiring the developer, association, officer, or member of the board, or its assignees or agents, to cease and desist from the unlawful practice and take such affirmative action as in the judgment of the division will carry out the purposes of this chapter. Such affirmative action may include, but is not limited to, an order requiring a developer to pay moneys determined to be owed to a condominium association.

3. The division may bring an action in circuit court on behalf of a class of unit owners, lessees, or purchasers for declaratory relief, injunctive relief, or restitution.

4. The division may impose a civil penalty against a developer or association, or its assignees or agents, for any violation of this chapter or a rule promulgated pursuant hereto. The division may impose a civil penalty individually against any officer or board member who willfully and knowingly violates a provision of this chapter, a rule adopted pursuant to this chapter, or a final order of the division. The term "willfully and knowingly" means that the division informed the officer or board member that his or her action or intended action violates this chapter, a rule adopted under this chapter, or a final order of the division, and that the officer or board member refused to comply with the requirements of this chapter, a rule adopted under this chapter, or a final order of the division. The division, prior to initiating formal agency action under chapter 120, shall afford the officer or board member an opportunity to voluntarily comply with this chapter, a rule adopted under this chapter, or a final order of the division. An officer or board member who complies within 10 days is not subject to a civil penalty. A penalty may be imposed on the basis of each day of continuing violation, but in no event shall the penalty for any offense exceed $5,000. By January 1, 1998, the division shall adopt, by rule, penalty guidelines applicable to possible violations or to categories of violations of this chapter or rules adopted by the division. The guidelines must specify a meaningful range of civil penalties for each such violation of the statute and rules and must be based upon the harm caused by the violation, the repetition of the violation, and upon such other factors deemed relevant by the division. For example, the division may consider whether the violations were committed by a developer or owner-controlled association, the size of the association, and other factors. The guidelines must designate the possible mitigating or aggravating circumstances that justify a departure from the range of penalties provided by the rules. It is the legislative intent that minor violations be distinguished from those which endanger the health, safety, or welfare of the cooperative residents or other persons and that such guidelines provide reasonable and meaningful notice to the public of likely penalties that may be imposed for proscribed conduct. This subsection does not limit the ability of the division to informally dispose of administrative actions or complaints by stipulation, agreed settlement, or consent order. All amounts collected shall be deposited with the Treasurer to the credit of the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund. If a developer fails to pay the civil penalty, the division shall thereupon issue an order directing that such developer cease and desist from further operation until such time as the civil penalty is paid or may pursue enforcement of the penalty in a court of competent jurisdiction. If an association fails to pay the civil penalty, the division shall thereupon pursue enforcement in a court of competent jurisdiction, and the order imposing the civil penalty or the cease and desist order shall not become effective until 20 days after the date of such order. Any action commenced by the division shall be brought in the county in which the division has its executive offices or in the county where the violation occurred.

(e) The division is authorized to prepare and disseminate a prospectus and other information to assist prospective owners, purchasers, lessees, and developers of residential cooperatives in assessing the rights, privileges, and duties pertaining thereto.

(f) The division has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement and enforce the provisions of this chapter.

(g) The division shall establish procedures for providing notice to an association when the division is considering the issuance of a declaratory statement with respect to the cooperative documents governing such cooperative community.

(h) The division shall furnish each association which pays the fees required by paragraph (2)(a) a copy of this act, subsequent changes to this act on an annual basis, an amended version of this act as it becomes available from the Secretary of State's office on a biennial basis, and the rules promulgated pursuant thereto on an annual basis.

(i) The division shall annually provide each association with a summary of declaratory statements and formal legal opinions relating to the operations of cooperatives which were rendered by the division during the previous year.

(j) The division shall adopt uniform accounting principles, policies, and standards to be used by all associations in the preparation and presentation of all financial statements required by this chapter. The principles, policies, and standards shall take into consideration the size of the association and the total revenue collected by the association.

(k) The division shall provide training programs for cooperative association board members and unit owners.

(l) The division shall maintain a toll-free telephone number accessible to cooperative unit owners.

(m) When a complaint is made to the division, the division shall conduct its inquiry with reasonable dispatch and with due regard to the interests of the affected parties. Within 30 days after receipt of a complaint, the division shall acknowledge the complaint in writing and notify the complainant whether the complaint is within the jurisdiction

of the division and whether additional information is needed by the division from the complainant. The division shall conduct its investigation and shall, within 90 days after receipt of the original complaint or timely requested additional information, take action upon the complaint. However, the failure to complete the investigation within 90 days does not prevent the division from continuing the investigation, accepting or considering evidence obtained or received after 90 days, or taking administrative action if reasonable cause exists to believe that a violation of this chapter or a rule of the division has occurred. If an investigation is not completed within the time limits established in this paragraph, the division shall, on a monthly basis, notify the complainant in writing of the status of the investigation. When reporting its action to the complainant, the division shall inform the complainant of any right to a hearing pursuant to ss. 120.569 and 120.57.

(n) The division shall develop a program to certify both volunteer and paid mediators to provide mediation of cooperative disputes. The division shall provide, upon request, a list of such mediators to any association, unit owner, or other participant in arbitration proceedings under s. 718.1255 requesting a copy of the list. The division shall include on the list of voluntary mediators only persons who have received at least 20 hours of training in mediation techniques or have mediated at least 20 disputes. In order to become initially certified by the division, paid mediators must be certified by the Supreme Court to mediate court cases in either county or circuit courts. However, the division may adopt, by rule, additional factors for the certification of paid mediators, which factors must be related to experience, education, or background. Any person initially certified as a paid mediator by the division must, in order to continue to be certified, comply with the factors or requirements imposed by rules adopted by the division.

(2)(a) Each cooperative association shall pay to the division, on or before January 1 of each year, an annual fee in the amount of $4 for each residential unit in cooperatives operated by the association. If the fee is not paid by March 1, then the association shall be assessed a penalty of 10 percent of the amount due, and the association shall not have the standing to maintain or defend any action in the courts of this state until the amount due is paid.

(b) All fees shall be deposited in the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund as provided by law.

Section 83. Paragraph (a) of subsection (2) of section 719.502, Florida Statutes, is amended to read:

719.502 Filing prior to sale or lease.—

(2)(a) Prior to filing as required by subsection (1), and prior to acquiring an ownership, leasehold, or contractual interest in the land upon which the cooperative is to be developed, a developer shall not offer a contract for purchase or lease of a unit for more than 5 years. However, the developer may accept deposits for reservations upon the approval of a fully executed escrow agreement and reservation agreement form properly filed with the division ~~of Florida Land Sales, Condominiums, and Mobile Homes~~. Each filing of a proposed reservation program shall be accompanied by a filing fee of $250. Reservations shall not be taken on a proposed cooperative unless the developer has an ownership, leasehold, or contractual interest in the land upon which the cooperative is to be developed. The division shall notify the developer within 20 days of receipt of the reservation filing of any deficiencies contained therein. Such notification shall not preclude the determination of reservation filing deficiencies at a later date, nor shall it relieve the developer of any responsibility under the law. The escrow agreement and the reservation agreement form shall include a statement of the right of the prospective purchaser to an immediate unqualified refund of the reservation deposit moneys upon written request to the escrow agent by the prospective purchaser or the developer.

Section 84. Section 719.504, Florida Statutes, is amended to read:

719.504 Prospectus or offering circular.—Every developer of a residential cooperative which contains more than 20 residential units, or which is part of a group of residential cooperatives which will be served by property to be used in common by unit owners of more than 20 residential units, shall prepare a prospectus or offering circular and file it with the division ~~of Florida Land Sales, Condominiums, and Mobile Homes~~ prior to entering into an enforceable contract of purchase and sale of any unit or lease of a unit for more than 5 years and shall furnish a copy of the prospectus or offering circular to each buyer. In addition to the prospectus or offering circular, each buyer shall be furnished a separate page entitled "Frequently Asked Questions and Answers," which must be in accordance with a format approved by the division. This page must, in readable language: inform prospective purchasers regarding their voting rights and unit use restrictions, including restrictions on the leasing of a unit; indicate whether and in what amount the unit owners or the association is obligated to pay rent or land use fees for recreational or other commonly used facilities; contain a statement identifying that amount of assessment which, pursuant to the budget, would be levied upon each unit type, exclusive of any special assessments, and which identifies the basis upon which assessments are levied, whether monthly, quarterly, or otherwise; state and identify any court cases in which the association is currently a party of record in which the association may face liability in excess of $100,000; and state whether membership in a recreational facilities association is mandatory and, if so, identify the fees currently charged per unit type. The division shall by rule require such other disclosure as in its judgment will assist prospective purchasers. The prospectus or offering circular may include more than one cooperative, although not all such units are being offered for sale as of the date of the prospectus or offering circular. The prospectus or offering circular must contain the following information:

(1) The front cover or the first page must contain only:

(a) The name of the cooperative.

(b) The following statements in conspicuous type:

1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE UNIT.

2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES MATERIALS.

3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT REPRESENTATIONS.

(2) Summary: The next page must contain all statements required to be in conspicuous type in the prospectus or offering circular.

(3) A separate index of the contents and exhibits of the prospectus.

(4) Beginning on the first page of the text (not including the summary and index), a description of the cooperative, including, but not limited to, the following information:

(a) Its name and location.

(b) A description of the cooperative property, including, without limitation:

1. The number of buildings, the number of units in each building, the number of bathrooms and bedrooms in each unit, and the total number of units, if the cooperative is not a phase cooperative; or, if the cooperative is a phase cooperative, the maximum number of buildings that may be contained within the cooperative, the minimum and maximum number of units in each building, the minimum and maximum number of bathrooms and bedrooms that may be contained in each unit, and the maximum number of units that may be contained within the cooperative.

2. The page in the cooperative documents where a copy of the survey and plot plan of the cooperative is located.

3. The estimated latest date of completion of constructing, finishing, and equipping. In lieu of a date, a statement that the estimated date of completion of the cooperative is in the purchase agreement and a reference to the article or paragraph containing that information.

(c) The maximum number of units that will use facilities in common with the cooperative. If the maximum number of units will vary, a description of the basis for variation and the minimum amount of dollars per unit to be spent for additional recreational facilities or enlargement of such facilities. If the addition or enlargement of facilities will result in a material increase of a unit owner's maintenance expense or rental expense, if any, the maximum increase and limitations thereon shall be stated.

(5)(a) A statement in conspicuous type describing whether the cooperative is created and being sold as fee simple interests or as leasehold interests. If the cooperative is created or being sold on a leasehold, the location of the lease in the disclosure materials shall be stated.

(b) If timeshare estates are or may be created with respect to any unit in the cooperative, a statement in conspicuous type stating that timeshare estates are created and being sold in such specified units in the cooperative.

(6) A description of the recreational and other common areas that will be used only by unit owners of the cooperative, including, but not limited to, the following:

(a) Each room and its intended purposes, location, approximate floor area, and capacity in numbers of people.

(b) Each swimming pool, as to its general location, approximate size and depths, approximate deck size and capacity, and whether heated.

(c) Additional facilities, as to the number of each facility, its approximate location, approximate size, and approximate capacity.

(d) A general description of the items of personal property and the approximate number of each item of personal property that the developer is committing to furnish for each room or other facility or, in the alternative, a representation as to the minimum amount of expenditure that will be made to purchase the personal property for the facility.

(e) The estimated date when each room or other facility will be available for use by the unit owners.

(f)1. An identification of each room or other facility to be used by unit owners that will not be owned by the unit owners or the association;

2. A reference to the location in the disclosure materials of the lease or other agreements providing for the use of those facilities; and

3. A description of the terms of the lease or other agreements, including the length of the term; the rent payable, directly or indirectly, by each unit owner, and the total rent payable to the lessor, stated in monthly and annual amounts for the entire term of the lease; and a description of any option to purchase the property leased under any such lease, including the time the option may be exercised, the purchase price or how it is to be determined, the manner of payment, and whether the option may be exercised for a unit owner's share or only as to the entire leased property.

(g) A statement as to whether the developer may provide additional facilities not described above, their general locations and types, improvements or changes that may be made, the approximate dollar amount to be expended, and the maximum additional common expense or cost to the individual unit owners that may be charged during the first annual period of operation of the modified or added facilities.

Descriptions as to locations, areas, capacities, numbers, volumes, or sizes may be stated as approximations or minimums.

(7) A description of the recreational and other facilities that will be used in common with other cooperatives, community associations, or planned developments which require the payment of the maintenance and expenses of such facilities, either directly or indirectly, by the unit owners. The description shall include, but not be limited to, the following:

(a) Each building and facility committed to be built.

(b) Facilities not committed to be built except under certain conditions, and a statement of those conditions or contingencies.

(c) As to each facility committed to be built, or which will be committed to be built upon the happening of one of the conditions in paragraph (b), a statement of whether it will be owned by the unit owners having the use thereof or by an association or other entity which will be controlled by them, or others, and the location in the exhibits of the lease or other document providing for use of those facilities.

(d) The year in which each facility will be available for use by the unit owners or, in the alternative, the maximum number of unit owners in the project at the time each of all of the facilities is committed to be completed.

(e) A general description of the items of personal property, and the approximate number of each item of personal property, that the developer is committing to furnish for each room or other facility or, in the alternative, a representation as to the minimum amount of expenditure that will be made to purchase the personal property for the facility.

(f) If there are leases, a description thereof, including the length of the term, the rent payable, and a description of any option to purchase.

Descriptions shall include location, areas, capacities, numbers, volumes, or sizes and may be stated as approximations or minimums.

(8) Recreation lease or associated club membership:

(a) If any recreational facilities or other common areas offered by the developer and available to, or to be used by, unit owners are to be leased or have club membership associated, the following statement in conspicuous type shall be included: THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS COOPERATIVE; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS COOPERATIVE. There shall be a reference to the location in the disclosure materials where the recreation lease or club membership is described in detail.

(b) If it is mandatory that unit owners pay a fee, rent, dues, or other charges under a recreational facilities lease or club membership for the use of facilities, there shall be in conspicuous type the applicable statement:

1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS MANDATORY FOR UNIT OWNERS; or

2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP, TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

4. A similar statement of the nature of the organization or manner in which the use rights are created, and that unit owners are required to pay.

Immediately following the applicable statement, the location in the disclosure materials where the development is described in detail shall be stated.

(c) If the developer, or any other person other than the unit owners and other persons having use rights in the facilities, reserves, or is entitled to receive, any rent, fee, or other payment for the use of the facilities, then there shall be the following statement in conspicuous type: THE UNIT OWNERS OR THE ASSOCIATION(S) MUST PAY

RENT OR LAND USE FEES FOR RECREATIONAL OR OTHER COMMON AREAS. Immediately following this statement, the location in the disclosure materials where the rent or land use fees are described in detail shall be stated.

(d) If, in any recreation format, whether leasehold, club, or other, any person other than the association has the right to a lien on the units to secure the payment of assessments, rent, or other exactions, there shall appear a statement in conspicuous type in substantially the following form:

1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL OR COMMONLY USED AREAS. THE UNIT OWNER'S FAILURE TO MAKE THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

Immediately following the applicable statement, the location in the disclosure materials where the lien or lien right is described in detail shall be stated.

(9) If the developer or any other person has the right to increase or add to the recreational facilities at any time after the establishment of the cooperative whose unit owners have use rights therein, without the consent of the unit owners or associations being required, there shall appear a statement in conspicuous type in substantially the following form: RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this statement, the location in the disclosure materials where such reserved rights are described shall be stated.

(10) A statement of whether the developer's plan includes a program of leasing units rather than selling them, or leasing units and selling them subject to such leases. If so, there shall be a description of the plan, including the number and identification of the units and the provisions and term of the proposed leases, and a statement in boldfaced type that: THE UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

(11) The arrangements for management of the association and maintenance and operation of the cooperative property and of other property that will serve the unit owners of the cooperative property, and a description of the management contract and all other contracts for these purposes having a term in excess of 1 year, including the following:

(a) The names of contracting parties.

(b) The term of the contract.

(c) The nature of the services included.

(d) The compensation, stated on a monthly and annual basis, and provisions for increases in the compensation.

(e) A reference to the volumes and pages of the cooperative documents and of the exhibits containing copies of such contracts.

Copies of all described contracts shall be attached as exhibits. If there is a contract for the management of the cooperative property, then a statement in conspicuous type in substantially the following form shall appear, identifying the proposed or existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR THE MANAGEMENT OF THE COOPERATIVE PROPERTY WITH (NAME OF THE CONTRACT MANAGER). Immediately following this statement, the location in the disclosure materials of the contract for management of the cooperative property shall be stated.

(12) If the developer or any other person or persons other than the unit owners has the right to retain control of the board of administration of the association for a period of time which can exceed 1 year after the closing of the sale of a majority of the units in that cooperative to persons other than successors or alternate developers, then a statement in conspicuous type in substantially the following form shall be included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS HAVE BEEN SOLD. Immediately following this statement, the location in the disclosure materials where this right to control is described in detail shall be stated.

(13) If there are any restrictions upon the sale, transfer, conveyance, or leasing of a unit, then a statement in conspicuous type in substantially the following form shall be included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR CONTROLLED. Immediately following this statement, the location in the disclosure materials where the restriction, limitation, or control on the sale, lease, or transfer of units is described in detail shall be stated.

(14) If the cooperative is part of a phase project, the following shall be stated:

(a) A statement in conspicuous type in substantially the following form shall be included: THIS IS A PHASE COOPERATIVE. ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS COOPERATIVE. Immediately following this statement, the location in the disclosure materials where the phasing is described shall be stated.

(b) A summary of the provisions of the declaration providing for the phasing.

(c) A statement as to whether or not residential buildings and units which are added to the cooperative may be substantially different from the residential buildings and units originally in the cooperative, and, if the added residential buildings and units may be substantially different, there shall be a general description of the extent to which such added residential buildings and units may differ, and a statement in conspicuous type in substantially the following form shall be included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE COOPERATIVE MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND UNITS IN THE COOPERATIVE. Immediately following this statement, the location in the disclosure materials where the extent to which added residential buildings and units may substantially differ is described shall be stated.

(d) A statement of the maximum number of buildings containing units, the maximum and minimum number of units in each building, the maximum number of units, and the minimum and maximum square footage of the units that may be contained within each parcel of land which may be added to the cooperative.

(15) If the cooperative is created by conversion of existing improvements, the following information shall be stated:

(a) The information required by s. 719.616.

(b) A caveat that there are no express warranties unless they are stated in writing by the developer.

(16) A summary of the restrictions, if any, to be imposed on units concerning the use of any of the cooperative property, including statements as to whether there are restrictions upon children and pets, and reference to the volumes and pages of the cooperative documents where such restrictions are found, or if such restrictions are contained elsewhere, then a copy of the documents containing the restrictions shall be attached as an exhibit.

(17) If there is any land that is offered by the developer for use by the unit owners and that is neither owned by them nor leased to them, the association, or any entity controlled by unit owners and other persons having the use rights to such land, a statement shall be made as to how such land will serve the cooperative. If any part of such land will serve the cooperative, the statement shall describe the land and the nature and term of service, and the cooperative documents or other instrument creating such servitude shall be included as an exhibit.

(18) The manner in which utility and other services, including, but not limited to, sewage and waste disposal, water supply, and storm drainage, will be provided and the person or entity furnishing them.

(19) An explanation of the manner in which the apportionment of common expenses and ownership of the common areas have been determined.

(20) An estimated operating budget for the cooperative and the association, and a schedule of the unit owner's expenses shall be attached as an exhibit and shall contain the following information:

(a) The estimated monthly and annual expenses of the cooperative and the association that are collected from unit owners by assessments.

(b) The estimated monthly and annual expenses of each unit owner for a unit, other than assessments payable to the association, payable by the unit owner to persons or entities other than the association, and the total estimated monthly and annual expense. There may be excluded from this estimate expenses that are personal to unit owners, which are not uniformly incurred by all unit owners, or which are not provided for or contemplated by the cooperative documents, including, but not limited to, the costs of private telephone; maintenance of the interior of cooperative units, which is not the obligation of the association; maid or janitorial services privately contracted for by the unit owners; utility bills billed directly to each unit owner for utility services to his or her unit; insurance premiums other than those incurred for policies obtained by the cooperative; and similar personal expenses of the unit owner. A unit owner's estimated payments for assessments shall also be stated in the estimated amounts for the times when they will be due.

(c) The estimated items of expenses of the cooperative and the association, except as excluded under paragraph (b), including, but not limited to, the following items, which shall be stated either as an association expense collectible by assessments or as unit owners' expenses payable to persons other than the association:

1. Expenses for the association and cooperative:

a. Administration of the association.

b. Management fees.

c. Maintenance.

d. Rent for recreational and other commonly used areas.

e. Taxes upon association property.

f. Taxes upon leased areas.

g. Insurance.

h. Security provisions.

i. Other expenses.

j. Operating capital.

k. Reserves.

l. Fee payable to the division.

2. Expenses for a unit owner:

a. Rent for the unit, if subject to a lease.

b. Rent payable by the unit owner directly to the lessor or agent under any recreational lease or lease for the use of commonly used areas, which use and payment are a mandatory condition of ownership and are not included in the common expense or assessments for common maintenance paid by the unit owners to the association.

(d) The estimated amounts shall be stated for a period of at least 12 months and may distinguish between the period prior to the time unit owners other than the developer elect a majority of the board of administration and the period after that date.

(21) A schedule of estimated closing expenses to be paid by a buyer or lessee of a unit and a statement of whether title opinion or title insurance policy is available to the buyer and, if so, at whose expense.

(22) The identity of the developer and the chief operating officer or principal directing the creation and sale of the cooperative and a statement of its and his or her experience in this field.

(23) Copies of the following, to the extent they are applicable, shall be included as exhibits:

(a) The cooperative documents, or the proposed cooperative documents if the documents have not been recorded.

(b) The articles of incorporation creating the association.

(c) The bylaws of the association.

(d) The ground lease or other underlying lease of the cooperative.

(e) The management agreement and all maintenance and other contracts for management of the association and operation of the cooperative and facilities used by the unit owners having a service term in excess of 1 year.

(f) The estimated operating budget for the cooperative and the required schedule of unit owners' expenses.

(g) A copy of the floor plan of the unit and the plot plan showing the location of the residential buildings and the recreation and other common areas.

(h) The lease of recreational and other facilities that will be used only by unit owners of the subject cooperative.

(i) The lease of facilities used by owners and others.

(j) The form of unit lease, if the offer is of a leasehold.

(k) A declaration of servitude of properties serving the cooperative but not owned by unit owners or leased to them or the association.

(l) The statement of condition of the existing building or buildings, if the offering is of units in an operation being converted to cooperative ownership.

(m) The statement of inspection for termite damage and treatment of the existing improvements, if the cooperative is a conversion.

(n) The form of agreement for sale or lease of units.

(o) A copy of the agreement for escrow of payments made to the developer prior to closing.

(p) A copy of the documents containing any restrictions on use of the property required by subsection (16).

(24) Any prospectus or offering circular complying with the provisions of former ss. 711.69 and 711.802 may continue to be used without amendment, or may be amended to comply with the provisions of this chapter.

(25) A brief narrative description of the location and effect of all existing and intended easements located or to be located on the cooperative property other than those in the declaration.

(26) If the developer is required by state or local authorities to obtain acceptance or approval of any dock or marina facility intended to serve the cooperative, a copy of such acceptance or approval acquired by the time of filing with the division pursuant to s. 719.502 or a statement that such acceptance has not been acquired or received.

(27) Evidence demonstrating that the developer has an ownership, leasehold, or contractual interest in the land upon which the cooperative is to be developed.

Section 85. Section 719.508, Florida Statutes, is amended to read:

719.508 Regulation by Division of Hotels and Restaurants.—In addition to the authority, regulation, or control exercised by the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes pursuant to this act with respect to cooperatives, buildings included in a cooperative property shall be subject to the authority, regulation, or

control of the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, to the extent provided for in chapters 399 and 509.

Section 86. Paragraph (a) of subsection (2) of section 719.608, Florida Statutes, is amended to read:

719.608 Notice of intended conversion; time of delivery; content.—

(2)(a) Each notice of intended conversion shall be dated and in writing. The notice shall contain the following statement, with the phrases of the following statement which appear in upper case printed in conspicuous type:

These apartments are being converted to cooperative by . . .(name of developer). . ., the developer.

1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL AGREEMENT AS FOLLOWS:

a. If you have continuously been a resident of these apartments during the last 180 days and your rental agreement expires during the next 270 days, you may extend your rental agreement for up to 270 days after the date of this notice.

b. If you have not been a continuous resident of these apartments for the last 180 days and your rental agreement expires during the next 180 days, you may extend your rental agreement for up to 180 days after the date of this notice.

c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE DATE OF THIS NOTICE.

2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS, you may extend your rental agreement for up to 45 days after the date of this notice while you decide whether to extend your rental agreement as explained above. To do so, you must notify the developer in writing. You will then have the full 45 days to decide whether to extend your rental agreement as explained above.

3. During the extension of your rental agreement you will be charged the same rent that you are now paying.

4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION OF THE RENTAL AGREEMENT AS FOLLOWS:

a. If your rental agreement began or was extended or renewed after May 1, 1980, and your rental agreement, including extensions and renewals, has an unexpired term of 180 days or less, you may cancel your rental agreement upon 30 days' written notice and move. Also, upon 30 days' written notice, you may cancel any extension of the rental agreement.

b. If your rental agreement was not begun or was not extended or renewed after May 1, 1980, you may not cancel the rental agreement without the consent of the developer. If your rental agreement, including extensions and renewals, has an unexpired term of 180 days or less, you may, however, upon 30 days' written notice cancel any extension of the rental agreement.

5. All notices must be given in writing and sent by mail, return receipt requested, or delivered in person to the developer at this address: . . .(name and address of developer). . . .

6. If you have continuously been a resident of these apartments during the last 180 days:

a. You have the right to purchase your apartment and will have 45 days to decide whether to purchase. If you do not buy the unit at that price and the unit is later offered at a lower price, you will have the opportunity to buy the unit at the lower price. However, in all events your right to purchase the unit ends when the rental agreement or any extension of the rental agreement ends or when you waive this right in writing.

b. Within 90 days you will be provided purchase information relating to your apartment, including the price of your unit and the condition of the building. If you do not receive this information within 90 days, your rental agreement and any extension will be extended 1 day for each day over 90 days until you are given the purchase information. If you do not want this rental agreement extension, you must notify the developer in writing.

7. If you have any questions regarding this conversion or the Cooperative Act, you may contact the developer or the state agency which regulates cooperatives: The Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes, . . .(Tallahassee address and telephone number of division). . . .

Section 87. Subsection (10) of section 721.05, Florida Statutes, is amended to read:

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

(10) "Division" means the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes of the Department of Business and Professional Regulation.

Section 88. Paragraph (d) of subsection (2) of section 721.07, Florida Statutes, is amended to read:

721.07 Public offering statement.—Prior to offering any timeshare plan, the developer must submit a registered public offering statement to the division for approval as prescribed by s. 721.03, s. 721.55, or this section. Until the division approves such filing, any contract regarding the sale of that timeshare plan is voidable by the purchaser.

(2)

(d) A developer shall have the authority to deliver to purchasers any purchaser public offering statement that is not yet approved by the division, provided that the following shall apply:

1. At the time the developer delivers an unapproved purchaser public offering statement to a purchaser pursuant to this paragraph, the developer shall deliver a fully completed and executed copy of the purchase contract required by s. 721.06 that contains the following statement in conspicuous type in substantially the following form which shall replace the statements required by s. 721.06(1)(g):

The developer is delivering to you a public offering statement that has been filed with but not yet approved by the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes. Any revisions to the unapproved public offering statement you have received must be delivered to you, but only if the revisions materially alter or modify the offering in a manner adverse to you. After the division approves the public offering statement, you will receive notice of the approval from the developer and the required revisions, if any.

Your statutory right to cancel this transaction without any penalty or obligation expires 10 calendar days after the date you signed your purchase contract or 10 calendar days after you receive revisions required to be delivered to you, if any, whichever is later.

2. After receipt of approval from the division and prior to closing, if any revisions made to the documents contained in the purchaser public offering statement materially alter or modify the offering in a manner adverse to a purchaser, the developer shall send the purchaser such revisions together with a notice containing a statement in conspicuous type in substantially the following form:

The unapproved public offering statement previously delivered to you, together with the enclosed revisions, has been approved by the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes. Accordingly, your cancellation right expires 10 calendar days after you sign your purchase contract or 10 calendar days after you receive these revisions, whichever is later. If you have any questions regarding your cancellation rights, you may contact the division at [insert division's current address].

3. After receipt of approval from the division and prior to closing, if no revisions have been made to the documents contained in the

unapproved purchaser public offering statement, or if such revisions do not materially alter or modify the offering in a manner adverse to a purchaser, the developer shall send the purchaser a notice containing a statement in conspicuous type in substantially the following form:

The unapproved public offering statement previously delivered to you has been approved by the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes. Revisions made to the unapproved public offering statement, if any, are either not required to be delivered to you or are not deemed by the developer, in its opinion, to materially alter or modify the offering in a manner that is adverse to you. Accordingly, your cancellation right expired 10 days after you signed your purchase contract. A complete copy of the approved public offering statement is available through the managing entity for inspection as part of the books and records of the plan. If you have any questions regarding your cancellation rights, you may contact the division at [insert division's current address].

Section 89. Subsection (8) of section 721.08, Florida Statutes, is amended to read:

721.08 Escrow accounts; nondisturbance instruments; alternate security arrangements; transfer of legal title.—

(8) An escrow agent holding escrowed funds pursuant to this chapter that have not been claimed for a period of 5 years after the date of deposit shall make at least one reasonable attempt to deliver such unclaimed funds to the purchaser who submitted such funds to escrow. In making such attempt, an escrow agent is entitled to rely on a purchaser's last known address as set forth in the books and records of the escrow agent and is not required to conduct any further search for the purchaser. If an escrow agent's attempt to deliver unclaimed funds to any purchaser is unsuccessful, the escrow agent may deliver such unclaimed funds to the division and the division shall deposit such unclaimed funds in the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund, 30 days after giving notice in a publication of general circulation in the county in which the timeshare property containing the purchaser's timeshare interest is located. The purchaser may claim the same at any time prior to the delivery of such funds to the division. After delivery of such funds to the division, the purchaser shall have no more rights to the unclaimed funds. The escrow agent shall not be liable for any claims from any party arising out of the escrow agent's delivery of the unclaimed funds to the division pursuant to this section.

Section 90. Section 721.26, Florida Statutes, is amended to read:

721.26 Regulation by division.—The division has the power to enforce and ensure compliance with the provisions of this chapter, except for parts III and IV, using the powers provided in this chapter, as well as the powers prescribed in chapters 498, 718, and 719. In performing its duties, the division shall have the following powers and duties:

(1) To aid in the enforcement of this chapter, or any division rule or order promulgated or issued pursuant to this chapter, the division may make necessary public or private investigations within or outside this state to determine whether any person has violated or is about to violate this chapter, or any division rule or order promulgated or issued pursuant to this chapter.

(2) The division may require or permit any person to file a written statement under oath or otherwise, as the division determines, as to the facts and circumstances concerning a matter under investigation.

(3) For the purpose of any investigation under this chapter, the director of the division or any officer or employee designated by the director may administer oaths or affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the identity, existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence. Failure to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby shall be a violation of this chapter. In addition to the other enforcement powers authorized in this subsection, the division may, at its discretion, apply to the circuit court for an order compelling compliance.

(4) The division may prepare and disseminate a prospectus and other information to assist prospective purchasers, sellers, and managing entities of timeshare plans in assessing the rights, privileges, and duties pertaining thereto.

(5) Notwithstanding any remedies available to purchasers, if the division has reasonable cause to believe that a violation of this chapter, or of any division rule or order promulgated or issued pursuant to this chapter, has occurred, the division may institute enforcement proceedings in its own name against any regulated party, as such term is defined in this subsection:

(a)1. "Regulated party," for purposes of this section, means any developer, exchange company, seller, managing entity, association, association director, association officer, manager, management firm, escrow agent, trustee, any respective assignees or agents, or any other person having duties or obligations pursuant to this chapter.

2. Any person who materially participates in any offer or disposition of any interest in, or the management or operation of, a timeshare plan in violation of this chapter or relevant rules involving fraud, deception, false pretenses, misrepresentation, or false advertising or the disbursement, concealment, or diversion of any funds or assets, which conduct adversely affects the interests of a purchaser, and which person directly or indirectly controls a regulated party or is a general partner, officer, director, agent, or employee of such regulated party, shall be jointly and severally liable under this subsection with such regulated party, unless such person did not know, and in the exercise of reasonable care could not have known, of the existence of the facts giving rise to the violation of this chapter. A right of contribution shall exist among jointly and severally liable persons pursuant to this paragraph.

(b) The division may permit any person whose conduct or actions may be under investigation to waive formal proceedings and enter into a consent proceeding whereby an order, rule, or letter of censure or warning, whether formal or informal, may be entered against that person.

(c) The division may issue an order requiring a regulated party to cease and desist from an unlawful practice under this chapter and take such affirmative action as in the judgment of the division will carry out the purposes of this chapter.

(d)1. The division may bring an action in circuit court for declaratory or injunctive relief or for other appropriate relief, including restitution.

2. The division shall have broad authority and discretion to petition the circuit court to appoint a receiver with respect to any managing entity which fails to perform its duties and obligations under this chapter with respect to the operation of a timeshare plan. The circumstances giving rise to an appropriate petition for receivership under this subparagraph include, but are not limited to:

a. Damage to or destruction of any of the accommodations or facilities of a timeshare plan, where the managing entity has failed to repair or reconstruct same.

b. A breach of fiduciary duty by the managing entity, including, but not limited to, undisclosed self-dealing or failure to timely assess, collect, or disburse the common expenses of the timeshare plan.

c. Failure of the managing entity to operate the timeshare plan in accordance with the timeshare instrument and this chapter.

If, under the circumstances, it appears that the events giving rise to the petition for receivership cannot be reasonably and timely corrected in a cost-effective manner consistent with the timeshare instrument, the receiver may petition the circuit court to implement such amendments or revisions to the timeshare instrument as may be necessary to enable the managing entity to resume effective operation of the timeshare plan,

or to enter an order terminating the timeshare plan, or to enter such further orders regarding the disposition of the timeshare property as the court deems appropriate, including the disposition and sale of the timeshare property held by the association or the purchasers. In the event of a receiver's sale, all rights, title, and interest held by the association or any purchaser shall be extinguished and title shall vest in the buyer. This provision applies to timeshare estates and timeshare licenses. All reasonable costs and fees of the receiver relating to the receivership shall become common expenses of the timeshare plan upon order of the court.

3. The division may revoke its approval of any filing for any timeshare plan for which a petition for receivership has been filed pursuant to this paragraph.

(e)1. The division may impose a penalty against any regulated party for a violation of this chapter or any rule adopted thereunder. A penalty may be imposed on the basis of each day of continuing violation, but in no event may the penalty for any offense exceed $10,000. All accounts collected shall be deposited with the Treasurer to the credit of the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund.

2.a. If a regulated party fails to pay a penalty, the division shall thereupon issue an order directing that such regulated party cease and desist from further operation until such time as the penalty is paid; or the division may pursue enforcement of the penalty in a court of competent jurisdiction.

b. If an association or managing entity fails to pay a civil penalty, the division may pursue enforcement in a court of competent jurisdiction.

(f) In order to permit the regulated party an opportunity either to appeal such decision administratively or to seek relief in a court of competent jurisdiction, the order imposing the penalty or the cease and desist order shall not become effective until 20 days after the date of such order.

(g) Any action commenced by the division shall be brought in the county in which the division has its executive offices or in the county where the violation occurred.

(h) Notice to any regulated party shall be complete when delivered by United States mail, return receipt requested, to the party's address currently on file with the division or to such other address at which the division is able to locate the party. Every regulated party has an affirmative duty to notify the division of any change of address at least 5 business days prior to such change.

(6) The division has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement and enforce the provisions of this chapter.

(7)(a) The use of any unfair or deceptive act or practice by any person in connection with the sales or other operations of an exchange program or timeshare plan is a violation of this chapter.

(b) Any violation of the Florida Deceptive and Unfair Trade Practices Act, ss. 501.201 et seq., relating to the creation, promotion, sale, operation, or management of any timeshare plan shall also be a violation of this chapter.

(c) The division is authorized to institute proceedings against any such person and take any appropriate action authorized in this section in connection therewith, notwithstanding any remedies available to purchasers.

(8) The failure of any person to comply with any order of the division is a violation of this chapter.

Section 91. Section 721.28, Florida Statutes, is amended to read:

721.28 Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund.—All funds collected by the division and any amounts paid as fees or penalties under this chapter shall be deposited in the State Treasury to the credit of the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund created by s. *718.509* ~~498.019~~.

Section 92. Paragraph (c) of subsection (1) of section 721.301, Florida Statutes, is amended to read:

721.301 Florida Timesharing, Vacation Club, and Hospitality Program.—

(1)

(c) The director may designate funds from the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund, not to exceed $50,000 annually, to support the projects and proposals undertaken pursuant to paragraph (b). All state trust funds to be expended pursuant to this section must be matched equally with private moneys and shall comprise no more than half of the total moneys expended annually.

Section 93. Section 721.50, Florida Statutes, is amended to read:

721.50 Short title.—This part may be cited as the "McAllister Act" in recognition and appreciation for the years of extraordinary and insightful contributions by Mr. Bryan C. McAllister, Examinations Supervisor, *former* Division of Florida Land Sales, Condominiums, and Mobile Homes.

Section 94. Subsection (10) of section 721.82, Florida Statutes, is amended to read:

721.82 Definitions.—As used in this part, the term:

(10) "Registered agent" means an agent duly appointed ~~by the obligor~~ under s. 721.84 for the purpose of accepting all notices and service of process under this part *for the obligor*. A registered agent may be an individual resident in this state whose business office qualifies as a registered office, or a domestic or foreign corporation or a not-for-profit corporation as defined in chapter 617 authorized to transact business or to conduct its affairs in this state, whose business office qualifies as a registered office. A registered agent for any obligor may not be the lienholder or the attorney for the lienholder.

Section 95. Subsection (5) of section 721.84, Florida Statutes, is amended, present subsections (6) and (7) are renumbered as subsections (9) and (10), respectively, and new subsections (6), (7), and (8) are added to that section, to read:

721.84 Appointment of a registered agent; duties.—

(5) A registered agent may resign his or her agency appointment for any obligor for which he or she serves as registered agent, provided that:

(a) The resigning registered agent executes a written statement of resignation that identifies himself or herself and the street address of his or her registered office, and identifies the obligors affected by his or her resignation;

(b)*1.* A successor registered agent is appointed *by the resigning registered agent* and such successor registered agent executes an acceptance of appointment as successor registered agent and satisfies all of the requirements of subsection (1)*; or*~~.~~

2. The registered agent provides 120 days' prior written notice to the mortagee as to the mortgage lien and to the owners' association of the timeshare plan as to the assessment lien of its intent to deliver the statement of resignation. Prior to the effective date of termination of the resigning registered agent's agency and registered office, a ~~The resigning registered agent may designate the successor registered agent; however, if the resigning registered agent fails to designate a successor registered agent or the designated successor registered agent fails to accept, the~~ successor registered agent for the affected obligors may be designated by the mortgagee as to the mortgage lien and by the owners' association *of the timeshare plan* as to the assessment lien; and

(c)*1. If a successor registered agent is appointed under subparagraph (b)1.,* copies of the statement of resignation and acceptance of

appointment as successor registered agent are promptly mailed to the affected obligors at the obligors' last designated address shown on the records of the resigning registered agent and to the affected lienholders*; or*.

2. If a resigning registered agent has previously provided notice under subparagraph (b)2., a copy of the statement of resignation is promptly mailed to the affected obligors at the obligor's last designated address shown on the records of the resigning registered agent and a copy of the statement of resignation and a list of the obligors' last designated addresses shown on the records of the resigning registered agent are promptly mailed to the affected lienholders.

(6) If a successor registered agent is appointed under subparagraph (5)(b)1., the agency and registered office of the resigning registered agent are terminated and the agency and registered office of the successor registered agent are effective as of the 10th day after the date on which the statement of resignation and acceptance of appointment as successor registered agent are received by the lienholder, unless a longer period is provided in the statement of resignation and acceptance of appointment as successor registered agent.

(7) If a resigning registered agent has previously provided notice under subparagraph (5)(b)2. and a successor registered agent is not designated or the designated successor registered agent fails to accept the appointment as registered agent, the agency and registered office of the resigning registered agent are terminated effective as of the 10th day after the date on which the statement of resignation and list of obligors required by subparagraph (5)(c)2. are received by the lienholder, unless a longer period is provided in the statement of resignation. After the effective date of the termination of the agency and registered office of the resigning registered agent, if no successor registered agent exists, the affected lienholders must mail any notice or document required to be delivered by a lienholder to the obligor by first class mail if the obligor's address is within the United States, and by international air mail if the obligor's address is outside the United States, with postage fees prepaid to the obligor at the obligor's last designated address as shown on the records of the resigning registered agent. If such notice or document requires service of process on persons outside the United States, such service of process shall be accomplished by any internationally agreed means reasonably calculated to give notice. Whenever no successor registered agent exists, a successor registered agent for the affected obligors may be designated by the mortgee as to the mortgage lien and by the owners' association of the timeshare plan as to the assessment lien.

(8) If a successor registered agent is appointed under subparagraph (5)(b)2. or under subsection (7), copies of the acceptance of appointment as successor registered agent must be promptly mailed, by the mortgagee as to a registered agent appointed by the mortgagee as to the mortgage lien, and by the owners' association of the timeshare plan as to the assessment lien, to the affected obligors at the obligor's last address shown on the records of the resigning registered agent. The agency and registered office of the successor registered agent are effective as of the date provided in the acceptance of appointment.

Section 96. Subsection (1) of section 723.003, Florida Statutes, is amended to read:

723.003 Definitions.—As used in this chapter, the following words and terms have the following meanings unless clearly indicated otherwise:

(1) The term "division" means the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes of the Department of Business and Professional Regulation.

Section 97. Paragraph (e) of subsection (5) of section 723.006, Florida Statutes, is amended to read:

723.006 Powers and duties of division.—In performing its duties, the division has the following powers and duties:

(5) Notwithstanding any remedies available to mobile home owners, mobile home park owners, and homeowners' associations, if the division has reasonable cause to believe that a violation of any provision of this chapter or any rule promulgated pursuant hereto has occurred, the division may institute enforcement proceedings in its own name against a developer, mobile home park owner, or homeowners' association, or its assignee or agent, as follows:

(e)1. The division may impose a civil penalty against a mobile home park owner or homeowners' association, or its assignee or agent, for any violation of this chapter, a properly promulgated park rule or regulation, or a rule or regulation promulgated pursuant hereto. A penalty may be imposed on the basis of each separate violation and, if the violation is a continuing one, for each day of continuing violation, but in no event may the penalty for each separate violation or for each day of continuing violation exceed $5,000. All amounts collected shall be deposited with the Treasurer to the credit of the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund.

2. If a violator fails to pay the civil penalty, the division shall thereupon issue an order directing that such violator cease and desist from further violation until such time as the civil penalty is paid or may pursue enforcement of the penalty in a court of competent jurisdiction. If a homeowners' association fails to pay the civil penalty, the division shall thereupon pursue enforcement in a court of competent jurisdiction, and the order imposing the civil penalty or the cease and desist order shall not become effective until 20 days after the date of such order. Any action commenced by the division shall be brought in the county in which the division has its executive offices or in which the violation occurred.

Section 98. Section 723.0065, Florida Statutes, is amended to read:

723.0065 Public records exemption; findings.—The Legislature, in narrowing the existing public records exemption pursuant to s. 1, chapter 94-78, Laws of Florida, finds that a public necessity exists to keep confidential and retain the public records exemption for financial records of mobile home park owners acquired by the division ~~of Florida Land Sales, Condominiums, and Mobile Homes~~ when performing its duties under the Florida Mobile Home Act unless the mobile home park owner has violated the provisions of this chapter. In that case, only those financial records that are specifically relevant to the finding of violation should be released. If it were otherwise, the division would encounter difficulties in procuring such proprietary information which would impede the effective and efficient performance of the division's public duties. Additionally, release of such proprietary information would harm the business interests of innocent mobile home park owners to the advantage of competitors and potential purchasers. Effective monitoring of the division's performance of its duties can be conducted without access to these records, and these records are otherwise available pursuant to a civil complaint as envisioned by the act. Accordingly, the public good served by access to financial records of a mobile home park owner who has not violated the provisions of this chapter is outweighed by the interference with division investigations and the private harm that could be caused by allowing such access.

Section 99. Section 723.009, Florida Statutes, is amended to read:

723.009 Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund.—All proceeds from the fees, penalties, and fines imposed pursuant to this chapter shall be deposited into the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund created by s. *718.509* ~~498.019~~. Moneys in this fund, as appropriated by the Legislature pursuant to chapter 216, may be used to defray the expenses incurred by the division in administering the provisions of this chapter.

Section 100. Subsection (2) of section 73.073, Florida Statutes, is amended to read:

73.073 Eminent domain procedure with respect to condominium common elements.—

(2) With respect to the exercise of eminent domain or a negotiated sale for the purchase or taking of a portion of the common elements of a condominium, the condemning authority shall have the responsibility of contacting the condominium association and acquiring the most recent rolls indicating the names of the unit owners or contacting the

appropriate taxing authority to obtain the names of the owners of record on the tax rolls. Notification shall thereupon be sent by certified mail, return receipt requested, to the unit owners of record of the condominium units by the condemning authority indicating the intent to purchase or take the required property and requesting a response from the unit owner. The condemning authority shall be responsible for the expense of sending notification pursuant to this section. Such notice shall, at a minimum, include:

(a) The name and address of the condemning authority.

(b) A written or visual description of the property.

(c) The public purpose for which the property is needed.

(d) The appraisal value of the property.

(e) A clear, concise statement relating to the unit owner's right to object to the taking or appraisal value and the procedures and effects of exercising that right.

(f) A clear, concise statement relating to the power of the association to convey the property on behalf of the unit owners if no objection to the taking or appraisal value is raised, and the effects of this alternative on the unit owner.

The Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes of the Department of Business and Professional Regulation may adopt, by rule, a standard form for such notice and may require the notice to include any additional relevant information.

Section 101. Paragraph (e) of subsection (6) of section 192.037, Florida Statutes, is amended to read:

192.037 Fee timeshare real property; taxes and assessments; escrow.—

(6)

(e) On or before May 1 of each year, a statement of receipts and disbursements of the escrow account must be filed with the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes of the Department of Business and Professional Regulation, which may enforce this paragraph pursuant to s. 721.26. This statement must appropriately show the amount of principal and interest in such account.

Section 102. Paragraph (i) of subsection (7) of section 213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

(7) Notwithstanding any other provision of this section, the department may provide:

(i) Information relative to chapters 212 and 326 to the ~~Division of Florida Land Sales, Condominiums, and Mobile Homes of the~~ Department of Business and Professional Regulation in the conduct of its official duties.

Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director and the agency. Such agencies, governmental or nongovernmental, shall be bound by the same requirements of confidentiality as the Department of Revenue. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.

Section 103. Paragraph (w) of subsection (4) of section 215.20, Florida Statutes, is amended to read:

215.20 Certain income and certain trust funds to contribute to the General Revenue Fund.—

(4) The income of a revenue nature deposited in the following described trust funds, by whatever name designated, is that from which the deductions authorized by subsection (3) shall be made:

(w) The Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund established pursuant to s. *718.509* ~~498.019~~.

The enumeration of the foregoing moneys or trust funds shall not prohibit the applicability thereto of s. 215.24 should the Governor determine that for the reasons mentioned in s. 215.24 the money or trust funds should be exempt herefrom, as it is the purpose of this law to exempt income from its force and effect when, by the operation of this law, federal matching funds or contributions or private grants to any trust fund would be lost to the state.

Section 104. Paragraph (a) of subsection (4) of section 380.0651, Florida Statutes, is amended to read:

380.0651 Statewide guidelines and standards.—

(4) Two or more developments, represented by their owners or developers to be separate developments, shall be aggregated and treated as a single development under this chapter when they are determined to be part of a unified plan of development and are physically proximate to one other.

(a) The criteria of two of the following subparagraphs must be met in order for the state land planning agency to determine that there is a unified plan of development:

1.a. The same person has retained or shared control of the developments;

b. The same person has ownership or a significant legal or equitable interest in the developments; or

c. There is common management of the developments controlling the form of physical development or disposition of parcels of the development.

2. There is a reasonable closeness in time between the completion of 80 percent or less of one development and the submission to a governmental agency of a master plan or series of plans or drawings for the other development which is indicative of a common development effort.

3. A master plan or series of plans or drawings exists covering the developments sought to be aggregated which have been submitted to a local general-purpose government, water management district, the Florida Department of Environmental Protection, or the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes for authorization to commence development. The existence or implementation of a utility's master utility plan required by the Public Service Commission or general-purpose local government or a master drainage plan shall not be the sole determinant of the existence of a master plan.

4. The voluntary sharing of infrastructure that is indicative of a common development effort or is designated specifically to accommodate the developments sought to be aggregated, except that which was implemented because it was required by a local general-purpose government; water management district; the Department of Environmental Protection; the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes; or the Public Service Commission.

5. There is a common advertising scheme or promotional plan in effect for the developments sought to be aggregated.

Section 105. Subsection (5) of section 455.116, Florida Statutes, is amended to read:

455.116 Regulation trust funds.—The following trust funds shall be placed in the department:

(5) Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund.

Section 106. Section 475.455, Florida Statutes, is amended to read:

475.455 Exchange of disciplinary information.—The commission shall inform the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes of the Department of Business and Professional Regulation of any disciplinary action the commission has

taken against any of its licensees. The division shall inform the commission of any disciplinary action the division has taken against any broker or salesperson registered with the division.

Section 107. Section 509.512, Florida Statutes, is amended to read:

509.512 Timeshare plan developer and exchange company exemption.—Sections 509.501-509.511 do not apply to a developer of a timeshare plan or an exchange company approved by the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes pursuant to chapter 721, but only to the extent that the developer or exchange company engages in conduct regulated under chapter 721.

Section 108. Subsection (1) of section 559.935, Florida Statutes, is amended to read:

559.935 Exemptions.—

(1) This part does not apply to:

(a) A bona fide employee of a seller of travel who is engaged solely in the business of her or his employer;

(b) Any direct common carrier of passengers or property regulated by an agency of the Federal Government or employees of such carrier when engaged solely in the transportation business of the carrier as identified in the carrier's certificate;

(c) An intrastate common carrier of passengers or property selling only transportation as defined in the applicable state or local registration or certification, or employees of such carrier when engaged solely in the transportation business of the carrier;

(d) Hotels, motels, or other places of public accommodation selling public accommodations, or employees of such hotels, motels, or other places of public accommodation, when engaged solely in making arrangements for lodging, accommodations, or sightseeing tours within the state, or taking reservations for the traveler with times, dates, locations, and accommodations certain at the time the reservations are made, provided that hotels and motels registered with the Department of Business and Professional Regulation pursuant to chapter 509 are excluded from the provisions of this chapter;

(e) Persons involved solely in the rental, leasing, or sale of residential property;

(f) Persons involved solely in the rental, leasing, or sale of transportation vehicles;

(g) Persons who make travel arrangements for themselves; for their employees or agents; for distributors, franchisees, or dealers of the persons' products or services; for entities which are financially related to the persons; or for the employees or agents of the distributor, franchisee, or dealer or financially related entity;

(h) A developer of a timeshare plan or an exchange company approved by the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes pursuant to chapter 721, but only to the extent that the developer or exchange company engages in conduct regulated under chapter 721; or

(i) Persons or entities engaged solely in offering diving services, including classes and sales or rentals of equipment, when engaged in making any prearranged travel-related or tourist-related services in conjunction with a primarily dive-related event.

Section 109. Effective July 1, 2001, subsection (2) of section 468.452, Florida Statutes, is amended to read:

468.452 Definitions.—For purposes of this part, the term:

(2) "Athlete agent" means a person who, directly or indirectly, recruits or solicits a student athlete to enter into an agent contract, or who, for any type of financial gain, procures, offers, promises, or attempts to obtain employment or promotional fees or benefits for a student athlete with a professional sports team or as a professional athlete, or with any promoter who markets or attempts to market the student athlete's athletic ability or athletic reputation. *This term includes all employees and other persons acting on behalf of an athlete agent who participate in the activities included under this subsection. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization.*

Section 110. Effective July 1, 2001, section 468.453, Florida Statutes, is amended to read:

468.453 Licensure required; qualifications; examination; bond; exception; license nontransferable.—

(1) Any person who practices as an athlete agent in this state must be licensed pursuant to this part.

(2) A person shall be licensed as an athlete agent if the applicant:

(a) Is at least 18 years of age.

(b) Is of good moral character.

~~(c) Passes an examination provided by the department which tests the applicant's proficiency to practice as an athlete agent, including, but not limited to, knowledge of the laws and rules of this state relating to athlete agents, this part, and chapter 455.~~

(c)~~(d)~~ Has completed the application form and remitted an application fee not to exceed $500, ~~an examination fee not to exceed the actual cost for the examination plus $500,~~ an active licensure fee not to exceed $2,000, and all other applicable fees provided for in this part or in chapter 455.

(d)~~(e)~~ Has submitted to the department a fingerprint card for a criminal history records check. The fingerprint card shall be forwarded to the Division of Criminal Justice Information Systems within the Department of Law Enforcement for purposes of processing the fingerprint card to determine if the applicant has a criminal history record. The fingerprint card shall also be forwarded to the Federal Bureau of Investigation for purposes of processing the fingerprint card to determine if the applicant has a criminal history record. The information obtained by the processing of the fingerprint card by the Florida Department of Law Enforcement and the Federal Bureau of Investigation shall be sent to the department for the purpose of determining if the applicant is statutorily qualified for licensure.

(e)~~(f)~~ Has not in any jurisdiction, within the preceding 5 years, been convicted or found guilty of or entered a plea of nolo contendere for, regardless of adjudication, a crime which relates to the applicant's practice or ability to practice as an athlete agent.

~~(g) Has posted with the department a $15,000 surety bond issued by an insurance company authorized to do business in this state. The bond shall be in favor of the State of Florida, Department of Business and Professional Regulation, for the use and benefit of any student athlete or college or university within Florida who or which is injured or damaged, including reasonable costs and attorney's fees, as a result of acts or omissions by the athlete agent pursuant to a license issued under this part. The bond shall be written in the form determined by the department. The bond shall provide that the athlete agent is responsible for the acts or omissions of any representatives acting under the athlete agent's supervision or authority. The bond shall be in effect for and cover all times that the athlete agent has an active license and conducts business pursuant to that license in this or any other state.~~

(3) *An unlicensed individual may act as an athlete agent if:*

(a) A student-athlete or person acting on the athlete's behalf initiates communication with the individual; and

(b) Within 7 days after an initial act as an athlete agent, the individual submits an application for licensure. ~~Members of The Florida Bar are exempt from the state laws and rules component, and the fee for such, of the examination required by this section.~~

(4) A license issued to an athlete agent is not transferable.

(5) By acting as an athlete agent in this state, a nonresident individual appoints the department as the individual's agent for service of process in any civil action related to the individual's acting as an athlete agent.

(6) The department may issue a temporary license while an application for licensure is pending. If the department issues a notice of intent to deny the license application, the initial temporary license expires and may not be extended during any proceeding or administrative or judicial review.

Section 111. Effective July 1, 2001, section 468.454, Florida Statutes, is amended to read:

468.454 Contracts.—

(1) An agent contract must be in a record, signed, or otherwise authenticated by the parties.

(2) An agent contract must state:

(a) The amount and method of calculating the consideration to be paid by the student-athlete for services to be provided by the athlete agent and any other consideration the agent has received or will receive from any other source under the contract;

(b) The name of any person not listed in the licensure application who will be compensated because the student-athlete signed the agent contract;

(c) A description of any expenses that the student-athlete agrees to reimburse;

(d) A description of the services to be provided to the student-athlete;

(e) The duration of the contract; and

(f) The date of execution.

(3) An agent contract must contain, in close proximity to the signature of the student-athlete, a conspicuous notice in boldface type in capital letters stating:

WARNING TO STUDENT-ATHLETE

IF YOU SIGN THE CONTRACT:

1. YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE IN YOUR SPORT;

2. IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING INTO THE CONTRACT, YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR; AND

3. YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. HOWEVER, CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

(4) An agent contract that does not conform to this section is voidable by the student-athlete. If a student-athlete voids an agent contract, the student-athlete is not required to pay any consideration or return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

(5) The athlete agent shall give a record of the signed or authenticated agent contract to the student-athlete at the time of execution.

(6) Within 72 hours after entering into an agent contract or before the next scheduled athletic event in which the student-athlete may participate, whichever occurs first, the athlete agent must give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student-athlete is enrolled or the athlete agent has reasonable grounds to believe the student-athlete intends to enroll.

(7) Within 72 hours after entering into an agent contract or before the next athletic event in which the student-athlete may participate, whichever occurs first, the student-athlete must inform the athletic director of the educational institution at which the student-athlete is enrolled that he or she has entered into an agent contract.

(8) A student-athlete may cancel an agent contract by giving notice of the cancellation to the athlete agent in a record within 14 days after the contract is signed.

(9) A student-athlete may not waive the right to cancel an agent contract.

(10) If a student-athlete cancels an agent contract, the student-athlete is not required to pay any consideration or return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

~~(1) An athlete agent and a student athlete who enter into an agent contract must provide written notice of the contract to the athletic director or the president of the college or university in which the student athlete is enrolled. The athlete agent and the student must give the notice before the contracting student athlete practices or participates in any intercollegiate athletic event or within 72 hours after entering into said contract, whichever comes first. Failure of the athlete agent to provide this notification is a felony of the third degree, punishable as provided in ss. 775.082, 775.083, 775.084, 775.089, and 775.091.~~

~~(2) A written contract between a student athlete and an athlete agent must state the fees and percentages to be paid by the student athlete to the agent and must have a notice printed near the student athlete's signature containing the following statement in 10-point boldfaced type:~~

~~"WARNING TO THE STUDENT ATHLETE: WHEN YOU SIGN THIS CONTRACT, YOU WILL LIKELY IMMEDIATELY LOSE YOUR ELIGIBILITY TO COMPETE IN INTERCOLLEGIATE ATHLETICS. TO AVOID CRIMINAL PROSECUTION YOU MUST GIVE WRITTEN NOTICE THAT YOU HAVE ENTERED INTO THIS CONTRACT TO THE ATHLETIC DIRECTOR OR PRESIDENT OF YOUR COLLEGE OR UNIVERSITY WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT OR PRIOR TO PARTICIPATING IN INTERCOLLEGIATE ATHLETICS, WHICHEVER COMES FIRST. FAILURE TO PROVIDE THIS NOTICE IS A CRIMINAL OFFENSE. DO NOT SIGN THIS CONTRACT UNTIL YOU HAVE READ IT AND FILLED IN ANY BLANK SPACES. YOU MAY CANCEL THIS CONTRACT BY NOTIFYING THE ATHLETE AGENT IN WRITING OF YOUR DESIRE TO CANCEL NOT LATER THAN THE 15TH DAY AFTER THE DATE YOU SIGN THIS CONTRACT. HOWEVER, EVEN IF YOU CANCEL THIS CONTRACT, THE INTERCOLLEGIATE ATHLETIC ASSOCIATION OR CONFERENCE TO WHICH YOUR COLLEGE OR UNIVERSITY BELONGS MAY NOT RESTORE YOUR ELIGIBILITY TO PARTICIPATE IN INTERCOLLEGIATE ATHLETICS."~~

~~(3) An agent contract which does not meet the requirements of this section is void and unenforceable.~~

~~(4) Within 15 days after the date the athletic director or president of the college or university of the student athlete receives the notice required by this section that a student athlete has entered into an athlete agent contract, the student athlete shall have the right to rescind the contract with the athlete agent by giving written notice to the athlete agent of the student athlete's rescission of the contract. The student athlete may not under any circumstances waive the student athlete's right to rescind the agent contract.~~

~~(5) A postdated agent contract is void and unenforceable.~~

(11)~~(6)~~ An athlete agent shall not enter into an agent contract that purports to or takes effect at a future time after the student athlete no longer has remaining eligibility to participate in intercollegiate athletics. Such a contract is void and unenforceable.

(12)~~(7)~~ An agent contract between a student athlete and a person not licensed under this part is void and unenforceable.

Section 112. Effective July 1, 2001, subsection (3) of section 468.456, Florida Statutes, is amended to read:

468.456 Prohibited acts.—

(3) When the department finds any person guilty of any of the prohibited acts set forth in subsection (1), the department may enter an order imposing one or more of the penalties provided for in s. 455.227*, and an administrative fine not to exceed $25,000 for each separate offense*. In addition to any other penalties or disciplinary actions provided for in this part, the department shall suspend or revoke the license of any athlete agent licensed under this part who violates paragraph (1)(f) or paragraph (1)(o) or s. 468.45615.

Section 113. Effective July 1, 2001, subsection (4) is added to section 468.45615, Florida Statutes, to read:

468.45615 Provision of illegal inducements to athletes prohibited; penalties; license suspension.—

(4)(a) An athlete agent, with the intent to induce a student-athlete to enter into an agent contract, may not:

1. Give any materially false or misleading information or make a materially false promise or representation;

2. Furnish anything of value to a student-athlete before the student-athlete enters into the agent contract; or

3. Furnish anything of value to any individual other than the student-athlete or another athlete agent.

(b) An athlete agent may not intentionally:

1. Initiate contact with a student-athlete unless licensed under this part;

2. Refuse or fail to retain or permit inspection of the records required to be retained by s. 468.4565;

3. Provide materially false or misleading information in an application for licensure;

4. Predate or postdate an agent contract;

5. Fail to give notice of the existence of an agent contract as required by s. 468.454(6); or

6. Fail to notify a student-athlete before the student-athlete signs or otherwise authenticates an agent contract for a sport that the signing or authentication may make the student-athlete ineligible to participate as a student-athlete in that sport.

(c) An athlete agent who violates this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 114. Effective July 1, 2001, section 468.4562, Florida Statutes, is amended to read:

468.4562 Civil action by institution.—

(1) A college or university may sue for damages, as provided by this section, any person who violates this part. A college or university may seek equitable relief to prevent or minimize harm arising from acts or omissions which are or would be a violation of this part.

(2) For purposes of this section, a college or university is damaged if, because of activities of the person, the college or university is penalized*,* ~~or is~~ disqualified*,* or suspended from participation in intercollegiate athletics by a national association for the promotion and regulation of intercollegiate athletics*,* ~~or~~ by an intercollegiate athletic conference *or by reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by such organization* and, because of that penalty, disqualification, ~~or~~ suspension, *or action* the institution:

(a) Loses revenue from media coverage of a sports contest;

(b) Loses the right to grant an athletic scholarship;

(c) Loses the right to recruit an athlete;

(d) Is prohibited from participating in postseason athletic competition;

(e) Forfeits an athletic contest; or

(f) Otherwise suffers an adverse financial impact.

(3) An institution that prevails in a suit brought under this section may recover:

(a) Actual damages;

(b) Punitive damages;

(c) Treble damages;

(d) Court costs; and

(e) Reasonable attorney's fees.

(4) A right of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former student-athlete.

(5) Any liability of the athlete agent or the former student-athlete under this section is several and not joint.

(6) This part does not restrict rights, remedies, or defenses of any person under law or equity.

Section 115. Effective July 1, 2001, subsection (1) of section 468.4565, Florida Statutes, is amended to read:

468.4565 Business records requirement.—

(1) An athlete agent ~~who holds an active license and engages in business as an athlete agent~~ shall establish and maintain complete financial and business records. The athlete agent shall save each entry into a financial or business record for at least *5* **4** years from the date of entry. *These records must include, but shall not be limited to:*

(a) The name and address of each individual represented by the athlete agent;

(b) Any agent contract entered into by the athlete agent; and

(c) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student-athlete to enter into an agent contract.

Section 116. *Effective July 1, 2001, sections 468.4563 and 468.4564, Florida Statutes, are repealed.*

Section 117. Section 702.09, Florida Statutes, is amended to read:

702.09 Definitions.—For the purposes of ss. 702.07 and 702.08 the words "decree of foreclosure" shall include a judgment or order rendered or passed in the foreclosure proceedings in which the decree of foreclosure shall be rescinded, vacated, and set aside; the word "mortgage" shall mean any written instrument securing the payment of money or advances *and shall include liens to secure payment of assessments arising under chapters 718, 719, and 720*; the word "debt" shall include promissory notes, bonds, and all other written obligations given for the payment of money; the words "foreclosure proceedings" shall embrace every action in the circuit *or county* courts of this state wherein it is sought to foreclose a mortgage and sell the property covered by the same; and the word "property" shall mean and include both real and personal property.

Section 118. Paragraph (h) of subsection (4) and subsection (5) of section 718.104, Florida Statutes, are amended to read:

718.104 Creation of condominiums; contents of declaration.—Every condominium created in this state shall be created pursuant to this chapter.

(4) The declaration must contain or provide for the following matters:

(h) If a developer reserves the right, in a declaration recorded on or after July 1, 2000, to create a multicondominium, the declaration must state, or provide a specific formula for determining, the fractional or percentage shares of liability for the common expenses of the association and of ownership of the common surplus of the association to be allocated to the units in each condominium to be operated by the association. If *a* ~~the~~ declaration *recorded on or after July 1, 2000, for a condominium operated by a multicondominium association,* as originally recorded*,* fails to so provide, the share of liability for the common expenses of the association and of ownership of the common surplus of the association allocated to each unit in each condominium operated by the association shall be a fraction of the whole, the numerator of which is the number "one" and the denominator of which is the total number of units in all condominiums operated by the association.

(5) The declaration *as originally recorded, or as amended pursuant to the procedures provided therein,* may include covenants and restrictions concerning the use, occupancy, and transfer of the units permitted by law with reference to real property. *With the exception of amendments that materially modify unit appurtenances as provided in s. 718.110(4), amendments may be applied to owners of units existing as of the effective date of the amendment. This section is intended to clarify existing law and applies to associations existing on the effective date of this act.* However, the rule against perpetuities shall not defeat a right given any person or entity by the declaration for the purpose of allowing unit owners to retain reasonable control over the use, occupancy, and transfer of units.

Section 119. Paragraph (b) of subsection (2) of section 718.106, Florida Statutes, is amended to read:

718.106 Condominium parcels; appurtenances; possession and enjoyment.—

(2) There shall pass with a unit, as appurtenances thereto:

(b) The exclusive right to use such portion of the common elements as may be provided by the declaration, including the right to transfer such right to other units or unit owners to the extent authorized by the declaration as originally recorded, or amendments to the declaration adopted *pursuant to the provisions contained therein* ~~under s. 718.110(2)~~. *Amendments to declarations of condominium providing for the transfer of use rights with respect to limited common elements are not amendments which materially modify unit appurtenances as described in s. 718.110(4). However, in order to be effective, the transfer of use rights with respect to limited common elements must be effectuated in conformity with the procedures set forth in the declaration as originally recorded or as amended. Further, such transfers must be evidenced by a written instrument which must be executed with the formalities of a deed and recorded in the land records of the county in which the condominium is located in order to be effective. Such instrument of transfer must also specify the legal description of the unit which is transferring use rights, as well as the legal description of the unit obtaining the transfer of such rights. This section is intended to clarify existing law and applies to associations existing on the effective date of this act.*

Section 120. Subsection (4) of section 718.110, Florida Statutes, is amended to read:

718.110 Amendment of declaration; correction of error or omission in declaration by circuit court.—

(4) Unless otherwise provided in the declaration as originally recorded, no amendment may change the configuration or size of any unit in any material fashion, materially alter or modify the appurtenances to the unit, or change the proportion or percentage by which the unit owner shares the common expenses of the condominium and owns the common surplus of the condominium unless the record owner of the unit and all record owners of liens on the unit join in the execution of the amendment and unless all the record owners of all other units in the same condominium approve the amendment. The acquisition of property by the association, and material alterations or substantial additions to such property or the common elements by the association in accordance with s. 718.111(7) or s. 718.113, *amendments providing for the transfer of use rights in limited common elements pursuant to s. 718.106(2)(b), and amendments restricting or modifying the right to lease condominium units* shall not be deemed to constitute a material alteration or modification of the appurtenances to the units. *With the exception of amendments that materially modify unit appurtenances as provided in this section, amendments may be applied to owners of units existing as of the effective date of the amendment. This section is intended to clarify existing law and applies to associations existing on the effective date of this act.* A declaration recorded after April 1, 1992, may not require the approval of less than a majority of total voting interests of the condominium for amendments under this subsection, unless otherwise required by a governmental entity.

Section 121. Subsection (4), paragraph (a) of subsection (7), and subsection (13) of section 718.111, Florida Statutes, are amended to read:

718.111 The association.—

(4) ASSESSMENTS; MANAGEMENT OF COMMON ELEMENTS.—The association has the power to make and collect assessments and to lease, maintain, repair, and replace the common elements *or association property*; however, the association may not charge a use fee against a unit owner for the use of common elements or association property unless otherwise provided for in the declaration of condominium or by a majority vote of the association or unless the charges relate to ~~expenses incurred by~~ an owner having exclusive use of the common elements or association property.

(7) TITLE TO PROPERTY.—

(a) The association has the power to acquire title to property or otherwise hold, convey, lease, and mortgage association property for the use and benefit of its members. The power to acquire personal property shall be exercised by the board of administration. Except as otherwise permitted in subsections (8) and (9) and in s. 718.114, no association may acquire, convey, ~~lease,~~ or mortgage association real property except in the manner provided in the declaration, and if the declaration does not specify the procedure, then approval of 75 percent of the total voting interests shall be required.

(13) FINANCIAL REPORTING.—Within 90 days after the end of the fiscal year, or annually on a date provided in the bylaws, the association shall prepare and complete, or *contract for the preparation and completion of* ~~cause to be prepared and completed by a third party~~, a financial report for the preceding fiscal year. Within 21 days after the *final* financial report is completed *by the association* or received ~~by the association~~ from the third party, *but in no event later than 120 days after the end of the fiscal year, or such other date as is provided in the bylaws,* the association shall mail to each unit owner at the address last furnished to the association by the unit owner, or hand deliver to each unit owner, a copy of the financial report or a notice that a copy of the financial report will be mailed or hand delivered to the unit owner, without charge, upon receipt of a written request from the unit owner. The division shall adopt rules setting forth uniform accounting principles and standards to be used by all associations and shall adopt rules addressing financial reporting requirements for multicondominium associations. In adopting such rules, the division shall consider the number of members and annual revenues of an association. Financial reports shall be prepared as follows:

(a) An association that meets the criteria of this paragraph shall prepare or cause to be prepared a complete set of financial statements in accordance with generally accepted accounting principles. The financial statements shall be based upon the association's total annual revenues, as follows:

1. An association with total annual revenues of $100,000 or more, but less than $200,000, shall prepare compiled financial statements.

2. An association with total annual revenues of at least $200,000, but less than $400,000, shall prepare reviewed financial statements.

3. An association with total annual revenues of $400,000 or more shall prepare audited financial statements.

(b)1. An association with total annual revenues of less than $100,000 shall prepare a report of cash receipts and expenditures.

2. An association which operates less than 50 units, regardless of the association's annual revenues, shall prepare a report of cash receipts and expenditures in lieu of financial statements required by paragraph (a).

3. A report of cash receipts and disbursements must disclose the amount of receipts by accounts and receipt classifications and the amount of expenses by accounts and expense classifications, including, but not limited to, the following, as applicable: costs for security, professional and management fees and expenses, taxes, costs for recreation facilities, expenses for refuse collection and utility services, expenses for lawn care, costs for building maintenance and repair, insurance costs, administration and salary expenses, and reserves accumulated and expended for capital expenditures, deferred maintenance, and any other category for which the association maintains reserves.

(c) An association may prepare or cause to be prepared, without a meeting of or approval by the unit owners:

1. Compiled, reviewed, or audited financial statements, if the association is required to prepare a report of cash receipts and expenditures;

2. Reviewed or audited financial statements, if the association is required to prepare compiled financial statements; or

3. Audited financial statements if the association is required to prepare reviewed financial statements.

(d) If approved by a majority of the voting interests present at a properly called meeting of the association, an association may prepare or cause to be prepared:

1. A report of cash receipts and expenditures in lieu of a compiled, reviewed, or audited financial statement;

2. A report of cash receipts and expenditures or a compiled financial statement in lieu of a reviewed or audited financial statement; or

3. A report of cash receipts and expenditures, a compiled financial statement, or a reviewed financial statement in lieu of an audited financial statement.

Such meeting and approval must occur prior to the end of the fiscal year and is effective only for the fiscal year in which the vote is taken. With respect to an association to which the developer has not turned over control of the association, all unit owners, including the developer, may vote on issues related to the preparation of financial reports for the first 2 fiscal years of the association's operation, beginning with the fiscal year in which the declaration is recorded. Thereafter, all unit owners except the developer may vote on such issues until control is turned over to the association by the developer.

Section 122. Subsection (3) of section 718.112, Florida Statutes, is amended to read:

718.112 Bylaws.—

(3) OPTIONAL PROVISIONS.—The bylaws *as originally recorded, or as amended pursuant to the procedure provided therein,* may provide for the following:

(a) A method of adopting and amending administrative rules and regulations governing the details of the operation and use of the common elements.

(b) Restrictions on and requirements for the use, maintenance, and appearance of the units and the use of the common elements.

(c) Other provisions which are not inconsistent with this chapter or with the declaration, as may be desired. *This subsection is intended to clarify existing law and applies to associations existing on the effective date of this act.*

Section 123. Subsection (2) of section 718.113, Florida Statutes, is amended to read:

718.113 Maintenance; limitation upon improvement; display of flag; hurricane shutters.—

(2)(a) Except as otherwise provided in this section, there shall be no material alteration or substantial additions to the common elements or to real property which is association property, except in a manner provided in the declaration *as originally recorded or as amended pursuant to the procedures provided therein*. If the declaration *as originally recorded or amended* does not specify the procedure for approval of material alterations or substantial additions, 75 percent of the total voting interests of the association must approve the alterations or additions. *This paragraph is intended to clarify existing law and applies to associations existing on the effective date of this act.*

(b) There shall not be any material alteration of, or substantial addition to, the common elements of any condominium operated by a multicondominium association unless approved in the manner provided in the declaration of the affected condominium or condominiums *as originally recorded, or as amended pursuant to the procedures provided therein*. If a declaration *as originally recorded or amended* does not specify a procedure for approving such an alteration or addition, the approval of 75 percent of the total voting interests of each affected condominium is required. This subsection does not prohibit a provision in any declaration, articles of incorporation, or bylaws *as originally recorded or amended* requiring the approval of unit owners in any condominium operated by the same association or requiring board approval before a material alteration or substantial addition to the common elements is permitted. *This paragraph is intended to clarify existing law and applies to associations existing on the effective date of this act.*

(c) There shall not be any material alteration or substantial addition made to association real property operated by a multicondominium association, except as provided in the declaration, articles of incorporation, or bylaws *as said documents are originally recorded or amended pursuant to the procedures provided therein*. If the declaration, articles of incorporation, or bylaws do not specify the procedure for approving an alteration or addition to association real property, the approval of 75 percent of the total voting interests of the association is required. *This paragraph is intended to clarify existing law and applies to associations existing on the effective date of this act.*

Section 124. Paragraphs (b) and (c) of subsection (1) of section 718.115, Florida Statutes, are amended to read:

718.115 Common expenses and common surplus.—

(1)

(b) The common expenses of a condominium within a multicondominium are the common expenses directly attributable to the operation of that condominium. The common expenses of a multicondominium association do not include the common expenses directly attributable to the operation of any specific condominium or condominiums within the multicondominium. *This paragraph is intended to clarify existing law and applies to associations existing on the effective date of this act.*

(c) The common expenses of a multicondominium association may include categories of expenses related to the property or common elements within a specific condominium in the multicondominium if such property or common elements are areas in which all members of the multicondominium association have use rights or from which all members receive tangible economic benefits. Such common expenses of the association shall be identified in the declaration or bylaws of each condominium within the multicondominium association. *This paragraph is intended to clarify existing law and applies to associations existing on the effective date of this act.*

Section 125. Subsections (1) and (4) of section 718.405, Florida Statutes, are amended to read:

718.405 Multicondominiums; multicondominium associations.—

(1) An association may operate more than one condominium. *For multicondominiums created on or after July 1, 2000,* ~~if~~ the declaration for each condominium ~~to be~~ operated by that association *shall provide* ~~provides~~ for participation in a multicondominium, in conformity with this section, and *disclose* ~~discloses~~ or *describe* ~~describes~~:

(a) The manner or formula by which the assets, liabilities, common surplus, and common expenses of the association will be apportioned among the units within the condominiums operated by the association, in accordance with s. 718.104(4)(g) or (h), as applicable.

(b) Whether unit owners in any other condominium, or any other persons, will or may have the right to use recreational areas or any other facilities or amenities that are common elements of the condominium, and, if so, the specific formula by which the other users will share the common expenses related to those facilities or amenities.

(c) Recreational and other commonly used facilities or amenities which the developer has committed to provide that will be owned, leased by, or dedicated by a recorded plat to the association but which are not included within any condominium operated by the association. The developer may reserve the right to add additional facilities or amenities if the declaration and prospectus for each condominium to be operated by the association contains the following statement in conspicuous type and in substantially the following form: RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT OF UNIT OWNERS OR THE ASSOCIATION.

(d) The voting rights of the unit owners in the election of directors and in other multicondominium association affairs when a vote of the owners is taken, including, but not limited to, a statement as to whether each unit owner will have a right to personally cast his or her own vote in all matters voted upon.

(4) This section does not prevent or restrict the formation of a multicondominium by the merger or consolidation of two or more condominium associations. Mergers or consolidations of associations shall be accomplished in accordance with this chapter, the declarations of the condominiums being merged or consolidated, and chapter 617. Section 718.110(4) does not apply to amendments to declarations necessary to effect a merger or consolidation. *This section is intended to clarify existing law and applies to associations existing on the effective date of this act.*

Section 126. Subsection (2) of section 718.503, Florida Statutes, is amended to read:

718.503 Developer disclosure prior to sale; nondeveloper unit owner disclosure prior to sale; voidability.—

(2) NONDEVELOPER DISCLOSURE.—

(a) Each unit owner who is not a developer as defined by this chapter shall comply with the provisions of this subsection prior to the sale of his or her unit. Each prospective purchaser who has entered into a contract for the purchase of a condominium unit is entitled, at the seller's expense, to a current copy of the declaration of condominium, articles of incorporation of the association, bylaws, and rules of the association, ~~as well as a copy of the question and answer sheet provided for by s. 718.504~~ and a copy of the financial information required by s. 718.111.

(b) If a person licensed under part I of chapter 475 provides to or otherwise obtains for a prospective purchaser the documents described in this subsection, the person is not liable for any error or inaccuracy contained in the documents.

(c) Each contract entered into after July 1, 1992, for the resale of a residential unit shall contain in conspicuous type either:

1. A clause which states: THE BUYER HEREBY ACKNOWLEDGES THAT BUYER HAS BEEN PROVIDED A CURRENT COPY OF THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION OF THE ASSOCIATION, BYLAWS, RULES OF THE ASSOCIATION, *AND* A COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION ~~AND THE QUESTION AND ANSWER SHEET~~ MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, PRIOR TO EXECUTION OF THIS CONTRACT; or

2. A clause which states: THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE BUYER AND RECEIPT BY BUYER OF A CURRENT COPY OF THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION, BYLAWS, ~~AND~~ RULES OF THE ASSOCIATION, *AND* A COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION ~~AND QUESTION AND ANSWER SHEET~~ IF SO REQUESTED IN WRITING. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE BUYER RECEIVES THE DECLARATION, ARTICLES OF INCORPORATION, BYLAWS, *AND* RULES, ~~AND QUESTION AND ANSWER SHEET~~ IF REQUESTED IN WRITING. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING.

A contract that does not conform to the requirements of this paragraph is voidable at the option of the purchaser prior to closing.

Section 127. Subsection (15) of section 718.504, Florida Statutes, is amended to read:

718.504 Prospectus or offering circular.—Every developer of a residential condominium which contains more than 20 residential units, or which is part of a group of residential condominiums which will be served by property to be used in common by unit owners of more than 20 residential units, shall prepare a prospectus or offering circular and file it with the Division of Florida Land Sales, Condominiums, and Mobile Homes prior to entering into an enforceable contract of purchase and sale of any unit or lease of a unit for more than 5 years and shall furnish a copy of the prospectus or offering circular to each buyer. In addition to the prospectus or offering circular, each buyer shall be furnished a separate page entitled "Frequently Asked Questions and Answers," which shall be in accordance with a format approved by the division and a copy of the financial information required by s. 718.111. This page shall, in readable language, inform prospective purchasers regarding their voting rights and unit use restrictions, including restrictions on the leasing of a unit; shall indicate whether and in what amount the unit owners or the association is obligated to pay rent or land use fees for recreational or other commonly used facilities; shall contain a statement identifying that amount of assessment which, pursuant to the budget, would be levied upon each unit type, exclusive of any special assessments, and which shall further identify the basis upon which assessments are levied, whether monthly, quarterly, or otherwise; shall state and identify any court cases in which the association is currently a party of record in which the association may face liability in excess of $100,000; and which shall further state whether membership in a recreational facilities association is mandatory, and if so, shall identify the fees currently charged per unit type. The division shall by rule require such other disclosure as in its judgment will assist prospective purchasers. The prospectus or offering circular may include more than one condominium, although not all such units are being offered for sale as of the date of the prospectus or offering circular. The prospectus or offering circular must contain the following information:

(15) If *a* ~~the~~ condominium *created on or after July 1, 2000,* is or may become part of a multicondominium, the following information must be provided:

(a) A statement in conspicuous type in substantially the following form: THIS CONDOMINIUM IS (MAY BE) PART OF A MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following this statement, the location in

the prospectus or offering circular and its exhibits where the multicondominium aspects of the offering are described must be stated.

(b) A summary of the provisions in the declaration, articles of incorporation, and bylaws which establish and provide for the operation of the multicondominium, including a statement as to whether unit owners in the condominium will have the right to use recreational or other facilities located or planned to be located in other condominiums operated by the same association, and the manner of sharing the common expenses related to such facilities.

(c) A statement of the minimum and maximum number of condominiums, and the minimum and maximum number of units in each of those condominiums, which will or may be operated by the association, and the latest date by which the exact number will be finally determined.

(d) A statement as to whether any of the condominiums in the multicondominium may include units intended to be used for nonresidential purposes and the purpose or purposes permitted for such use.

(e) A general description of the location and approximate acreage of any land on which any additional condominiums to be operated by the association may be located.

Section 128. Except as otherwise expressly provided in this act, this act shall take effect October 1, 2001.

And the title is amended as follows:

On page 1, line 2 through page 6, line 2,
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to the Department of Business and Professional Regulation; amending s. 20.165, F.S.; renaming the Division of Florida Land Sales, Condominiums, and Mobile Homes as the Division of Condominiums, Timeshare, and Mobile Homes; including reference to the Board of Barbering and Cosmetology; revising minimum requirements for the number of consumer members on professional licensing boards; repealing provisions relating to the transfer of board locations; amending ss. 326.001, 326.002, 326.003, 326.004, 326.006, F.S.; transferring the regulation of yacht and ship brokers and salespersons from the Division of Florida Land Sales, Condominiums, and Mobile Homes to the Division of Professions; revising provisions relating to criminal history checks and administrative and civil penalties; requiring that all funds collected pursuant to such regulation be deposited into the Professional Regulation Trust Fund; revising references; amending s. 399.061, F.S.; revising provisions relating to the inspection of elevators; amending s. 455.213, F.S.; providing for the content of licensure and renewal documents; providing for the electronic submission of information to the department; providing that all legal obligations must be met before the issuance or renewal of a license; amending s. 455.224, F.S.; authorizing any division of the department to issue citations in the enforcement of its regulatory provisions in accordance with the provisions established for such purposes for the regulation of professions; amending ss. 468.401, 468.402, 468.403, 468.404, 468.406, 468.407, 468.410, 468.412, 468.413, 468.414, 468.415, F.S.; providing for registration of talent agencies in lieu of licensure; conforming provisions; providing penalties; repealing ss. 468.405 and 468.408, F.S., relating to qualification for talent agency license and bonding requirements; amending s. 468.609, F.S.; authorizing direct supervision by building code administrators by telecommunications devices in certain localities and under specified circumstances; amending s. 468.627, F.S.; requiring the payment of costs for certain building code enforcement applicants who fail to appear for scheduled examinations, subject to waiver in case of hardship; amending s. 471.025, F.S.; allowing for more than one type of seal to be used by professional engineers; amending s. 472.003, F.S.; providing exemption from ch. 472, F.S., relating to land surveying and mapping, for certain subordinate employees; revising cross-references; amending s. 472.005, F.S.; revising and providing definitions; revising cross-references; amending s. 472.029, F.S.; revising provisions relating to access to lands of others for surveying or mapping purposes; providing applicability to subordinates; requiring certain notice; amending s. 810.12, F.S.; revising provisions relating to trespass, to conform; amending ss. 472.001, 472.011, 472.015, 472.021, 472.027, 472.031, 472.037, F.S.; revising cross-references; amending s. 476.034, F.S.; redefining the term "board"; amending s. 476.054, F.S.; creating the Board of Barbering and Cosmetology; providing certain compensation; requiring an oath and providing for a certificate of appointment; providing for officers, meetings, and quorum; amending s. 476.064, F.S.; conforming provisions; amending ss. 476.014, 476.074, 476.154, 476.194, 476.214, 476.234, F.S.; revising references; amending s. 477.013, F.S.; defining the term "board"; repealing s. 477.015, F.S., relating to the Board of Cosmetology; abolishing the Barbers' Board and the Board of Cosmetology; providing for appointment of all members of the Board of Barbering and Cosmetology to staggered terms; providing savings clauses for rules and legal actions; amending s. 477.019, F.S.; revising requirements related to continuing education providers and courses; eliminating a requirement for refresher courses and examinations for failure of cosmetology licensees to comply with continuing education requirements; amending s. 477.026, F.S.; providing authority for registration renewal and delinquent fees for hair braiders, hair wrappers, and body wrappers; amending s. 481.209, F.S.; revising requirements relating to education for licensure as an architect; amending s. 481.223, F.S.; providing for injunctive relief for certain violations relating to architecture and interior design; amending s. 489.107, F.S.; reducing the number of members on the Construction Industry Licensing Board; creating s. 489.1133, F.S.; providing for temporary certificates and registrations; amending s. 489.115, F.S.; eliminating references to divisions of the Construction Industry Licensing Board; amending s. 489.118, F.S.; revising grandfathering provisions for certification of registered contractors to qualify persons holding certain registered local specialty licenses; amending s. 489.13, F.S., to clarify the application of certain provisions relating to specialty licenses; repealing s. 489.507(6), F.S., to delete a duplicate provision relating to appointment of committees of the Construction Industry Licensing Board and the Electrical Contractors' Licensing Board for the purpose of meeting jointly twice each year; requiring the Electrical Contractors' Licensing Board to develop a plan to reduce its annual operating budget by a specified amount and submit such plan to the department by a specified date; amending s. 489.511, F.S.; revising provisions relating to licensure as an electrical or alarm system contractor by endorsement; amending ss. 498.005, 498.019, 498.049, F.S.; reassigning the regulation of land sales from the Division of Florida Land Sales, Condominiums, and Mobile Homes to the Division of Real Estate; requiring all funds collected by the department pursuant to the regulation of land sales to be deposited in the Professional Regulation Trust Fund; amending s. 190.009, F.S.; conforming terminology; amending ss. 718.103, 718.105, 718.112, 718.1255, 718.501, 718.502, 718.504, 718.508, 718.509, 718.608, 719.103, 719.1255, 719.501, 719.502, 719.504, 719.508, 719.608, 721.05, 721.07, 721.08, 721.26, 721.28, 721.301, 721.50, 721.82, 721.84, 723.003, 723.006, 723.0065, 723.009, F.S.; renaming the Division of Florida Land Sales, Condominiums, and Mobile Homes as the Division of Condominiums, Timeshare, and Mobile Homes; renaming the Division of Florida Land Sales, Condominiums, and Mobile Homes Trust Fund as the Division of Condominiums, Timeshare, and Mobile Homes Trust Fund; conforming provisions; revising language with respect to condominium association bylaws; revising language with respect to the annual budget; providing for reserves under certain circumstances; providing and limiting arbitration of disputes by the division to those regarding elections and the recall of board members; deleting reference to voluntary mediation; providing for the resolution of certain other complaints at the local level; providing exemptions; providing for expedited handling of election disputes; requiring the continuation of arbitration of cases filed by a certain date; providing a contingent appropriation; providing division enforcement powers and duties; providing for injunction, restitution, and civil penalties; providing certain immunity; providing for use of certain documents as evidence; providing for certain notice; providing for intervention in suits; locating the executive offices of the division in Tallahassee; authorizing branch offices; providing for adoption and use of a seal; providing applicability to specified chapters of the Florida Statutes; amending s. 721.82, F.S.; redefining the term "registered agent"; amending s. 721.84, F.S.;

providing for appointment of a successor registered agent; amending ss. 73.073, 192.037, 213.053, 215.20, 380.0651, 455.116, 475.455, 509.512, 559.935, F.S.; conforming terminology; amending s. 468.452, F.S.; revising definitions; amending s. 468.453, F.S.; revising licensure requirements; providing for service of process on nonresident agents; providing for temporary licenses; deleting a bond requirement; amending s. 468.454, F.S.; revising contract requirements; providing for cancellation of contracts; amending s. 468.456, F.S.; providing for increased administrative fines; amending s. 468.45615, F.S.; providing additional criminal penalties for certain acts; amending s. 468.4562, F.S.; revising provisions relating to civil remedies available to colleges and universities for violations of athlete agent regulations; amending s. 468.4565, F.S.; revising business record requirements; repealing s. 468.4563, F.S., relating to authority to require continuing education by athlete agents; repealing s. 468.4564, relating to license display requirements; amending s. 702.09, F.S.; revising the definitions of the terms "mortgage" and "foreclosure proceedings"; amending s. 718.104, F.S., revising language with respect to declarations for the creation of a condominium; amending s. 718.106, F.S.; revising language with respect to appurtenances that pass with a condominium unit; amending s. 718.110, F.S.; revising language with respect to amendments to a declaration of condominium; amending s. 718.111, F.S.; revising language with respect to the association; amending s. 718.112, F.S.; revising language with respect to bylaws; amending s. 718.113, F.S.; revising language with respect to material alterations of common elements or association real property operated by a multicondominium association; amending s. 718.115, F.S.; revising language with respect to common expenses; amending s. 718.405, F.S.; revising language with respect to multicondominiums and multicondominium associations; amending s. 718.503, F.S., relating to disclosure requirements for the sale of certain condominiums; removing the requirement that question and answer sheets be part of the closing documents; amending s. 718.504, F.S.; revising language with respect to the prospectus or offering circular; providing effective dates.

Rep. Kyle moved the adoption of the amendment.

Representative(s) Kyle offered the following:

(Amendment Bar Code: 253395)

Amendment 1 to Amendment 9—On page 14, lines 26-28
remove from the amendment: all of said lines

and insert in lieu thereof: *the sole authority for determining the content of any documents to be submitted for initial licensure and licensure renewal. Such documents may contain information including, as appropriate*

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

REPRESENTATIVE MAYGARDEN IN THE CHAIR

Representative(s) Kyle offered the following:

(Amendment Bar Code: 650321)

Amendment 2 to Amendment 9 (with title amendment)—On page 44, line 30 of the amendment

insert:

Section 37. A new subsection (4) is added to section 475.01, Florida Statutes, to read:

475.01 Definitions.—

(4) A broker acting as a trustee or in a fiduciary capacity is subject to the provisions of this chapter.

And the title is amended as follows:

On page 182, line 26 of the amendment

before the word "amending" insert: amending s. 475.01, F.S.; clarifying that chapter 475 is applicable to brokers acting as trustees or fiduciaries;

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

Representative(s) Kyle offered the following:

(Amendment Bar Code: 652333)

Amendment 3 to Amendment 9 (with title amendment)—On page 59, line 30, through page 60, line 13
remove from the amendment: all of Section 59

And the title is amended as follows:

On page 184, line 6 through 9 of the amendment
remove: "amending s. 489.13, F.S., to clarify the application of certain provisions relating to specialty licenses;"

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

Representative(s) Kyle offered the following:

(Amendment Bar Code: 164101)

Amendment 4 to Amendment 9 (with title amendment)—On page 61, line 11, of the amendment

insert new section 63:

Section 63. Paragraph (f) is added to subsection (3) of section 489.537, Florida Statutes, to read:

489.537 Application of this part.—

(3) Nothing in this act limits the power of a municipality or county:

(f) To require that one electrical journeyman, who is a graduate of the Institute of Applied Technology in Construction Excellence or licensed pursuant to s. 489.5335, be present on an industrial or commercial new construction site with a facility of 50,000 gross square feet or more when electrical work in excess of 77 volts is being performed in order to supervise or perform such work, except as provided in s. 489.503.

And the title is amended as follows:

On page 184, line 21, after the semicolon, of the amendment

insert: amending s. 489.537, F.S.; revising the power of municipalities and counties with respect to regulating electrical journeymen;

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

Representative(s) Kyle offered the following:

(Amendment Bar Code: 892417)

Amendment 5 to Amendment 9—On page 64, line 29, through page 67, line 10,
remove from the amendment: all of said lines

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

Representative(s) Benson offered the following:

(Amendment Bar Code: 343339)

Amendment 6 to Amendment 9 (with title amendment)—On page 157, between lines 10 and 11, of the amendment

insert:

(7)(a) An individual who has submitted an application and holds a certificate, registration or license as an athlete agent in another state may submit a copy of the application and certificate, registration or license from the other state in lieu of submitting an application in the form prescribed pursuant to this section. The department shall accept the application and the certificate from the other state as an application for registration in this state if the application in the other state:

1. Was submitted in the other state within 6 months next preceding the submission of the application in this state and the applicant certifies that the information contained in the application is current;

2. Contains information substantially similar to or more comprehensive than that required in an application submitted in this state; and

3. Was signed by the applicant under penalty of perjury.

(b) An applicant applying under this subsection must meet all other requirements for licensure as provided by this part.

And the title is amended as follows:

On page 186, line 16, after "requirement;", of the amendment

insert: providing for reciprocity;

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

The question recurred on the adoption of **Amendment 9**, as amended, which was adopted.

Recalled from Senate

On motion by Rep. Crow, the Senate was requested to return **CS/HB 293**.

The House returned to the consideration of **HB 1923**.

Representative(s) Kottkamp offered the following:

(Amendment Bar Code: 725401)

Amendment 10 (with title amendment)—On page 66, between lines 9 and 10, of the bill

insert:

Section 68. Paragraph (f) of subsection (2) of section 718.112, Florida Statutes, is amended to read:

718.112 Bylaws.—

(2) REQUIRED PROVISIONS.—The bylaws shall provide for the following and, if they do not do so, shall be deemed to include the following:

(f) Annual budget.—

1. The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to, those expenses listed in s. 718.504(21). A multicondominium association shall adopt a separate budget of common expenses for each condominium the association operates and shall adopt a separate budget of common expenses for the association. In addition, if the association maintains limited common elements with the cost to be shared only by those entitled to use the limited common elements as provided for in s. 718.113(1), the budget or a schedule attached thereto shall show amounts budgeted therefor. If, after turnover of control of the association to the unit owners, any of the expenses listed in s. 718.504(21) are not applicable, they need not be listed.

2. In addition to annual operating expenses, the budget *may* ~~shall~~ include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the deferred maintenance expense or replacement cost exceeds $10,000. The amount to be reserved shall be computed by means of a formula which is based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The association may adjust replacement reserve assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. This subsection *applies* ~~does not apply~~ to an adopted budget in which the members of an association have determined, by a majority vote at a duly called meeting of the association, to provide *the* ~~no~~ reserves *as described in* ~~or less reserves than required by~~ this subsection. However, prior to turnover of control of an association by a developer to unit owners other than a developer pursuant to s. 718.301, the developer may vote to waive the reserves or reduce the funding of reserves for the first 2 fiscal years of the association's operation, beginning with the fiscal year in which the initial declaration is recorded, after which time reserves may be *required* ~~waived or reduced~~ only upon the vote of a majority of all nondeveloper voting interests voting in person or by limited proxy at a duly called meeting of the association. ~~If a meeting of the unit owners has been called to determine whether to waive or reduce the funding of reserves, and no such result is achieved or a quorum is not attained, the reserves as included in the budget shall go into effect.~~ After the turnover, the developer may vote its voting interest to *provide for* ~~waive or reduce~~ the funding of reserves.

3. Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and shall be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a majority vote at a duly called meeting of the association. Prior to turnover of control of an association by a developer to unit owners other than the developer pursuant to s. 718.301, the developer-controlled association shall not vote to use reserves for purposes other than that for which they were intended without the approval of a majority of all nondeveloper voting interests, voting in person or by limited proxy at a duly called meeting of the association.

4. In a multicondominium association, the only voting interests which are eligible to vote on questions that involve waiving or reducing the funding of reserves, or using existing reserve funds for purposes other than purposes for which the reserves were intended, are the voting interests of the units subject to assessment to fund the reserves in question.

And the title is amended as follows:

On page 5, line 29,

after the semicolon insert: amending s. 718.112, F.S.; revising language with respect to condominium association bylaws; revising language with respect to the annual budget; providing for reserves under certain circumstances;

Rep. Kyle moved the adoption of the amendment. Subsequently, **Amendment 10** was withdrawn.

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

HB 1099—A bill to be entitled An act relating to the Florida Airport Authority Act; creating ss. 332.201, 332.202, 332.203, 332.204, 332.205, 332.206, 332.207, 332.208, 332.209, 332.210, and 332.211, F.S.; creating the Florida Airport Authority Act; providing definitions; providing that certain counties shall form an airport authority; providing that certain former military facilities redeveloped and operated as an airport shall be redeveloped and operated by an authority under the act, and providing for membership of the governing body of such authorities; providing for appointment of members of the governing body of an authority; providing for officers, employees, expenses, removal from office, and application of financial disclosure provisions; providing purposes and powers of an authority; providing restrictions on authority powers; providing for issuance of bonds; providing that the county may be appointed as an authority's agent for construction; providing for acquisition of lands and property; providing for cooperation with other units, boards, agencies, and individuals; providing a covenant of the state with respect to bond issuance and agreements with federal agencies; providing an exemption from taxation; providing for applicability; requiring members of the authority to file financial disclosure; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 623689)

Amendment 1—On page 3, line 15,
remove from the bill: *1.5*

and insert in lieu thereof: *2.1*

Rep. Diaz de la Portilla moved the adoption of the amendment, which was adopted.

Representative(s) Diaz de la Portilla offered the following:

(Amendment Bar Code: 404157)

Amendment 2—On page 3, line 15 through page 4, line 8,
remove from the bill: all of said lines

and insert in lieu thereof:

(1) Any county which has a population of more than 2.1 million people shall at the countywide election hold a referendum in which the electors shall decide whether to form an airport authority, which shall be an agency of the state, pursuant to this act.

(2) The governing body of the authority shall consist of seven voting members, two of whom shall be appointed by the Governor subject to confirmation by the Senate. Each member of the governing body must at all times during his or her term of office be a permanent resident of the county which he or she is appointed to represent.

(a) The two members of the governing body appointed by the Governor, subject to confirmation by the Senate, shall serve terms of 4 years. Such persons may not hold elective office during their terms of office.

(b) Two members shall be appointed by the County Ethics Commission.

(c) One member shall be appointed by the County Mayor.

(d) Two members shall be appointed by the County Commission.

Rep. Diaz de la Portilla moved the adoption of the amendment, which was adopted.

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

HB 1789—A bill to be entitled An act relating to enterprise zone designation; requiring designation of an enterprise zone in the City of Hialeah under certain circumstances notwithstanding certain limitations; providing requirements; providing an effective date.

—was read the second time by title.

The Committee on Economic Development & International Trade offered the following:

(Amendment Bar Code: 943119)

Amendment 1—On page 1, lines 15-16
remove from the bill: all of said lines

and insert in lieu thereof:

area within the municipality of the City of Hialeah

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

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

HB 561—A bill to be entitled An act relating to Volusia County; providing for codification of special laws regarding special districts pursuant to s. 189.429, F.S., relating to Daytona Beach Racing and Recreational Facilities District, an independent special district in Volusia County; providing legislative intent, and codifying and reenacting provisions of chapter 29588, Laws of Florida, chapter 29590, Laws of Florida, chapter 31343, Laws of Florida, chapter 63-2023, Laws of Florida, chapter 73-647, Laws of Florida, and chapter 80-494, Laws of Florida; providing a district charter; providing for the severability of provisions deemed invalid; providing for the repeal of prior special acts relating to the Daytona Beach Racing and Recreational Facilities District; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 235807)

Amendment 1—On page 21, lines 29 and 30,
remove from the bill: all of said lines

and insert in lieu thereof: *1953; chapter 31343, Laws of Florida, 1955; chapter 63-2023, Laws of*

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

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

HB 829—A bill to be entitled An act relating to Broward County; extending the corporate limits of the Town of Lauderdale-By-The-Sea; amending chapter 99-465, Laws of Florida; providing for an interlocal agreement between Broward County and the Town of Lauderdale-By-The-Sea; providing for the effective date of annexation; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 293163)

Amendment 1 (with title amendment)—On page 5, line 21, through page 6, line 9,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 3. *Notwithstanding the provisions of section 186.901, Florida Statutes, to the contrary, for the sole purpose of calculating the revenues attributable to utility taxes, utility franchise fees, or other franchise fees, the calculation of the total population census of the Town of Lauderdale by the Sea, beginning with the state's fiscal year 2001, shall include all of the residents of the Intracoastal Beach Area of unincorporated Broward County, added as a result of chapter 99-465, Laws of Florida.*

Section 4. *Notwithstanding any general law or special act to the contrary, Lauderdale by the Sea shall have full authority to collect all franchise fees and utility taxes currently being collected by Broward County from the unincorporated area known as Intracoastal Beach Area beginning on the effective date of the annexation, August 15, 2001.*

And the title is amended as follows:

On page 1, line 5, after the semicolon

insert: providing for calculation population figures; authorizing the collection of franchise fees and utility taxes;

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

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

HB 831—A bill to be entitled An act relating to the City of Pompano Beach, Broward County; amending chapter 2000-476, Laws of Florida; providing for an interlocal agreement which would include provisions to jointly fund program infrastructure improvements between the City of Pompano Beach and Broward County, provided the city is not limited in its ability to receive anticipated utility taxes, franchise fees, or other fees; providing that calculations of population census of the City of Pompano Beach begin with the fiscal year 2000 and include all new

residents added to the city as a result of chapter 2000-476, Laws of Florida; providing for retroactive application to September 15, 2000; providing an effective date.

—was read the second time by title.

Representative(s) Ritter offered the following:

(Amendment Bar Code: 473467)

Amendment 1—On page 2, lines 7-12,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 7. Notwithstanding the provisions of section 186.901, Florida Statutes, to the contrary, for the sole purpose of calculating the revenues attributable to utility taxes, utility franchise fees, or other franchise fees, the calculation of the total population census of the City of Pompano Beach, beginning with fiscal year 2000, shall include all of the new residents added to the city as a result of the enactment of this act.

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

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

HB 835—A bill to be entitled An act relating to Broward County, Florida; amending chapter 2000-475, Laws of Florida; providing for deannexation of certain lands from the Town of Davie; providing for annexation of certain lands into the Town of Southwest Ranches; providing for the transfer of all public roads and rights-of-way on the Broward County Road System lying within the corporate boundaries of the Town of Southwest Ranches as of June 6, 2000; excluding certain portions of Sheridan Street and Griffin Road from the transfer; providing for confirmation of corporate existence of the Town of Southwest Ranches on June 6, 2000; providing for retroactive application; providing an effective date.

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

HB 837—A bill to be entitled An act relating to the Sunshine Drainage District, in Broward County, amending chapter 63-609, Laws of Florida, in order to provide for the creation of a board of supervisors separate from the provisions of ch. 298, F.S., to create a five-member board; providing for elections by electors residing within the district; providing for the appointment of a Coral Springs City Commissioner as a board member; providing for the establishment of regular and special board meetings; providing for a quorum; providing for severability of the provisions of the act; providing that the act shall take precedence over any conflicting law to the extent of such conflict; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 050343)

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

and insert in lieu thereof:

Section 1. Section 2 of chapter 63-609, Laws of Florida, is amended to read:

Section 2. Provisions of Chapter 298, Florida Statutes, Made Applicable. The Sunshine Drainage District, ~~a~~ *an independent special district and* public corporation of this state, created under Chapter 298, Florida Statutes, shall be governed by provisions of the general drainage laws of Florida applicable to drainage districts or sub-drainage districts which are embodied in Chapter 298, Florida Statutes, and all of the laws amendatory thereof, now existing or hereinafter enacted, so far as not inconsistent with this act or any hereinafter enacted, so far as not inconsistent with this act or any subsequent special acts relating to Sunshine Drainage District *except those portions of sections 298.11, 298.12, and 298.14, Florida Statutes, pertaining to how the members of the board of supervisors are elected and to board of supervisors meetings, which shall be as provided for herein. In lieu thereof, the following provisions shall apply to the district:*~~.~~

(1) The board of supervisors shall consist of five elected members. The five candidates receiving the highest number of votes cast at a special election conducted by the Supervisor of Elections shall be elected to the board. Elected members of the board of supervisors shall be residents of the district.

(2) Commencing upon the expiration of the terms of the existing board members, all subsequent board members shall meet the requirements provided for herein and shall be elected as provided for herein. Existing board members' terms shall be extended to November of the year in which their term expires. In November 2002, the two new board members shall be selected or elected as provided for herein. Board members to be elected shall be elected at an election conducted by the Supervisor of Elections on the first Tuesday in November of the year when the board member's term expires. The costs of such elections shall be paid for by the district.

(3) The board shall establish a regular meeting date each month and shall meet no less than one time each month. However, the board may decide by majority vote to take 1 month off from meetings each year for a vacation. Meetings of the board shall be held in a public place, and shall be held in accordance with the requirements of chapter 286, Florida Statutes. A majority of the members of the board of supervisors shall constitute a quorum. Special meetings of the board may be called at any time to receive reports of the board or for such other purposes as the board may determine upon 24 hours' notice to board members and to the public by posting at the district office at a public location set aside for notice purposes.

Section 2. *In case any one or more of the sections or provisions of this act or the application of such sections or provisions to any situation, circumstance, or person shall for any reason be held to be unconstitutional, such unconstitutionality shall not affect any other sections or provisions of this act or the applications of such sections or provisions to any other situation, circumstance, or person, and it is intended that this law shall be construed and applied as if such section or provision had not been included herein for any unconstitutional application.*

Section 3. *In the event of a conflict between the provisions of this act and the provisions of any other act, the provisions of this act shall control to the extent of such conflict.*

Section 4. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page ,
remove from bill: entire title

and insert in lieu thereof: A bill to be entitled An act relating to the Sunshine Drainage District, an independent special district in Broward County; amending chapter 63-609, Laws of Florida, in order to provide for the creation of a board of supervisors separate from the provisions of ch. 298, F.S., to create a five-member board; providing for elections by electors residing within the district; providing for the establishment of regular and special board meetings; providing for a quorum; providing for severability of the provisions of the act; providing that the act shall take precedence over any conflicting law to the extent of such conflict; providing an effective date.

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

Representative(s) Ritter offered the following:

(Amendment Bar Code: 614707)

Amendment 2 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. *Pursuant to section 189.429, Florida Statutes, this act constitutes the codification of all special acts relating to the Sunshine Water Control District, an independent special district in Broward County, Florida. It is the intent of the Legislature in enacting this law to provide a single, comprehensive special act charter for the district, including all current legislative authority granted to the district by its legislative enactments.*

Section 2. *Chapter 63-609, Laws of Florida, relating to the Sunshine Water Control District, is codified, reenacted, amended, and repealed as herein provided.*

Section 3. The Charter for the Sunshine Water Control District is re-created and reenacted to read:

Section 1. Creation of the District, and Boundaries Ratified and Approved. The decree of the circuit court in and for the 15th judicial circuit, Broward County, Florida, entered in chancery No. 62-4596-F, on the 23rd day of January, 1963, creating and incorporating the Sunshine Water Control District as a public corporation of this state, and all subsequent proceedings taken in said circuit court concerning said district are ratified, confirmed and approved.

Section 2. Provisions of Chapter 298, Florida Statutes, Made Applicable. The Sunshine Water Control District, an independent special district and public corporation of this state, created under Chapter 298, Florida Statutes, shall be governed by provisions of the general drainage laws of Florida applicable to drainage districts or sub-drainage districts that are embodied in Chapter 298, Florida Statutes, and all of the laws amendatory thereof, now existing or hereinafter enacted, so far as not inconsistent with this charter or any subsequent special acts relating to Sunshine Water Control District, except those portions of Sections 298.11, 298.12, and 298.14, Florida Statutes, pertaining to how the members of the board of supervisors are elected and to board of supervisors meetings, which shall be as provided for herein. In lieu thereof, the following provisions shall apply to the district:

(1) The board of supervisors shall consist of five elected members. The five candidates receiving the highest number of votes cast at a special election conducted by the Supervisor of Elections shall be elected to the board. Elected members of the board of supervisors shall be residents of the district.

(2) Commencing upon the expiration of the terms of the existing board members, all subsequent board members shall meet the requirements provided for herein and shall be elected as provided for herein. Existing board members' terms shall be extended to November of the year in which their term expires. In November 2002, the two new board members shall be selected or elected as provided for herein. Board members to be elected shall be elected at an election conducted by the Supervisor of Elections on the first Tuesday in November of the year when the board member's term expires. The costs of such elections shall be paid for by the district.

(3) The board shall establish a regular meeting date each month and shall meet no less than one time each month. However, the board may decide by majority vote to take one month off from meetings each year for a vacation. Meetings of the board shall be held in a public place, and shall be held in accordance with the requirements of chapter 286, Florida Statutes. A majority of the members of the board of supervisors shall constitute a quorum. Special meetings of the board may be called at any time to receive reports of the board or for such other purposes as the board may determine upon 24 hours' notice to board members and to the public by posting at the district office at a public location set aside for notice purposes.

Section 3. Powers of the District. The Sunshine Water Control District shall have in addition to the powers provided for in said Chapter 298, Florida Statutes, the power and authority to construct, improve, pave and maintain roadways and roads necessary and convenient to provide access to and efficient development of areas made suitable and available for the cultivation, settlement, urban subdivision, homesites and other beneficial use and development as a result of the drainage and reclamation operations of the district, including any dedicated to public use within the boundaries of the district.

Section 4. Installment Taxes, Levied and Apportioned, and the Collection Thereof. Taxes shall be levied and apportioned as provided for in the general drainage laws of Florida, (Chapter 298, Florida Statutes, and amendments thereto), except that the provisions of Sections 298.37, 298.38, 298.39, 298.40, and 298.41, Florida Statutes, and amendments thereto, shall not be applicable to said district. In lieu thereof, the following provisions shall apply to said district.

The board of supervisors shall determine, order and levy the amount of the annual installments of the total taxes levied under Section 298.36, Florida Statutes, which shall become due and be collected during each year at the same time that county taxes are due and collected, which said annual installment and levy shall be evidenced to and certified by the said board, not later than July 1st of each year, to the property appraiser of Broward County, Florida. Said tax shall be extended by the property appraiser on the county tax roll and shall be collected by the tax collector in the same manner and time as county taxes, and the proceeds thereof paid to said district. Said tax shall be a lien until paid on the property against which assessed, and enforceable in like manner as county taxes.

Section 5. Maintenance Tax. The provisions of Section 299.54, Florida Statutes, and amendments thereto, shall not be applicable to said district. In lieu thereof, the following provisions shall apply to said district.

To maintain and preserve the improvements made pursuant to this charter and to repair and restore the same, when needed, and for the purpose of defraying the current expenses of the district, the board of supervisors may, upon the completion of said improvements, in whole or in part as may be certified to the said board by the chief engineer, levy annually a special assessment upon each tract or parcel of land within the district, to be known as a "maintenance tax." Said maintenance tax shall be apportioned upon the basis of the net assessments of benefits assessed as accruing for original construction, and shall be evidenced to and certified by said board not later than July 1st of each year, to the property appraiser of Broward County, Florida, and shall be extended by the property appraiser on the county tax roll and shall be collected by the tax collector in the same manner and time as county taxes and the proceeds therefrom paid to said district. Said tax shall be a lien until paid on the property against which assessed and enforceable in like manner as county taxes.

Section 6. Levy of Taxes on Fractional Acres. In levying and assessing all special assessments, each tract or parcel of land less than one acre in area shall be assessed as a full acre, and each tract or parcel of land more than one acre in area which contains a fraction of an acre shall be assessed at the nearest whole number of acres, a fraction of one-half or more to be assessed as a full acre.

Section 7. Enforcement of Taxes. The provisions of Sections 298.45 and 298.46, Florida Statutes, and amendments thereto, shall not be applicable to said district. In lieu thereof, the following shall apply to said district.

The collection and enforcement of all special assessments levied by said district shall be at the same time and in like manner as county taxes, and the provisions of the Florida Statutes relating to the sale of lands for unpaid and delinquent taxes, the issuance, sale and delivery of tax certificates for such unpaid and delinquent county taxes, the redemption thereof, the issuance to individuals of tax deeds based thereon, and all other procedure in connection therewith, shall be applicable to said district and the delinquent and unpaid special assessments of said district to the same extent as if said statutory provisions were expressly set forth in this charter. All special assessments shall be subject to the same discounts as county taxes.

Section 8. When Unpaid Taxes Delinquent: Penalty. All special assessments provided for in this charter shall be and become delinquent and bear penalties on the amount of said special assessments in the same manner as county taxes.

Section 9. Water a Common Enemy. It is hereby determined, declared and enacted that lands in the district in their natural condition are wet and subject to overflow and that the drainage, reclamation and protection of said lands available for agricultural, settlement, urban and subdivision purposes by drainage, reclamation and improvement, and the creation of said district with the powers vested in it by this charter, are in the interest of and conducive to public welfare, health and convenience. It is further declared that in said district, surface waters, including rainfall are a common enemy, and the said district and any individual or agency holding a permit to do so from said district, shall have the right to dike, dam and construct levees to protect the said district or any part thereof, or the property of said individual or agency against the same, and thereby divert the course and flow of such surface water and/or pump the water from within such dikes and levees.

Section 10. Unit Districts. The board of supervisors of Sunshine Water Control District is authorized in its discretion to drain and reclaim or more completely and intensively to drain and reclaim the lands in said district by designated areas or parts of said district to be called "units." The units into which said district may be so divided shall be given appropriate numbers or names by said board of supervisors, so that said units may be readily identified and distinguished. The board of supervisors shall have the power to fix and determine the location, area and boundaries of said lands to be included in each and all such units, the order of development thereof, and the method of carrying on the work in each unit. The unit system of drainage provided by this section may be conducted and all of the proceedings by this section and this charter authorized in respect to such unit or units may be carried on and conducted at the same time as or after the work of draining and reclaiming of the entire district has been or is being or shall be instituted or carried on under the provisions of this charter or under Chapter 298, Florida Statutes, or both. If the board of supervisors shall determine that it is advisable to conduct the work of draining and reclaiming the lands in the district by units, the board shall, by resolution, declare its purpose to conduct such work accordingly, and shall fix the number, location and boundaries of and description of lands within such unit or units and give them appropriate numbers or names. The entire district may also be designated as a unit for the proper allocation of such part of the plan of reclamation and drainage as benefits the entire district. As soon as practicable after the adoption and recording of such resolution said board of supervisors shall publish notice once a week for two consecutive weeks in a newspaper published in Broward County, Florida, briefly describing the units into which said district has been divided and the lands embraced in each unit, giving the name, number or other designation of such units, requiring all owners of lands in said district to show cause in writing before said board of supervisors at a time and place to be stated in such notice why such division of said district into such units should not be approved, and said system of development by units should not be adopted and given effect by said board, and why the proceedings and powers authorized by this section of this charter should not be had, taken and exercised. At the time and place stated in said notice, said board of supervisors shall hear all objections or causes of objection (all of which shall be in writing) of any landowner in said district to the matters mentioned and referred to in such notice, and if no objections are made, or if said objections, if made, shall be overruled by said board, then said board shall enter in its minutes its findings and an order confirming said resolutions, and may thereafter proceed with the development, drainage and reclamation of said district by units pursuant to such resolution and to the provisions of this charter. The board of supervisors may, as a result of any objections or of matters brought forth at the hearing, modify or amend such resolution in whole or in part, confirm said resolution after overruling all objections, or reject said resolution, and if confirmed or modified or amended, may proceed thereafter in accordance with said resolution as confirmed, modified or amended. The sustaining of such objections and the rescinding of such resolutions shall not exhaust the power of said board under this section; but, at any time not less than one year after the date of the hearing upon any such resolution, the board of supervisors may adopt other resolutions under this section and thereupon proceed on due notice in like manner as above. If said board of supervisors shall overrule or refuse to sustain any such objections in whole or in part made by any landowner in the district, or if any such landowner shall deem himself or herself aggrieved by any action of the board of supervisors in respect to any objection so filed, such landowner may, within twenty days after the ruling of said board, invoke the jurisdiction of a court having jurisdiction over the merits of the claim. When said resolutions creating said unit system shall be confirmed by the board of supervisors (or by a court of competent jurisdiction, if such proposed action shall be challenged by a landowner by the judicial proceedings hereinabove authorized), said board of supervisors may adopt a plan or plans of reclamation for and in respect to any or all such units, and to have the benefits and damages resulting therefrom assessed and apportioned by commissioners appointed by the circuit court, and the report of the said commissioners considered and confirmed, all in like manner as is provided by law in regard to plans of reclamation for and assessments for benefits and damages of the entire district. With respect to the plan of reclamation, notices, appointment of commissioners to assess benefits and damages, report of commissioners and notice and confirmation thereof, the levy of assessments and taxes, including maintenance taxes, and the issuance of bonds and all other proceedings as to each and all of such units, said board shall follow and comply with the same procedure as is provided by law with respect to the entire district; and said board of supervisors shall have the same powers in respect to each and all of such units as is vested in them with respect to the entire district. All the provisions of this charter shall apply to the drainage, reclamation and improvement of each, any and all of such units, and the enumeration of or reference to specific powers or duties of the supervisors or any other officers or other matters in this charter as hereinabove set forth shall not limit or restrict the application of any and all of the proceedings and powers herein to the drainage and reclamation of such units as fully and completely as if such unit or units were specifically and expressly named in every section and clause of this charter where the entire district is mentioned or referred to. All assessments, levies, taxes, bonds and other obligations made, levied, assessed or issued for or in respect to any such unit or units shall be a lien and charge solely and only upon the lands in such unit or units, respectively, for the benefit of which the same shall be levied, made or issued, and not upon the remaining units or lands in said district. The board of supervisors may at any time amend its said resolutions by changing the location and description of lands in any such unit or units; and provided, further, that if the location of or description of lands located in any such unit or units is so changed, notice of such change shall be published as hereinabove required in this section for notice of the formation or organization of such unit or units, and all proceedings shall be had and done in that regard as are provided in this section for the original creation of such unit or units; provided, however, that no lands against which benefits shall have been assessed may be detached from any such unit after the confirmation of the commissioners' report of benefits in such unit or units or the issuance of bonds or other obligations which are payable from taxes or assessments for benefits levied upon the lands within such unit or units.

Provided, however, that if, after the confirmation of the commissioners' report of benefits in such unit or units, or the issuance of bonds or other obligations which are payable from taxes or assessments for benefits levied upon lands within such unit or units, the board of supervisors finds the plan of reclamation for any such unit or units insufficient or inadequate for efficient development, the plan of reclamation may be amended or changed as provided in this section, by changing the location and description of lands in any such unit or units, by detaching lands therefrom or by adding land thereto, upon the approval of 51 percent of the landowners, according to acreage, in any such unit, either evidenced in writing or voting at a meeting of the landowners duly called pursuant to notice required under Sections 298.11 and 298.12, Florida Statutes (for the election of supervisors), at which 51 percent of the landowners shall vote in favor thereof and of all the holders of bonds issued in respect to any such unit, and provided that in such event all assessments, levies, taxes, bonds and other obligations made, levied, assessed, incurred or issued for or in respect to any such unit or units may be allocated and apportioned to the amended unit or units in proportion to the benefits assessed by the commissioners' report for the amended plan of reclamation and said report shall specifically provide for such allocation and apportionment. The landowners and all of the bondholders shall file their approval of or objections to such amended plan of reclamation within the time provided in Section 298.27, Florida Statutes, and shall

file their approval of or objections to the amendment of such unit as provided in this section.

No lands shall be detached from any unit after the issuance of bonds or other obligations for such unit except upon the consent of all the holders of such bonds or other obligations. In the event of the change of the boundaries of any unit as provided herein and the allocation and apportionment to the amended unit or units of assessments, levies, taxes, bonds and other obligations in proportion to the benefits assessed by the commissioners' report for the amended plan of reclamation, the holder of bonds or other obligations heretofore issued for the original unit who consent to such allocations and apportionment shall be entitled to all rights and remedies against any lands added to the amended unit or units as fully and to the same extent as if such added lands had formed and constituted a part of the original unit or units at the time of the original issuance of such bonds or other obligations, and regardless of whether the holders of such bonds or other obligations are the original holders thereof or the holders from time to time hereafter, and the rights and remedies of such holders against the lands in the amended unit or units, including any lands added thereto, under such allocation and apportionment, shall constitute vested and irrevocable rights and remedies to the holders from time to time of such bonds or other obligations as fully and to the same extent as if such bonds or other obligations had been originally issued to finance the improvements in such amended unit or units under such amended plan of reclamation. Conversely, in the event of the change of the boundaries of any unit wherein lands are detached therefrom with the consent of all the holders of such bonds or other obligations, then and in that event said lands so detached shall be relieved and released from any further liability for the assessment, levy or payment of any taxes for the purpose of paying the principal or interest on any bonds originally issued for the original unit from which said lands were detached.

Section 11. Future Changes in Plan of Reclamation and Drainage of District or Individual Units. After the initial adoption by the board of supervisors of said plan or plans of reclamation and drainage of the entire district or units thereof, said plan or plans may be modified from time to time in the future, in whole or in part, in accordance with the changing character from time to time of the use of the lands in said district, in the manner hereinabove provided for; provided, however, that said plan or plans of reclamation or drainage shall not be changed or modified more often than once every five years in any manner as will increase the assessments to be assessed against the land or the taxes levied against the land or modify the security of the bonds outstanding; provided, however, that this shall not affect technical changes or modifications of said plan or plans of reclamation or drainage approved by the district's engineers as will not affect the assessed benefits, levy of taxes or security of the bondholders, as changes or modifications of this type may be made at any time; provided, further that said limitation of five years shall not apply to any plan or plans of reclamation or drainage of the district or any unit thereof established under the provisions of this charter, if the same is adopted by resolution of the board of supervisors of the district, within two years of the time when this charter becomes a law.

Section 12. Application to Existing District, Boundaries, Plan of Reclamation and Drainage, etc. The powers hereinabove vested in the board of supervisors of Sunshine Water Control District shall apply to the presently existing district, the presently existing boundaries thereof or as the boundaries may be extended as authorized by law, and the present plan of reclamation and drainage together with any assessment of benefits which may be approved by the circuit court of Broward County, Florida, and the boundaries of said district and the plan of reclamation and drainage and the assessment and levying of taxes for carrying out said plan of reclamation and drainage and for the maintenance and operation thereof, may be changed in whole or in part as units, or, with reference to the entire district, in accordance with the provisions of this charter.

Section 4. *Severability. In case any one or more of the sections or provisions of this act or the application of such sections or provisions to any situations, circumstances or person shall for any reason be held to be unconstitutional, such unconstitutionality shall not affect any other sections or provisions of this act or the applications of such sections or provisions to any other situation, circumstances or person, and it is intended that this law shall be construed and applied as if such section or provision had not been included herein for any unconstitutional application.*

Section 5. *Effect of Conflict. In the event of a conflict between the provisions of this act and the provisions of any other act, the provisions of this act shall control to the extent of such conflict.*

Section 6. *Notice of Intention. It is found and determined that a notice of intention to apply for this legislation was given in the time, form and manner required by the constitution and by law. Said notice is found to be sufficient and is hereby validated and approved.*

Section 7. *Chapter 63-609, Laws of Florida, is repealed.*

Section 8. This act shall take effect upon becoming a law.

And the title is amended as follows:
remove from the title of the bill: entire title

and insert in lieu thereof: A bill to be entitled An act relating to Broward County; providing for codification of special laws regarding special districts pursuant to section 189.429, F.S., relating to the Sunshine Water Control District; a special district in Broward County; providing legislative intent; amending, repealing, codifying, and reenacting the special act related to the district; declaring the District to be an independent special district; providing a district charter; providing an effective date.

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

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

HB 843—A bill to be entitled An act relating to the City of Coral Springs, Broward County; extending and enlarging the corporate limits of the City of Coral Springs to include specified unincorporated lands within said corporate limits; providing for land use and zoning designations; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 813311)

Amendment 1 (with title amendment)—On page 3, lines 10-25,
remove from the bill: all of said lines

and insert in lieu thereof: *Pre-Annexation Agreement referenced in section 3.*

Section 5. *Upon annexation into a municipality, the following shall govern the areas described in Section 1: for any use, building, or structure that is legally in existence at the time the area described in Section 1. becomes a part of the municipality, such use shall not be made a prohibited use by the municipality, on the property of said use, for as long as the use shall continue and is not voluntarily abandoned.*

Section 6. *Subsequent to the effective date of this act, no change in land use designation or zoning shall be effective within the limits of the lands subject to annexation herein until the area described in Section 1 has been annexed into the municipality, and no annexation by any municipality shall occur during the period between the effective date of this act and the effective date of the annexation.*

And the title is amended as follows:

On page 1, lines 6 and 7,
remove from the title of the bill: all of said lines

and insert in lieu thereof: within said corporate limits; providing that current land use designations and zonings may not be changed under specified circumstances; prohibiting the annexation of the specified lands prior to the effective date of the annexation; providing an

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

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

HB 869—A bill to be entitled An act relating to Broward County; authorizing local governments in the county to grant an exception from the concurrency requirement for transportation facilities under s. 163.3180, F.S., for certain developments; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 441377)

Amendment 1—On page 1, lines 14-15,
remove from the bill: all of said lines

and insert in lieu thereof: *requirement for transportation facilities pursuant to the provisions of section 163.3180(5)(d), Florida Statutes, if the proposed development is otherwise consistent*

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

The Committee on Transportation offered the following:

(Amendment Bar Code: 380995)

Amendment 2—On page 1,line 21 of the bill, after the period

insert: *The local government also must have considered the proposed development's impacts on the Florida Intrastate Highway System, as defined in s. 338.001.*

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

The Committee on Transportation offered the following:

(Amendment Bar Code: 872781)

Amendment 3—On page 1, line 17,
remove from the bill: the word *"or"*

and insert in lieu thereof: *"and"*

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

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

HB 899—A bill to be entitled An act relating to the City of Tampa, Hillsborough County, and particularly to the City Pension Fund for Firefighters and Police Officers in the City of Tampa; authorizing the City of Tampa to enter into a supplemental contract with certain firefighters and police officers to provide for an increase in the accrual of benefits from 2.5 percent to 2.75 percent for each year of service; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 784843)

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

and insert in lieu thereof:

Section 1. The City of Tampa is authorized and empowered to enter into a supplemental contract with each and every firefighter or police officer who was an active or contributing member of the City Pension Fund for Firefighters and Police Officers in the City of Tampa on or after the date this act becomes a law, or who may hereafter enter into a pension contract with the City, amending Section 2(D), Section 6(3), and Section 27 of the City of Tampa Firefighters and Police Officers Pension Contract as prescribed by Section 28-17 of the City of Tampa Code {Ordinance No. 4746-A, enacted September 30, 1969}, as amended by section 28-19 of the City of Tampa Code {Ordinance No. 6038-A, enacted September 17, 1974} pursuant to chapter 74-613, Laws of Florida, as further amended by chapter 92-231, Laws of Florida, chapter 94-463, Laws of Florida, chapter 98-515, Laws of Florida, and chapter 2000-485, Laws of Florida, to read:

Section 2(D) *Except as provided by subparagraph 2(B)(4) and subparagraph 27(B)(2),* the employees covered under this contract shall contribute at the rates set forth below, based upon all of their earnings during each twelve month period commencing on October 1, which contributions shall be deducted from said earnings before the same are paid and shall be promptly deposited in the Fund:

Earnings in Twelve-Month Period *Commencing October 1*	Employee Contribution *Rate*
First $4,000	6%
Next 1,000	7%
Next 1,000	8%
Next 1,000	9%
Next 1,000	10%
Next 1,000	11%
Next 1,000	12%
Next 2,500	15%
Excess over $12,500	25%

If the City's rate of contribution, pursuant to Section 2(B), should exceed forty per centum (40%), the employee contribution scale above shall be increased in the ratio of the City's contribution rate, pursuant to Section 2(B), to 40 percent.

Commencing for earnings paid the first pay date after January 1, 2002, all mandatory employee contributions to the Fund shall be picked-up and paid by the City. Such contributions, although designated as employee contributions, will be paid by the City in lieu of contributions by the employee. The contributions so assumed shall be treated as tax-deferred employer "pick-up" contributions pursuant to Section 414(h) of the Internal Revenue Code. Members shall not have the option of receiving the contributed amounts directly instead of having such contributions paid by the City to the Fund.

Section 6(3) That the portfolio, representing the principal or surplus funds of the Pension Fund may be invested in the following securities or other property, real or personal, including, but without being limited to, bonds, notes, or other evidences of indebtedness issued, or assumed or guaranteed in whole or in part by the United States or any of its agencies or instrumentalities; or by ~~the Dominion of Canada or any of its provinces, cities or municipal corporations;~~ *any foreign government or political subdivisions or agencies thereof*; or by the State of Florida, or by any county, city, school district, municipal corporation, or other political subdivision of the State of Florida, both general and revenue obligations; in mortgages and other interests in realty; or in such corporation bonds, notes, or other evidences of indebtedness, and corporation stocks including common and preferred stocks, of any corporation created or existing under the laws of the United States or any of the states of the United States, or ~~of the Dominion of Canada,~~ *of any foreign government or political subdivisions or agencies thereof*, provided that in making each and all of such investments the Board of Trustees shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own funds, not in regard to speculation but in regard to the permanent disposition of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as probable safety of their capital; provided, however, that not more than sixty-five per centum (65%) of said fund, based on the total book value of all investments held, shall be invested at any given time in common stocks, and that not more than five per centum (5%) of said fund shall be invested at any given time in the preferred and common, or either, stock of any one corporation and its affiliates *and that not*

more than ten per centum (10%) of said fund, based on the total book value of all investments held, shall be invested at any given time in the bonds, notes or other evidences of indebtedness of any foreign government or political subdivisions or agencies thereof or corporations created or existing under the laws thereof.

Section 27. *13TH CHECK PROGRAM.*—Notwithstanding any other provisions of this contract, and subject to the provisions of this section, the 13th Check Program is a program which authorizes the Board of Trustees to establish and make a supplemental pension distribution ~~commencing in January 1999, and in January of each year thereafter,~~ pursuant to the following terms and conditions:

(A) *Eligibility.*—The following persons shall be eligible for the supplemental pension distribution payable *no later than June 30, 2002, and each June 30 annually thereafter:* ~~in January of each year:~~

(1) All retired members who have terminated employment as a firefighter or police officer in the fire department or police department, respectively, who, on the October 1 immediately preceding the *June 30 by* ~~January in~~ which distributions are to be made, were eligible to receive pension benefits for at least 1 year. For purposes of this section only, a DROP participant shall be considered a retired member and, during the DROP calculation period, a DROP participant shall be eligible for the 13th check benefit, provided that, on the October 1 immediately preceding the *June 30 by* ~~January in~~ which distributions are to be made, such DROP participant had participated in the DROP for at least 1 year;

(2) All qualifying spouses who were eligible to receive pension benefits pursuant to Section 8 or Section 9 for at least 1 year on the October 1 immediately preceding the *June 30 by* ~~January in~~ which distributions are to be made; and

(3) All qualifying surviving spouses, who on the October 1 immediately preceding the *June 30 by* ~~January in~~ which distributions are to be made, were eligible for receipt of Section 8 or Section 9 benefits but who have not received such pension benefits for at least 1 year provided that the deceased member was eligible for receipt of pension benefits on October 1 of the prior year.

(B) *13th Check Account.*—

(1) There is hereby created a 13th check account within the Fund, which shall consist of those employees' contributions set forth in subparagraph 27(B)(2) ~~and the City's contributions set forth in subparagraph 27(B)(3)~~ in excess of those contributions otherwise required by Section 2 for the normal annual cost of benefits, other than benefits arising from post retirement adjustments made pursuant to Section 23 and other than benefits arising from the 13th Check Program, plus any interest earnings thereon *up to and including September 30, 2001. Effective for earnings paid on the first pay date after October 1, 2001, employee contributions to the 13th Check Account shall cease, and the 13th Check Account shall be funded by investment returns in excess of 10% (limited to 3%) on the base plan liabilities for persons eligible for the 13th check. For purposes of this Section, the "base plan" shall mean those assets of the Fund excluding the Post Retirement Adjustment Account, DROP account assets, and the 13th check account. The amount available for the 13th check shall be calculated as of fiscal year end commencing September 30, 2001 for the fiscal year ending September 30, 2001 for payment no later than June 30, 2002, and each June 30 annually thereafter; provided, however, the calculation of the amount payable no later than June 30, 2002, shall include employee contributions to the 13th check account for earnings paid through the last pay date immediately prior to October 1, 2001. The City shall not be required to make contributions toward the 13th check program.*

(2) Notwithstanding any other provision of this contract, commencing October 1, 1998, employees covered under this contract shall continue to contribute pursuant to Section 2 at the rates required for employees to fund the normal annual cost of benefits, other than benefits arising from post retirement adjustments made pursuant to Section 23 and other than benefits arising from the 13th check program made pursuant to this section, plus an additional 100 percent of 9.874 percent of the full scale contribution rate (FSCR) set forth in Section 2(D) to the 13th check program. *Employee contributions to the 13th check shall cease effective for earnings paid on the last pay date immediately prior to October 1, 2001.*

~~(3) Notwithstanding any other provision of this contract, the City shall contribute:~~

~~(a) An amount required to fund the normal annual cost of benefits, other than benefits arising from post-retirement adjustments made pursuant to Section 23 and other than benefits arising from the 13th check program made pursuant to this section, plus;~~

~~(b) Commencing October 1, 2001, to the 13th check program, 134 percent of 9.874 percent of the full scale contribution rate (FSCR) for employees set forth in Section 2(D); provided, however, if the sum of the City's contribution for the normal annual cost of benefits plus the 134 percent of 9.874 percent of the full scale contribution rate (FSCR) is greater than 134 percent of 28.789 percent of the full scale contribution rate (FSCR), then the City's contribution to the 13th check program shall be the positive difference between 134 percent of 28.789 percent of the full scale contribution rate (FSCR) and the amount set forth in subparagraph 27(B)(3)(a) [134 percent of the normal annual cost of benefits of the full scale contribution rate (FSCR) for employees set forth in Section 2(D)], but no less than 134 percent of 3 percent of the full scale contribution rate (FSCR).~~

~~(4) Notwithstanding any other provision of this contract, the City's contributions to the 13th check program shall not require the City to make additional contributions to the 13th check program to reimburse the 13th check account for the contributions the City would have otherwise made to the 13th check program had it contributed thereto for the period of October 1, 1998, through September 30, 2001.~~

(C) *Amount of the 13th Check.*—The amount of the 13th check shall be determined as follows:

(1)(a) The amount of the 13th check shall be the same for all retired members, regardless of years of service, age, years retired, or monthly installment.

(b) All eligible surviving spouses shall be entitled to 50 percent of what the eligible retired member would have received but for death.

(c) If a retired member is eligible on October 1 but dies before payment of the 13th check *by* ~~in~~ the following *June 30* ~~January~~, the retired member's spouse shall receive the full amount of the payment, and if there is no surviving spouse, the retired member's designated beneficiary or beneficiaries, or if none, the retired member's estate shall receive the payment.

(2) The Board of Trustees shall establish by rule adopted no later than *May 31, 2002, and each May 31 thereafter,* ~~December 15, 1998,~~ the amount of the 13th check *funded pursuant to Section 27(B)(1)*, subject to the following:

(a) The amount of the 13th check, or a method for calculating the amount of the 13th check in a manner that is definitely determinable and in accordance with the requirements of the Internal Revenue Code applicable to a qualified governmental plan; and

(b) Certification by the Fund's actuary that the amount of the payment will be funded on a sound actuarial basis as required by Section 14, Article X of the State Constitution.

(D) *Conflict of Laws.*—To the extent that any provision of this section is in conflict with sections 112.60-112.67, Florida Statutes, or those provisions of chapters 175 and 185, Florida Statutes, that apply to local law plans established by municipal ordinance or special act, or provisions of Florida Statutes made applicable to pension funds established by special act, or to the extent that any provision of this section would result in the loss of tax exempt status of the Pension Fund, the Board of Trustees is hereby delegated the authority to adopt by rules changes to this section in order to comply with said laws, which shall have the force of law and shall be considered part of this pension contract.

(E) *Administration of Program.*—The Board of Trustees shall make such rules as are necessary for the effective and efficient administration of this section, provided that such rules are not inconsistent with the terms of any collective bargaining agreement entered into by the City and the certified bargaining agents for firefighters and police officers concerning the 13th Check Program. Notwithstanding any other provision of this section to the contrary, any provision of this section shall be construed and administered in such manner that such program will qualify as a qualified governmental pension plan under existing or hereafter enacted provisions of the Internal Revenue Code of the United States, and the Board of Trustees may adopt any rule to accomplish the purpose of this section as is necessary to retain tax qualification, which rules shall have the force of law and shall be considered part of this pension contract.

Section 2. This act is only an enabling act, and the execution by the City of Tampa of the aforesaid supplemental contract and entitlement to the pension benefits referred to in this act for all firefighters and police officers, regardless of whether or not in the respective certified bargaining unit for firefighters or police officers, is contingent upon contractual agreement through the collective bargaining process between the City of Tampa and each of the respective certified bargaining agents for firefighters and police officers.

Section 3. The City of Tampa Firefighters and Police Officers Pension Contract as prescribed by Section 28-17 of the City of Tampa Code {Ordinance No. 4746-A, enacted September 30, 1969}, as amended by Section 28-19 of the City of Tampa Code {Ordinance No. 6038-A, enacted September 17, 1974}, pursuant to chapter 74-613, Laws of Florida; as further amended by Ordinance No. 89-314, enacted December 21, 1989, and approved, ratified, validated, and confirmed by chapter 90-391, Laws of Florida; and as further amended by chapter 92-231, Laws of Florida, chapter 94-463, Laws of Florida, chapter 98-515, Laws of Florida, and chapter 2000-485, Laws of Florida, is in all other respects approved, ratified, validated, and confirmed.

Section 4. The benefits provided for herein by Section 1 and the changes to the pension contract provided for herein by Section 1 for active and contributing members on the date this act becomes a law shall be made available in one supplemental pension contract, and a member shall not be permitted to select some of said benefits and reject others of said benefits. Any active or contributing member on the date this act becomes a law who fails to sign said supplemental pension contract before October 1, 2001, shall be forever barred from receiving said benefits and shall not be required to make any contributions required as a result of such benefits. However, any person who becomes a member of the City Pension Fund for Firefighters and Police Officers in the City of Tampa on or after the date this act becomes a law, shall be required as a condition of membership into said pension fund to sign a pension contract which includes the provisions of Section 1, and shall be required to make the contributions required as a result of such benefits.

Section 5. Notwithstanding the provisions of Section 1, the distribution of the 13th check commencing no later than June 30, 2002, shall be payable within 30 days of receipt of a favorable determination letter from the Internal Revenue Service that the revised 13th check program does not adversely impact the tax qualification of the plan, but no earlier than June 30, 2002.

Section 6. If the City of Tampa enters into a supplemental pension contract as provided in Section 1 of this act, each retired firefighter and retired police officer who is living on the date this act becomes a law, and each member who retires or dies after this act becomes a law, but before October 1, 2001, and each qualifying surviving spouse, who is living on the date this act becomes a law, is entitled to receive the same benefits from the 13th check account upon the same basis as if the member's contract had been supplemented in the manner provided by Section 1 of this act before the member's separation from service; provided however said retired firefighter, retired police officer and eligible surviving spouse as a condition of participation in the 13th check program shall be subject to the provisions of Section 6(3) and Section 24 of the pension contract.

Section 7. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page ,
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to the City of Tampa, Hillsborough County, and particularly to the City Pension Fund for Firefighters and Police Officers in the City of Tampa; authorizing the City of Tampa to enter into a supplemental contract with certain firefighters and police officers to provide for an employer pick-up provision so that employee pension contributions can be made on a pre-tax basis; providing for additional authorized investments; restructuring the 13th Check Program; providing an effective date.

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

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

Bills and Joint Resolutions on Second Reading

On motion by Rep. Ritter, consideration of **HB 915** was temporarily postponed under Rule 11.10.

Continuation of Special Orders

Continuation of Special Order Calendar

HB 923—A bill to be entitled An act relating to Bayshore Gardens Park and Recreation District, Manatee County; codifying, reenacting, amending, and repealing special acts relating to the district; providing legislative intent; providing district status and boundaries; providing for applicability of chapters 418 and 189, F.S., and other general laws; providing a district charter; providing for liberal construction; providing a saving clause in the event any provision of the act is deemed invalid; providing for severability; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 292397)

Amendment 1—On page 2, line 2,
remove from the bill: said line

and insert in lieu thereof: *recreation district and a political subdivision of the State of*

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

Representative(s) Bennett offered the following:

(Amendment Bar Code: 573771)

Amendment 2—On page 10, line 19,
remove from the bill:
exceeds $125,000, including all obligations proposed to be

and insert in lieu thereof:
exceeds $25,000, including all obligations proposed to be

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

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

HB 933—A bill to be entitled An act relating to the General Pension and Retirement Fund of the City of Pensacola, Escambia County; amending chapter 99-474, Laws of Florida, as amended by chapter 2000-470, Laws of Florida; converting said act as amended to an ordinance of the City of Pensacola; revising definitions; revising provisions relating to designation of employee contributions; revising provisions relating to refund of contributions with less than 10 years of credited service;

revising provisions relating to disability injury or illness in line of duty and for disability injury or illness not in the line of duty; revising provisions relating to other benefit provisions; providing for protection of benefits from legal process; revising provisions for investment of funds; providing for repeal of conflicting laws; providing an effective date.

—was read the second time by title.

Representative(s) Miller offered the following:

(Amendment Bar Code: 135443)

Amendment 1 (with title amendment)—On page 8, line 29 through page 9, line 12,
remove from the bill: all of said lines

And the title is amended as follows:

On page 1, lines 17 & 18,
remove from the title of the bill: all of said lines

and insert in lieu thereof: provisions; revising

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

Representative(s) Miller offered the following:

(Amendment Bar Code: 212947)

Amendment 2—On page 11, lines 25-27,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 9. *Chapter 99-474, Laws of Florida, as amended by chapter 2000-470, Laws of Florida, is converted to an ordinance by the City of Pensacola on the*

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

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

HB 935—A bill to be entitled An act relating to the Civil Service System of the City of Pensacola, Escambia County, Florida; converting chapter 84-510, Laws of Florida, as amended by chapters 88-537, 86-447, and 90-473, Laws of Florida, into an ordinance of the City of Pensacola; providing an effective date.

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

HB 1849—A bill to be entitled An act relating to the Manatee County Mosquito Control District; codifying, reenacting, amending, and repealing special acts relating to the district; providing a charter; providing for formation as an independent special district; providing boundaries of the district; providing for the election of commissioners and operation of the district in accordance with ch. 388, F.S.; providing for district powers, functions, and duties; providing for construction and effect; providing for an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 735009)

Amendment 1—On page 3 line 4,
remove from the bill: all of said line

and insert in lieu thereof:

Section 3. Establishment.—The district, an independent special district, is established

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

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

THE SPEAKER IN THE CHAIR

HB 607—A bill to be entitled An act relating to Palm Beach County; providing for the relief of Kharmilia Ferguson, a minor, and for the relief of Angela Jones and Raymond Ferguson, individually and as the natural parents and guardians of Kharmilia Ferguson; authorizing and directing the Palm Beach County Sheriff's Office to compensate them for injuries they suffered as a result of the negligence of an employee of the sheriff's office; providing for reversion of funds; providing for reimbursement of all unreimbursed medical payments made by Medicaid up to the date that this act becomes a law; providing an effective date.

—was read the second time by title.

The Committee on Claims offered the following:

(Amendment Bar Code: 731485)

Amendment 1—On page 1 line 30,
remove from the bill: said line

and insert in lieu thereof: requiring full time attendant care until her death on January 2, 2001, and

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

The Committee on Claims offered the following:

(Amendment Bar Code: 582203)

Amendment 2—On page 2, lines 4 and 5,
remove from the bill: said lines

and insert in lieu thereof: Ferguson, for the loss of their daughter's

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

The Committee on Claims offered the following:

(Amendment Bar Code: 902505)

Amendment 3 (with title amendment)—On page 2, line 24 through page 3, line 23,
remove from the bill: said lines

and insert in lieu thereof:

Section 2. *The Palm Beach County Sheriff's Office is authorized and directed to draw a warrant in the sum of $1,800,000, less amounts payable pursuant to section 3, payable to Angela Jones and Raymond Ferguson individually and as the personal representatives of the estate of Kharmilia Ferguson, as compensation for injuries and damages sustained by Kharmilia Ferguson, Angela Jones and Raymond Ferguson. The claimants shall pay to the estate of Kharmilia Ferguson an amount sufficient to cover any additional liens and all expenses of the estate and the remaining funds shall be distributed in equal amounts to Mr. Ferguson and Ms. Jones.*

Section 3. *The governmental entity responsible for payment of the warrant shall pay to the Florida Agency for Health Care Administration the amount due under section 409.910, Florida Statutes, prior to disbursing any funds to the claimant. The amount due the agency shall be equal to all unreimbursed medical payments paid by Medicaid on behalf of Ms. Ferguson up to the date upon which this act becomes a law.*

And the title is amended as follows:

On page 1, lines 3 through 15,
remove from the title of the bill: said lines

and insert in lieu thereof: for the relief of injuries of Kharmilia Ferguson, and Angela Jones and Raymond Ferguson; providing for an appropriation to compensate the estate of Kharmilia Ferguson, Angela

Jones, and Raymond Ferguson for injuries and damages sustained; specifying use of funds; providing for reimbursement of Medicaid expenditures; providing an effective date.

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

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

Reports of Councils and Standing Committees

Report of the Procedural & Redistricting Council

The Honorable Tom Feeney May 1, 2001
Speaker, House of Representatives

Dear Mr. Speaker:

Your Procedural & Redistricting Council herewith submits the following Special Rule report:

I. Special Rule 01-15 applies to each House bill on third reading and each Senate bill on second or third reading during days 59 and 60 of the 2001 Regular Session.

A quorum of the Council was present in person, and two-thirds of those present agreed to the above Report.

Respectfully submitted,
Johnnie B. Byrd, Jr.
Chair

Special Rule 01-15

Bill(s): Each House bill on third reading and each Senate bill on second or third reading during days 59 and 60 of the 2001 Regular Session.

Notwithstanding House Rule 10.22, during days 59 and 60 of the 2001 Regular Session, any House bill remaining on third reading and any Senate bill on second or third reading shall be available for consideration by the House.

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

On motion by Rep. Byrd, the House moved to the consideration of CS/CS/HB 267 on Bills and Joint Resolutions on Third Reading.

Continuation of Bills and Joint Resolutions on Third Reading

CS/CS/HB 267—A bill to be entitled An act relating to school attendance by violent offenders; amending s. 230.235, F.S.; requiring schools to adopt a policy of zero tolerance for victimization of students; requiring each school district to enter into an agreement with the Department of Juvenile Justice for the purpose of protecting victims; amending s. 231.0851, F.S.; requiring principals to take certain actions when a student has been a victim of a violent crime perpetrated by another student; providing ineligibility for certain performance pay policy incentives under certain circumstances; creating s. 232.265, F.S.; requiring the Department of Juvenile Justice to provide certain notice to school districts under certain circumstances; prohibiting certain persons from attending certain schools or riding on certain school buses under certain circumstances; providing for attending alternate schools; assigning responsibility for certain transportation under certain circumstances; amending s. 960.001, F.S.; providing an additional guideline for attendance of a victim at the same school as a juvenile defendant; amending s. 985.228, F.S.; requiring certain court orders to include certain findings; amending s. 985.23, F.S.; requiring a court to determine the appropriateness of a no contact order under certain circumstances; amending ss. 985.231 and 985.233, F.S.; requiring a court placement order or a commitment order to include certain findings; providing an effective date.

—was read the third time by title.

Representative(s) Barreiro, Byrd, and Melvin offered the following:

(Amendment Bar Code: 390471)

Amendment 2 (with title amendment)—
remove from the bill: everything after the enacting clause,

and insert in lieu thereof:

Section 1. Paragraph (b) of subsection (1) and paragraph (d) of subsection (4) of section 20.316, Florida Statutes, are amended to read:

20.316 Department of Juvenile Justice.—There is created a Department of Juvenile Justice.

(1) SECRETARY OF JUVENILE JUSTICE.—

(b) The Secretary of Juvenile Justice is responsible for planning, coordinating, and managing the delivery of all programs and services within the juvenile justice continuum. For purposes of this section, the term "juvenile justice continuum" means all children-in-need-of-services programs; families-in-need-of-services programs; other prevention, early intervention, and diversion programs; detention centers and related programs and facilities; community-based residential *commitment* and nonresidential ~~commitment~~ programs; and delinquency institutions provided or funded by the department.

(4) INFORMATION SYSTEMS.—

(d) The management information system shall, at a minimum:

1. Facilitate case management of juveniles referred to or placed in the department's custody.

2. Provide timely access to current data and computing capacity to support ~~the~~ outcome evaluation ~~activities of the Juvenile Justice Advisory Board as provided in s. 985.401~~, legislative oversight, the Juvenile Justice Estimating Conference, and other research.

3. Provide automated support to the quality assurance and program review functions.

4. Provide automated support to the contract management process.

5. Provide automated support to the facility operations management process.

6. Provide automated administrative support to increase efficiency, provide the capability of tracking expenditures of funds by the department or contracted service providers that are eligible for federal reimbursement, and reduce forms and paperwork.

7. Facilitate connectivity, access, and utilization of information among various state agencies, and other state, federal, local, and private agencies, organizations, and institutions.

8. Provide electronic public access to juvenile justice information, which is not otherwise made confidential by law or exempt from the provisions of s. 119.07(1).

9. Provide a system for the training of information system users and user groups.

Section 2. Subsection (43) of section 228.041, Florida Statutes, is amended to read:

228.041 Definitions.—Specific definitions shall be as follows, and wherever such defined words or terms are used in the Florida School Code, they shall be used as follows:

(43) SCHOOL YEAR FOR JUVENILE JUSTICE PROGRAMS.—For schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs, the school year shall be comprised of 250 days of instruction distributed over 12 months. *At the request of the provider,* a district school board may decrease the minimum number of days of instruction by up to 10 days for teacher planning *for residential programs and up to 20 days for teacher planning for nonresidential programs, subject to the approval of the Department of Juvenile Justice and the Department of Education*.

Section 3. Subsection (1) of section 230.23161, Florida Statutes, is amended to read:

230.23161 Educational services in Department of Juvenile Justice programs.—

(1) The Legislature finds that education is the single most important factor in the rehabilitation of adjudicated delinquent youth in the custody of the Department of Juvenile Justice in detention or commitment facilities. It is the *goal* ~~intent~~ of the Legislature that youth in the juvenile justice system *continue to receive a high-quality* ~~be provided with equal opportunity and access to quality and effective~~ education ~~that will meet the individual needs of each child~~. The Department of Education shall serve as the lead agency for juvenile justice education programs*,* ~~to ensure that~~ curriculum, support services, and resources ~~are provided to maximize the public's investment in the custody and care of these youth~~. To this end, the Department of Education and the Department of Juvenile Justice shall each designate a Coordinator for Juvenile Justice Education Programs to serve as the point of contact for resolving issues not addressed by local district school boards and to *provide* ~~ensure~~ each department's participation in the following activities:

(a) Training, collaborating, and coordinating with the Department of Juvenile Justice, local school districts, educational contract providers, and juvenile justice providers, whether state operated or contracted.

(b) Collecting information on the academic performance of students in juvenile justice commitment and detention programs and reporting on the results.

(c) Developing academic and vocational protocols that provide guidance to school districts and providers in all aspects of education programming, including records transfer and transition.

(d) Prescribing the roles of program personnel and interdepartmental local school district or provider collaboration strategies.

Annually, a cooperative agreement and plan for juvenile justice education service enhancement shall be developed between the Department of Juvenile Justice and the Department of Education and submitted to the Secretary of Juvenile Justice and the Commissioner of Education by June 30.

Section 4. Section 230.235, Florida Statutes, is amended to read:

230.235 Policy of zero tolerance for crime *and victimization*.—

(1) Each school district shall*, pursuant to this section,* adopt a policy of zero tolerance for*:*

(a) Crime and substance abuse ~~pursuant to this section~~. Such a policy shall include the reporting of delinquent acts and crimes occurring whenever and wherever students are under the jurisdiction of the school district.

(b) Victimization of students. Such a policy shall include taking all steps necessary to protect the victim of any violent crime from any further victimization.

(2) The policy shall require students found to have committed one of the following offenses to be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year, and to be referred for criminal prosecution:

(a) Bringing a firearm or weapon, as defined in chapter 790, to school, to any school function, or onto any school-sponsored transportation.

(b) Making a threat or false report, as defined by ss. 790.162 and 790.163, respectively, involving school or school personnel's property, school transportation, or a school-sponsored activity.

District school boards may assign the student to a disciplinary program or second chance school for the purpose of continuing educational services during the period of expulsion. Superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if it is determined to be in the best interest of the student and the school system. If a student committing any of the offenses in this subsection is a student with a disability, the school district shall comply with procedures pursuant to s. 232.251 and any applicable state board rule.

(3) Each school district shall enter into an agreement with the county sheriff's office or local police department specifying guidelines for ensuring that felonies and violent misdemeanors, whether committed by a student or adult, and delinquent acts that would be felonies or violent misdemeanors if committed by an adult, are reported to law enforcement. *The cooperative agreement, adopted pursuant to s. 230.23161(14) with the Department of Juvenile Justice, shall specify guidelines for ensuring that all no contact orders entered by the court are reported and enforced and that all steps necessary are taken to protect the victim of any such crime.* Such agreements shall include the role of school resource officers, if applicable, in handling reported incidents, special circumstances in which school officials may handle incidents without filing a report to law enforcement, and a procedure for ensuring that school personnel properly report appropriate delinquent acts and crimes. The school principal shall be responsible for ensuring that all school personnel are properly informed as to their responsibilities regarding crime reporting, that appropriate delinquent acts and crimes are properly reported, and that actions taken in cases with special circumstances are properly taken and documented.

Section 5. Section 231.0851, Florida Statutes, is amended to read:

231.0851 Reports of school safety and discipline.—

(1) Each principal must ensure that standardized forms prescribed by rule of the State Board of Education are used to report data concerning school safety and discipline to the Department of Education. The principal must develop a plan to verify the accuracy of reported incidents.

(2) When a student has been the victim of a violent crime perpetrated by another student who attends the same school, the principal shall make full and effective use of the provisions of ss. 232.26(2) and 232.265. A principal who fails to comply with this subsection shall be ineligible for any portion of the performance pay policy incentive under s. 230.23(5)(c). However, if any party responsible for notification fails to properly notify the school, the principal shall be eligible for the incentive.

Section 6. Section 232.265, Florida Statutes, is created to read:

232.265 School attendance and transportation of certain offenders.—

(1) Notwithstanding any provision of law prohibiting the disclosure of the identity of a minor, whenever any person who is attending public school is adjudicated guilty of or delinquent for, or is found to have committed, regardless of whether adjudication is withheld, or pleads guilty or nolo contendere to, a felony violation of:

(a) Chapter 782, relating to homicide;

(b) Chapter 784, relating to assault, battery, and culpable negligence;

(c) Chapter 787, relating to kidnapping, false imprisonment, luring or enticing a child, and custody offenses;

(d) Chapter 794, relating to sexual battery;

(e) Chapter 800, relating to lewdness and indecent exposure;

(f) Chapter 827, relating to abuse of children;

(g) Section 812.13, relating to robbery;

(h) Section 812.131, relating to robbery by sudden snatching;

(i) Section 812.133, relating to carjacking; or

(j) Section 812.135, relating to home-invasion robbery,

and, before or at the time of such adjudication, withholding of adjudication, or plea, the offender was attending a school attended by the

victim or a sibling of the victim of the offense, the Department of Juvenile Justice shall notify the appropriate school district of the adjudication or plea and the operation of this section and whether the offender is prohibited from attending that school or riding on a school bus whenever the victim or a sibling of the victim is attending the same school or riding on the same school bus, except as provided pursuant to a written disposition order under s. 985.23(1)(d). Upon receipt of such notice, the school district shall take appropriate action to effectuate the provisions of subsection (2).

(2) Any offender described in subsection (1), who is not exempted as provided in subsection (1), shall not attend any school attended by the victim or a sibling of the victim of the offense or ride on a school bus on which the victim or a sibling of the victim is riding. The offender shall be permitted by the school district in which the offender resides to attend another school within the district, provided the other school is not attended by the victim or sibling of the victim of the offense or may be permitted by another school district to attend a school in that district if the offender is unable to attend any school in the district in which the offender resides due to the operation of this section.

(3) If the offender is unable to attend any other school in the district in which the offender resides and is prohibited from attending school in another school district, the school district in which the offender resides shall take every reasonable precaution to keep the offender separated from the victim while on school grounds or on school transportation. The steps to be taken by a school district to keep the offender separated from the victim shall include, but not be limited to, in-school suspension of the offender and the scheduling of classes, lunch, or other school activities of the victim and the offender so as not to coincide.

(4) The offender, or the parents or legal guardian of the offender if the offender is a juvenile, shall be responsible for arranging and paying for transportation associated with or required by the offender's attending another school or that would be required as a consequence of the prohibition against riding on a school bus on which the victim or a sibling of the victim is riding. However, the offender or the parents or the legal guardian of the offender shall not be charged for existing modes of transportation that can be used by the offender at no additional cost to the district.

Section 7. Subsection (1) of section 435.04, Florida Statutes, is amended, and present subsections (3) and (4) of said section are renumbered as subsections (4) and (5), respectively, and a new subsection (3) is added to said section, to read:

435.04 Level 2 screening standards.—

(1) All employees in positions designated by law as positions of trust or responsibility shall be required to undergo security background investigations as a condition of employment and continued employment. For the purposes of this subsection, security background investigations shall include, but not be limited to, ~~employment history checks,~~ fingerprinting for all purposes and checks in this subsection, statewide criminal and juvenile records checks through the Florida Department of Law Enforcement, and federal criminal records checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies.

(3) The security background investigations conducted under this section for employees of the Department of Juvenile Justice must ensure that no persons subject to the provisions of this section have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

(a) Section 784.07, relating to assault or battery of law enforcement officers, firefighters, emergency medical care providers, public transit employees or agents, or other specified officers.

(b) Section 810.02, relating to burglary, if the offense is a felony.

(c) Section 944.40, relating to escape.

The Department of Juvenile Justice may not remove a disqualification from employment or grant an exemption to any person who is disqualified under this section for any offense disposed of during the most recent 7-year period.

Section 8. Section 943.0582, Florida Statutes, is created to read:

943.0582 Prearrest, postarrest, or teen court diversion program expunction.—

(1) Notwithstanding any law dealing generally with the preservation and destruction of public records, the department may provide, by rule adopted pursuant to chapter 120, for the expunction of any nonjudicial record of the arrest of a minor who has successfully completed a prearrest or postarrest diversion program for minors as authorized by s. 985.3065.

(2)(a) As used in this section, the term "expunction" has the same meaning ascribed in s. 943.0585, except that:

1. The provisions of s. 943.0585(4)(a) do not apply, except that the criminal history record of a person whose record is expunged pursuant to this section shall be made available only to criminal justice agencies for the purpose of determining eligibility for prearrest, postarrest, or teen court diversion programs; when the record is sought as part of a criminal investigation; or when the subject of the record is a candidate for employment with a criminal justice agency. For all other purposes, a person whose record is expunged under this section may lawfully deny or fail to acknowledge the arrest and the charge covered by the expunged record.

2. Records maintained by local criminal justice agencies in the county in which the arrest occurred which are eligible for expunction pursuant to this section shall be sealed as the term is used in s. 943.059.

(b) As used in this section, the term "nonviolent misdemeanor" includes simple assault or battery when prearrest or postarrest diversion expunction is approved in writing by the state attorney for the county in which the arrest occurred.

(3) The department shall expunge the nonjudicial arrest record of a minor who has successfully completed a prearrest or postarrest diversion program if that minor:

(a) Submits an application for prearrest or postarrest diversion expunction, on a form prescribed by the department, signed by the minor's parent or legal guardian, or by the minor if he or she has reached the age of majority at the time of applying.

(b) Submits the application for prearrest or postarrest diversion expunction no later than 6 months after completion of the diversion program.

(c) Submits to the department, with the application, an official written statement from the state attorney for the county in which the arrest occurred certifying that he or she has successfully completed that county's prearrest or postarrest diversion program and that participation in the program is strictly limited to minors arrested for a nonviolent misdemeanor who have not otherwise been charged with or found to have committed any criminal offense or comparable ordinance violation.

(d) Participated in a prearrest or postarrest diversion program that expressly authorizes or permits such expunction to occur.

(e) Participated in a prearrest or postarrest diversion program based on an arrest for a nonviolent misdemeanor that would not qualify as an act of domestic violence as that term is defined in s. 741.28.

(f) Has never, prior to filing the application for expunction, been charged with or found to have committed any criminal offense or comparable ordinance violation.

(4) The department is authorized to charge a $75 processing fee for each request received for prearrest or postarrest diversion program expunction, for placement in the Department of Law Enforcement Operating Trust Fund, unless such fee is waived by the executive director.

(5) This section operates retroactively to permit the expunction of any nonjudicial record of the arrest of a minor who has successfully

completed a prearrest or postarrest diversion program on or after July 1, 2000; however, in the case of a minor whose completion of the program occurred before the effective date of this section, the application for prearrest or postarrest diversion expunction must be submitted within 6 months after the effective date of this section.

(6) Expunction or sealing granted under this section does not prevent the minor who receives such relief from petitioning for the expunction or sealing of a later criminal history record as provided for in ss. 943.0585 and 943.059, if the minor is otherwise eligible under those sections.

Section 9. Paragraph (a) of subsection (1) of section 943.325, Florida Statutes, is amended to read:

943.325 Blood specimen testing for DNA analysis.—

(1)(a) Any person who is convicted or was previously convicted in this state for any offense or attempted offense defined in chapter 794, chapter 800, s. 782.04, s. 784.045, s. 810.02, s. 812.133, or s. 812.135, and *any person who is transferred to this state under Article VII of the Interstate Compact on Juveniles, part V of chapter 985, who has committed or attempted to commit an offense similarly defined by the transferring state,* who is either:

1. Still incarcerated, or

2. No longer incarcerated but is within the confines of the legal state boundaries and is on probation, community control, parole, conditional release, control release, or any other court-ordered supervision,

shall be required to submit two specimens of blood to a Department of Law Enforcement designated testing facility as directed by the department.

Section 10. Paragraph (s) is added to subsection (1) of section 960.001, Florida Statutes, to read:

960.001 Guidelines for fair treatment of victims and witnesses in the criminal justice and juvenile justice systems.—

(1) The Department of Legal Affairs, the state attorneys, the Department of Corrections, the Department of Juvenile Justice, the Parole Commission, the State Courts Administrator and circuit court administrators, the Department of Law Enforcement, and every sheriff's department, police department, or other law enforcement agency as defined in s. 943.10(4) shall develop and implement guidelines for the use of their respective agencies, which guidelines are consistent with the purposes of this act and s. 16(b), Art. I of the State Constitution and are designed to implement the provisions of s. 16(b), Art. I of the State Constitution and to achieve the following objectives:

(s) Attendance of victim at same school as defendant.—When the victim of an offense committed by a juvenile is a minor, the Department of Juvenile Justice shall request information to determine if the victim, or any sibling of the victim, attends or is eligible to attend the same school as the offender. However, if the offender is subject to a presentence investigation by the Department of Corrections, the Department of Corrections shall make such request. If the victim or any sibling of the victim attends or is eligible to attend the same school as that of the offender, the appropriate agency shall notify the victim's parent or legal guardian of the right to attend the sentencing or disposition of the offender and request that the offender be required to attend a different school.

Section 11. Paragraph (a) of subsection (2) of section 984.01, Florida Statutes, is amended to read:

984.01 Purposes and intent; personnel standards and screening.—

(2) The Department of Juvenile Justice or the Department of Children and Family Services, as appropriate, may contract with the Federal Government, other state departments and agencies, county and municipal governments and agencies, public and private agencies, and private individuals and corporations in carrying out the purposes of, and the responsibilities established in, this chapter.

(a) When the Department of Juvenile Justice or the Department of Children and Family Services contracts with a provider for any program for children, all personnel, including owners, operators, employees, and volunteers, in the facility must be of good moral character. *Each contract entered into by either department for services delivered on an appointment or intermittent basis by a provider that does not have regular custodial responsibility for children and each contract with a school for before or aftercare services must ensure that the owners, operators, and all personnel who have direct contact with children are of good moral character.* A volunteer who assists on an intermittent basis for less than 40 hours per month need not be screened if the volunteer is under direct and constant supervision by persons who meet the screening requirements.

Section 12. Paragraph (a) of subsection (2) of section 985.01, Florida Statutes, is amended to read:

985.01 Purposes and intent; personnel standards and screening.—

(2) The Department of Juvenile Justice or the Department of Children and Family Services, as appropriate, may contract with the Federal Government, other state departments and agencies, county and municipal governments and agencies, public and private agencies, and private individuals and corporations in carrying out the purposes of, and the responsibilities established in, this chapter.

(a) When the Department of Juvenile Justice or the Department of Children and Family Services contracts with a provider for any program for children, all personnel, including owners, operators, employees, and volunteers, in the facility must be of good moral character. *Each contract entered into by either department for services delivered on an appointment or intermittent basis by a provider that does not have regular custodial responsibility for children and each contract with a school for before or aftercare services must ensure that the owners, operators, and all personnel who have direct contact with children are of good moral character.* A volunteer who assists on an intermittent basis for less than 40 hours per month need not be screened if the volunteer is under direct and constant supervision by persons who meet the screening requirements.

Section 13. Subsection (7) of section 985.02, Florida Statutes, is amended to read:

985.02 Legislative intent for the juvenile justice system.—

(7) PARENTAL, CUSTODIAL, AND GUARDIAN RESPONSIBILITIES.—Parents, custodians, and guardians are deemed by the state to be responsible for providing their children with sufficient support, guidance, and supervision to deter their participation in delinquent acts. The state further recognizes that the ability of parents, custodians, and guardians to fulfill those responsibilities can be greatly impaired by economic, social, behavioral, emotional, and related problems. It is therefore the policy of the Legislature that it is the state's responsibility to ensure that factors impeding the ability of caretakers to fulfill their responsibilities are identified through the delinquency intake process and that appropriate recommendations to address those problems are considered in any judicial or nonjudicial proceeding. *Nonetheless, as it is also the intent of the Legislature to preserve and strengthen the child's family ties, it is the policy of the Legislature that the emotional, legal, and financial responsibilities of the caretaker with regard to the care, custody, and support of the child continue while the child is in the physical or legal custody of the department.*

Section 14. Subsections (13), (26), (30), (31), (32), and paragraph (c) of subsection (45) of section 985.03, Florida Statutes, are amended, subsections (46) through (58) of said section are renumbered as subsections (47) through (59), respectively, a new subsection (46) is added to said section, and renumbered subsection (56) of said section is amended, to read:

985.03 Definitions.—When used in this chapter, the term:

(13) "Conditional release" means the care, treatment, help, and supervision provided to a juvenile released from a residential commitment program which is intended to promote rehabilitation and

prevent recidivism. The purpose of conditional release is to protect the public, reduce recidivism, increase responsible productive behavior, and provide for a successful transition of the youth from the department to the family. Conditional release includes, but is not limited to, ~~minimum-risk~~ nonresidential *community-based* programs ~~and postcommitment probation~~.

(26) "Halfway house" means a community-based residential program for 10 or more committed delinquents at the moderate-risk *commitment* ~~restrictiveness~~ level *which* ~~that~~ is operated or contracted by the Department of Juvenile Justice.

(30) "Juvenile probation officer" means the authorized agent of the Department of Juvenile Justice who performs the intake*,* ~~or~~ case management*, or supervision functions* ~~function for a child alleged to be delinquent~~.

(31) "Juvenile sexual offender" means:

(a) A juvenile who has been found by the court pursuant to s. 985.228 to have committed a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133;

(b) A juvenile found to have committed any *felony* violation of law or delinquent act involving juvenile sexual abuse. "Juvenile sexual abuse" means any sexual behavior which occurs without consent, without equality, or as a result of coercion. For purposes of this subsection, the following definitions apply:

1. "Coercion" means the exploitation of authority, use of bribes, threats of force, or intimidation to gain cooperation or compliance.

2. "Equality" means two participants operating with the same level of power in a relationship, neither being controlled nor coerced by the other.

3. "Consent" means an agreement including all of the following:

a. Understanding what is proposed based on age, maturity, developmental level, functioning, and experience.

b. Knowledge of societal standards for what is being proposed.

c. Awareness of potential consequences and alternatives.

d. Assumption that agreement or disagreement will be accepted equally.

e. Voluntary decision.

f. Mental competence.

Juvenile sexual offender behavior ranges from noncontact sexual behavior such as making obscene phone calls, exhibitionism, voyeurism, and the showing or taking of lewd photographs to varying degrees of direct sexual contact, such as frottage, fondling, digital penetration, rape, fellatio, sodomy, and various other sexually aggressive acts.

(32) "Legal custody *or guardian*" means a legal status created by court order or letter of guardianship which vests in a custodian of the person or guardian, whether an agency or an individual, the right to have physical custody of the child and the right and duty to protect, train, and discipline the child and to provide him or her with food, shelter, education, and ordinary medical, dental, psychiatric, and psychological care.

(45) "Residential commitment level" means the level of security provided by programs that service the supervision, custody, care, and treatment needs of committed children. Sections 985.3141 and 985.404(13) apply to children placed in programs at any residential commitment level. The levels of residential commitment are as follows:

(c) High-risk residential.—Programs or program models at this commitment level are residential and shall not allow youth to have access to the community. Facilities are hardware-secure with perimeter fencing and locking doors. Facilities shall provide 24-hour awake supervision, custody, care, and treatment of residents. Youth assessed and classified for this level of placement require close supervision in a structured residential setting. Placement in programs at this level is prompted by a concern for public safety that outweighs placement in programs at lower *commitment* ~~restrictiveness~~ levels. The staff at a facility at this commitment level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary. The facility may provide for single cell occupancy.

(46) "Respite" means a placement that is available for the care, custody, and placement of a youth charged with domestic violence as an alternative to secure detention or for placement of a youth when a shelter bed for a child in need of services or a family in need of services is unavailable.

(56)~~(55)~~ "Temporary release" means the terms and conditions under which a child is temporarily released from a commitment facility or allowed home visits. If the temporary release is from a moderate-risk residential facility, a high-risk residential facility, or a maximum-risk residential facility, the terms and conditions of the temporary release must be approved by the child, the court, and the facility. The term includes periods during which the child is supervised pursuant to a conditional release program or a period during which the child is supervised by a juvenile probation officer or other nonresidential staff of the department or staff employed by an entity under contract with the department. ~~A child placed in a postcommitment supervision program by order of the court is not considered to be on temporary release and is not subject to the terms and conditions of temporary release.~~

Section 15. Subsection (2), paragraph (a) of subsection (3), paragraph (a) of subsection (4), and subsection (5) of section 985.04, Florida Statutes, are amended to read:

985.04 Oaths; records; confidential information.—

(2) Records maintained by the Department of Juvenile Justice, including copies of records maintained by the court, which pertain to a child found to have committed a delinquent act which, if committed by an adult, would be a crime specified in ss. *435.03 and 435.04* ~~110.1127, 393.0655, 394.457, 397.451, 402.305(2), 409.175, and 409.176~~ may not be destroyed pursuant to this section *for a period of 25 years after the youth's final referral to the department*, except in cases of the death of the child. Such records, however, shall be sealed by the court for use only in meeting the screening requirements for personnel in s. 402.3055 and the other sections cited above, or pursuant to departmental rule; however, current criminal history information must be obtained from the Department of Law Enforcement in accordance with s. 943.053. The information shall be released to those persons specified in the above cited sections for the purposes of complying with those sections. The court may punish by contempt any person who releases or uses the records for any unauthorized purpose.

(3)(a) Except as provided in subsections (2), (4), (5), and (6), and s. 943.053, all information obtained under this part in the discharge of official duty by any judge, any employee of the court, any authorized agent of the Department of Juvenile Justice, the Parole Commission, ~~the Juvenile Justice Advisory Board,~~ the Department of Corrections, the juvenile justice circuit boards, any law enforcement agent, or any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile is confidential and may be disclosed only to the authorized personnel of the court, the Department of Juvenile Justice and its designees, the Department of Corrections, the Parole Commission, ~~the Juvenile Justice Advisory Board,~~ law enforcement agents, school superintendents and their designees, any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile, and others entitled under this chapter to receive that information, or upon order of the court. Within each county, the sheriff, the chiefs of police, the district school superintendent, and the department shall enter into an interagency agreement for the purpose of sharing information about juvenile offenders among all parties. The agreement must specify the conditions under which summary criminal history information is to be made available to appropriate school personnel, and the conditions under which school records are to be made available to appropriate department personnel. Such agreement shall require notification to any classroom teacher of assignment to the

teacher's classroom of a juvenile who has been placed in a probation or commitment program for a felony offense. The agencies entering into such agreement must comply with s. 943.0525, and must maintain the confidentiality of information that is otherwise exempt from s. 119.07(1), as provided by law.

(4)(a) Records in the custody of the Department of Juvenile Justice regarding children are not open to inspection by the public. Such records may be inspected only upon order of the Secretary of Juvenile Justice or his or her authorized agent by persons who have sufficient reason and upon such conditions for their use and disposition as the secretary or his or her authorized agent deems proper. The information in such records may be disclosed only to other employees of the Department of Juvenile Justice who have a need therefor in order to perform their official duty; to other persons as authorized by rule of the Department of Juvenile Justice; and, upon request, to ~~the Juvenile Justice Advisory Board and~~ the Department of Corrections. The secretary or his or her authorized agent may permit properly qualified persons to inspect and make abstracts from records for statistical purposes under whatever conditions upon their use and disposition the secretary or his or her authorized agent deems proper, provided adequate assurances are given that children's names and other identifying information will not be disclosed by the applicant.

(5) Notwithstanding any other provisions of this part, the name, photograph, address, and crime or arrest report of a child:

(a) Taken into custody if the child has been taken into custody by a law enforcement officer for a violation of law which, if committed by an adult, would be a felony; ~~or~~

(b) Found by a court to have committed three or more violations of law which, if committed by an adult, would be misdemeanors*;*

(c) Transferred to the adult system pursuant to s. 985.227, indicted pursuant to s. 985.225, or waived pursuant to s. 95.226;

(d) Taken into custody by a law enforcement officer for a violation of law subject to the provisions of s. 985.227(2)(b) or (d); or

(e) Transferred to the adult system but sentenced to the juvenile system pursuant to s. 985.233

shall not be considered confidential and exempt from the provisions of s. 119.07(1) solely because of the child's age.

Section 16. Paragraph (d) of subsection (1) and subsection (2) of section 985.207, Florida Statutes, are amended to read:

985.207 Taking a child into custody.—

(1) A child may be taken into custody under the following circumstances:

(d) By a law enforcement officer who has probable cause to believe that the child is in violation of the conditions of the child's probation, home detention, postcommitment *probation* ~~community control~~, or conditional release supervision or has *escaped* ~~absconded~~ from commitment.

Nothing in this subsection shall be construed to allow the detention of a child who does not meet the detention criteria in s. 985.215.

(2) When a child is taken into custody as provided in this section, the person taking the child into custody shall attempt to notify the parent, guardian, or legal custodian of the child. The person taking the child into custody shall continue such attempt until the parent, guardian, or legal custodian of the child is notified or the child is delivered to a juvenile probation officer pursuant to s. 985.21, whichever occurs first. If the child is delivered to a juvenile probation officer before the parent, guardian, or legal custodian is notified, the juvenile probation officer shall continue the attempt to notify until the parent, guardian, or legal custodian of the child is notified. *Following notification, the parent or guardian must provide identifying information, including name, address, date of birth, social security number, and driver's license number or identification card number of the parent or guardian to the person taking the child into custody or the juvenile probation officer.*

Section 17. Subsection (5) of section 985.21, Florida Statutes, is amended to read:

985.21 Intake and case management.—

(5) Prior to requesting that a delinquency petition be filed or prior to filing a dependency petition, the juvenile probation officer may request the parent or legal guardian of the child to attend a course of instruction in parenting skills, training in conflict resolution, and the practice of nonviolence; to accept counseling; or to receive other assistance from any agency in the community which notifies the clerk of the court of the availability of its services. Where appropriate, the juvenile probation officer shall request both parents or guardians to receive such parental assistance. The juvenile probation officer may, in determining whether to request that a delinquency petition be filed, take into consideration the willingness of the parent or legal guardian to comply with such request. *The parent or guardian must provide the juvenile probation officer with identifying information, including the parent's or guardian's name, address, date of birth, social security number, and driver's license number or identification card number in order to comply with ss. 985.215(6), 985.231(1)(b), and 985.233(4)(d).*

Section 18. Paragraph (b) of subsection (2) of section 985.213, Florida Statutes, is amended to read:

985.213 Use of detention.—

(2)

(b)1. The risk assessment instrument for detention care placement determinations and orders shall be developed by the Department of Juvenile Justice in agreement with representatives appointed by the following associations: the Conference of Circuit Judges of Florida, the Prosecuting Attorneys Association, the Public Defenders Association, the Florida Sheriffs Association, and the Florida Association of Chiefs of Police. Each association shall appoint two individuals, one representing an urban area and one representing a rural area. The parties involved shall evaluate and revise the risk assessment instrument as is considered necessary using the method for revision as agreed by the parties. The risk assessment instrument shall take into consideration, but need not be limited to, prior history of failure to appear, prior offenses, offenses committed pending adjudication, any unlawful possession of a firearm, theft of a motor vehicle or possession of a stolen motor vehicle, and *probation* ~~community control~~ status at the time the child is taken into custody. The risk assessment instrument shall also take into consideration appropriate aggravating and mitigating circumstances, and shall be designed to target a narrower population of children than s. 985.215(2). The risk assessment instrument shall also include any information concerning the child's history of abuse and neglect. The risk assessment shall indicate whether detention care is warranted, and, if detention care is warranted, whether the child should be placed into secure, nonsecure, or home detention care.

2. If, at the detention hearing, the court finds a material error in the scoring of the risk assessment instrument, the court may amend the score to reflect factual accuracy.

3. A child who is charged with committing an offense of domestic violence as defined in s. 741.28(1) and who does not meet detention criteria may be held in secure detention if the court makes specific written findings that:

a. Respite care for the child is not available; and

b. It is necessary to place the child in secure detention in order to protect the victim from injury.

The child may not be held in secure detention under this subparagraph for more than 48 hours unless ordered by the court. After 48 hours, the court shall hold a hearing if the state attorney or victim requests that secure detention be continued. The child may continue to be held in detention care if the court makes a specific, written finding that detention care is necessary to protect the victim from injury. However, the child may not be held in detention care beyond the time limits set forth in s. 985.215.

4. For a child who is under the supervision of the department through *probation* ~~community control~~, home detention, nonsecure detention, *conditional release* ~~aftercare~~, postcommitment *probation* ~~community control~~, or commitment and who is charged with committing a new offense, the risk assessment instrument may be completed and scored based on the underlying charge for which the child was placed under the supervision of the department and the new offense.

Section 19. Paragraph (a) of subsection (2) of section 985.215, Florida Statutes, is amended, and paragraph (f) is added to subsection (10) of said section, to read:

985.215 Detention.—

(2) Subject to the provisions of subsection (1), a child taken into custody and placed into nonsecure or home detention care or detained in secure detention care prior to a detention hearing may continue to be detained by the court if:

(a) The child is alleged to be an escapee or an absconder from a commitment program, a probation program, ~~furlough,~~ or conditional release supervision, or is alleged to have escaped while being lawfully transported to or from such program or supervision.

A child who meets any of these criteria and who is ordered to be detained pursuant to this subsection shall be given a hearing within 24 hours after being taken into custody. The purpose of the detention hearing is to determine the existence of probable cause that the child has committed the delinquent act or violation of law with which he or she is charged and the need for continued detention. Unless a child is detained under paragraph (d) or paragraph (e), the court shall utilize the results of the risk assessment performed by the juvenile probation officer and, based on the criteria in this subsection, shall determine the need for continued detention. A child placed into secure, nonsecure, or home detention care may continue to be so detained by the court pursuant to this subsection. If the court orders a placement more restrictive than indicated by the results of the risk assessment instrument, the court shall state, in writing, clear and convincing reasons for such placement. Except as provided in s. 790.22(8) or in subparagraph (10)(a)2., paragraph (10)(b), paragraph (10)(c), or paragraph (10)(d), when a child is placed into secure or nonsecure detention care, or into a respite home or other placement pursuant to a court order following a hearing, the court order must include specific instructions that direct the release of the child from such placement no later than 5 p.m. on the last day of the detention period specified in paragraph (5)(b) or paragraph (5)(c), or subparagraph (10)(a)1., whichever is applicable, unless the requirements of such applicable provision have been met or an order of continuance has been granted pursuant to paragraph (5)(d).

(10)

(f) Regardless of detention status, a child being transported by the department to a commitment facility of the department may be placed in secure detention overnight, not to exceed a 24-hour period, for the specific purpose of ensuring the safe delivery of the child to his or her commitment program, court, appointment, transfer, or release.

Section 20. Effective upon this act becoming a law and operating retroactively to July 1, 2000, subsection (6) of section 985.215, Florida Statutes, is amended to read:

985.215 Detention.—

(6)*(a)* When any child is placed into secure, nonsecure, or home detention care or into other placement pursuant to a court order following a detention hearing, the court shall order the ~~natural or adoptive~~ parents *or guardians* of such child~~, including the natural father of such child born out of wedlock who has acknowledged his paternity in writing before the court, or the guardian of such child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child,~~ to pay to the Department of Juvenile Justice fees in *the* ~~an~~ amount of *$5* ~~$20~~ per day *that the child is under the care or supervision of the department in order to partially offset* ~~related to~~ the cost of the care, support, ~~and~~ maintenance*, and other usual and ordinary obligations of parents to provide for the needs of their children* ~~of the child, as established by the Department of Juvenile Justice~~, unless the court makes a finding on the record that the parent or guardian of the child is indigent.

(b) At the time of the detention hearing, the department shall report to the court, verbally or in writing, any available information concerning the ability of the parent or guardian of the child to pay such fee. *If the court makes a finding of indigency, the parent or guardian shall pay to the department a nominal subsistence fee of $2 per day that the child is securely detained outside the home or $1 per day if the child is otherwise detained in lieu of other fees related to the parent's obligation for the child's cost of care. The nominal subsistence fee may only be waived or reduced if the court makes a finding that such payment would constitute a significant financial hardship. Such finding shall be in writing and shall contain a detailed description of the facts that led the court to make both the finding of indigency and the finding of significant financial hardship.* ~~As to each parent or guardian for whom the court makes a finding of indigency, the court may reduce the fees or waive the fees upon a showing by the parent or guardian of an inability to pay the fees specified herein. If the court makes a finding of indigency or inability to pay the full cost of care, support, and maintenance of the child, the court shall order the parent or guardian to pay to the department a nominal subsistence fee on behalf of the child in the amount of at least $2 per day that the child is detained outside the home or at least $1 per day if the child is otherwise detained, unless the court makes a finding on the record that the parent or guardian would suffer a significant hardship if obligated for such amount.~~

(c) In addition, the court may reduce the fees or waive the fees as to each parent or guardian if the court makes a finding on the record that the parent or guardian was the victim of the delinquent act or violation of law for which the child is detained and that the parent or guardian is cooperating in the investigation of the offense. ~~As to each parent or guardian, the court may reduce the fees or waive the fees if the court makes a finding on the record that the parent or guardian has made a diligent and good faith effort to prevent the child from engaging in the delinquent act or violation of law.~~

(d) The court must include specific findings in the detention order as to what fees are ordered, reduced, or waived. If the court fails to enter an order as required by this subsection, it shall be presumed that the court intended the parent or guardian to pay to the department the fee of *$5* ~~$20~~ per day that the child remains in detention care.

(e) With respect to a child who has been found to have committed a delinquent act or violation of law, whether or not adjudication is withheld, and whose parent or guardian receives public assistance for any portion of that child's care, the department must seek a federal waiver to garnish or otherwise order the payments of the portion of the public assistance relating to that child to offset the costs of providing care, custody, maintenance, rehabilitation, intervention, or corrective services to the child. When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.

(f) The clerk of the circuit court shall act as a depository for these fees. Upon each payment received, the clerk of the circuit court shall receive a fee from the total payment of 3 percent of any payment made except that no fee shall be less than $1 nor more than $5 per payment made. This fee shall serve as a service charge for the administration, management, and maintenance of each payment. At the end of each month, the clerk of the circuit court shall send all money collected under this section to the state Grants and Donations Trust Fund.

(g) The parent or guardian shall provide to the department the parent's or guardian's name, address, social security number, date of birth, and driver's license number or identification card number and sufficient financial information for the department to be able to determine the parent's or guardian's ability to pay. If the parent or guardian refuses to provide the department with any identifying information or financial information, the court shall order the parent to comply and may pursue contempt of court sanctions for failure to comply.

(h) The department may employ a collection agency for the purpose of receiving, collecting, and managing the payment of unpaid and

delinquent fees. The collection agency must be registered and in good standing under chapter 559. The department may pay to the collection agency a fee from the amount collected under the claim or may authorize the agency to deduct the fee from the amount collected. The department may also pay for collection services from available authorized funds.

(i) The department may enter into agreements with parents or guardians to establish a schedule of periodic payments if payment of the obligation in full presents an undue hardship. Any such agreement may provide for payment of interest consistent with prevailing loan rates.

(j) The Department of Juvenile Justice shall provide to the payor documentation of any amounts paid by the payor to the Department of Juvenile Justice on behalf of the child. All payments received by the department pursuant to this subsection shall be deposited in the state Grants and Donations Trust Fund. Neither the court nor the department may extend the child's length of stay in detention care solely for the purpose of collecting fees.

Section 21. Subsection (4) of section 985.227, Florida Statutes, is amended to read:

985.227 Prosecution of juveniles as adults by the direct filing of an information in the criminal division of the circuit court; discretionary criteria; mandatory criteria.—

(4) DIRECT-FILE POLICIES AND GUIDELINES.—Each state attorney shall develop written policies and guidelines to govern determinations for filing an information on a juvenile, to be submitted to the Executive Office of the Governor, the President of the Senate, *and* the Speaker of the House of Representatives~~, and the Juvenile Justice Advisory Board~~ not later than January 1 of each year.

Section 22. Subsection (4) of section 985.228, Florida Statutes, is amended to read:

985.228 Adjudicatory hearings; withheld adjudications; orders of adjudication.—

(4) If the court finds that the child named in the petition has committed a delinquent act or violation of law, it may, in its discretion, enter an order stating the facts upon which its finding is based but withholding adjudication of delinquency and placing the child in a probation program under the supervision of the department or under the supervision of any other person or agency specifically authorized and appointed by the court. The court may, as a condition of the program, impose as a penalty component restitution in money or in kind, community service, a curfew, urine monitoring, revocation or suspension of the driver's license of the child, or other nonresidential punishment appropriate to the offense, and may impose as a rehabilitative component a requirement of participation in substance abuse treatment, or school or other educational program attendance. *If the child is attending public school and the court finds that the victim or a sibling of the victim in the case was assigned to attend or is eligible to attend the same school as the child, the court order shall include a finding pursuant to the proceedings described in s. 985.23(1)(d).* If the court later finds that the child has not complied with the rules, restrictions, or conditions of the community-based program, the court may, after a hearing to establish the lack of compliance, but without further evidence of the state of delinquency, enter an adjudication of delinquency and shall thereafter have full authority under this chapter to deal with the child as adjudicated.

Section 23. Paragraph (d) of subsection (1) of section 985.23, Florida Statutes, is amended to read:

985.23 Disposition hearings in delinquency cases.—When a child has been found to have committed a delinquent act, the following procedures shall be applicable to the disposition of the case:

(1) Before the court determines and announces the disposition to be imposed, it shall:

(d) Give all parties present at the hearing an opportunity to comment on the issue of disposition and any proposed rehabilitative plan. Parties to the case shall include the parents, legal custodians, or guardians of the child; the child's counsel; the state attorney; representatives of the department; the victim if any, or his or her representative; representatives of the school system; and the law enforcement officers involved in the case. *If the child is attending or is eligible to attend public school and the court finds that the victim or a sibling of the victim in the case is attending or may attend the same school as the child, the court shall, on its own motion or upon the request of any party or any parent or legal guardian of the victim, determine whether it is appropriate to enter a no contact order in favor of the victim or a sibling of the victim. If appropriate and acceptable to the victim and the victim's parent or parents or legal guardian, the court may reflect in the written disposition order that the victim or the victim's parent stated in writing or in open court that he or she did not object to the offender being permitted to attend the same school or ride on the same school bus as the victim or a sibling of the victim.*

It is the intent of the Legislature that the criteria set forth in subsection (2) are general guidelines to be followed at the discretion of the court and not mandatory requirements of procedure. It is not the intent of the Legislature to provide for the appeal of the disposition made pursuant to this section.

Section 24. Paragraph (a) of subsection (1) and subsection (2) of section 985.231, Florida Statutes, are amended to read:

985.231 Powers of disposition in delinquency cases.—

(1)(a) The court that has jurisdiction of an adjudicated delinquent child may, by an order stating the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing:

1. Place the child in a probation program or a postcommitment probation program under the supervision of an authorized agent of the Department of Juvenile Justice or of any other person or agency specifically authorized and appointed by the court, whether in the child's own home, in the home of a relative of the child, or in some other suitable place under such reasonable conditions as the court may direct. A probation program for an adjudicated delinquent child must include a penalty component such as restitution in money or in kind, community service, a curfew, revocation or suspension of the driver's license of the child, or other nonresidential punishment appropriate to the offense and must also include a rehabilitative program component such as a requirement of participation in substance abuse treatment or in school or other educational program. *If the child is attending or is eligible to attend public school and the court finds that the victim or a sibling of the victim in the case is attending or may attend the same school as the child, the court placement order shall include a finding pursuant to the proceedings described in s. 985.23(1)(d).* Upon the recommendation of the department at the time of disposition, or subsequent to disposition pursuant to the filing of a petition alleging a violation of the child's conditions of postcommitment probation ~~or conditional release supervision~~, the court may order the child to submit to random testing for the purpose of detecting and monitoring the use of alcohol or controlled substances.

a. A restrictiveness level classification scale for levels of supervision shall be provided by the department, taking into account the child's needs and risks relative to probation supervision requirements to reasonably ensure the public safety. Probation programs for children shall be supervised by the department or by any other person or agency specifically authorized by the court. These programs must include, but are not limited to, structured or restricted activities as described in this subparagraph, and shall be designed to encourage the child toward acceptable and functional social behavior. If supervision or a program of community service is ordered by the court, the duration of such supervision or program must be consistent with any treatment and rehabilitation needs identified for the child and may not exceed the term for which sentence could be imposed if the child were committed for the offense, except that the duration of such supervision or program for an offense that is a misdemeanor of the second degree, or is equivalent to a misdemeanor of the second degree, may be for a period not to exceed 6 months. When restitution is ordered by the court, the amount of restitution may not exceed an amount the child and the parent or

guardian could reasonably be expected to pay or make. A child who participates in any work program under this part is considered an employee of the state for purposes of liability, unless otherwise provided by law.

b. The court may conduct judicial review hearings for a child placed on probation for the purpose of fostering accountability to the judge and compliance with other requirements, such as restitution and community service. The court may allow early termination of probation for a child who has substantially complied with the terms and conditions of probation.

c. If the conditions of the probation program or the postcommitment probation program are violated, the department or the state attorney may bring the child before the court on a petition alleging a violation of the program. Any child who violates the conditions of probation or postcommitment probation must be brought before the court if sanctions are sought. A child taken into custody under s. 985.207 for violating the conditions of probation or postcommitment probation shall be held in a consequence unit if such a unit is available. The child shall be afforded a hearing within 24 hours after being taken into custody to determine the existence of probable cause that the child violated the conditions of probation or postcommitment probation. A consequence unit is a secure facility specifically designated by the department for children who are taken into custody under s. 985.207 for violating probation or postcommitment probation, or who have been found by the court to have violated the conditions of probation or postcommitment probation. If the violation involves a new charge of delinquency, the child may be detained under s. 985.215 in a facility other than a consequence unit. If the child is not eligible for detention for the new charge of delinquency, the child may be held in the consequence unit pending a hearing and is subject to the time limitations specified in s. 985.215. If the child denies violating the conditions of probation or postcommitment probation, the court shall appoint counsel to represent the child at the child's request. Upon the child's admission, or if the court finds after a hearing that the child has violated the conditions of probation or postcommitment probation, the court shall enter an order revoking, modifying, or continuing probation or postcommitment probation. In each such case, the court shall enter a new disposition order and, in addition to the sanctions set forth in this paragraph, may impose any sanction the court could have imposed at the original disposition hearing. If the child is found to have violated the conditions of probation or postcommitment probation, the court may:

(I) Place the child in a consequence unit in that judicial circuit, if available, for up to 5 days for a first violation, and up to 15 days for a second or subsequent violation.

(II) Place the child on home detention with electronic monitoring. However, this sanction may be used only if a residential consequence unit is not available.

(III) Modify or continue the child's probation program or postcommitment probation program.

(IV) Revoke probation or postcommitment probation and commit the child to the department.

d. Notwithstanding s. 743.07 and paragraph (d), and except as provided in s. 985.31, the term of any order placing a child in a probation program must be until the child's 19th birthday unless he or she is released by the court, on the motion of an interested party or on its own motion.

2. Commit the child to a licensed child-caring agency willing to receive the child, but the court may not commit the child to a jail or to a facility used primarily as a detention center or facility or shelter.

3. Commit the child to the Department of Juvenile Justice at a *residential commitment* ~~restrictiveness~~ level defined in s. 985.03. Such commitment must be for the purpose of exercising active control over the child, including, but not limited to, custody, care, training, urine monitoring, and treatment of the child and release of the child into the community in a postcommitment nonresidential conditional release program. *If the child is eligible to attend public school following residential commitment and the court finds that the victim or a sibling of the victim in the case is or may be attending the same school as the child, the commitment order shall include a finding pursuant to the proceedings described in s. 985.23(1)(d).* If the child is not successful in the conditional release program, the department may use the transfer procedure under s. 985.404. Notwithstanding s. 743.07 and paragraph (d), and except as provided in s. 985.31, the term of the commitment must be until the child is discharged by the department or until he or she reaches the age of 21.

4. Revoke or suspend the driver's license of the child.

5. Require the child and, if the court finds it appropriate, the child's parent or guardian together with the child, to render community service in a public service program.

6. As part of the probation program to be implemented by the Department of Juvenile Justice, or, in the case of a committed child, as part of the community-based sanctions ordered by the court at the disposition hearing or before the child's release from commitment, order the child to make restitution in money, through a promissory note cosigned by the child's parent or guardian, or in kind for any damage or loss caused by the child's offense in a reasonable amount or manner to be determined by the court. The clerk of the circuit court shall be the receiving and dispensing agent. In such case, the court shall order the child or the child's parent or guardian to pay to the office of the clerk of the circuit court an amount not to exceed the actual cost incurred by the clerk as a result of receiving and dispensing restitution payments. The clerk shall notify the court if restitution is not made, and the court shall take any further action that is necessary against the child or the child's parent or guardian. A finding by the court, after a hearing, that the parent or guardian has made diligent and good faith efforts to prevent the child from engaging in delinquent acts absolves the parent or guardian of liability for restitution under this subparagraph.

7. Order the child and, if the court finds it appropriate, the child's parent or guardian together with the child, to participate in a community work project, either as an alternative to monetary restitution or as part of the rehabilitative or probation program.

8. Commit the child to the Department of Juvenile Justice for placement in a program or facility for serious or habitual juvenile offenders in accordance with s. 985.31. Any commitment of a child to a program or facility for serious or habitual juvenile offenders must be for an indeterminate period of time, but the time may not exceed the maximum term of imprisonment that an adult may serve for the same offense. The court may retain jurisdiction over such child until the child reaches the age of 21, specifically for the purpose of the child completing the program.

9. In addition to the sanctions imposed on the child, order the parent or guardian of the child to perform community service if the court finds that the parent or guardian did not make a diligent and good faith effort to prevent the child from engaging in delinquent acts. The court may also order the parent or guardian to make restitution in money or in kind for any damage or loss caused by the child's offense. The court shall determine a reasonable amount or manner of restitution, and payment shall be made to the clerk of the circuit court as provided in subparagraph 6.

10. Subject to specific appropriation, commit the juvenile sexual offender to the Department of Juvenile Justice for placement in a program or facility for juvenile sexual offenders in accordance with s. 985.308. Any commitment of a juvenile sexual offender to a program or facility for juvenile sexual offenders must be for an indeterminate period of time, but the time may not exceed the maximum term of imprisonment that an adult may serve for the same offense. The court may retain jurisdiction over a juvenile sexual offender until the juvenile sexual offender reaches the age of 21, specifically for the purpose of completing the program.

(2) Following a delinquency adjudicatory hearing pursuant to s. 985.228 and a delinquency disposition hearing pursuant to s. 985.23 which results in a commitment determination, the court shall, on its

own or upon request by the state or the department, determine whether the protection of the public requires that the child be placed in a program for serious or habitual juvenile offenders and whether the particular needs of the child would be best served by a program for serious or habitual juvenile offenders as provided in s. 985.31. The determination shall be made pursuant to ss. 985.03*(46)*~~(47)~~ and 985.23(3).

Section 25. Effective upon this act becoming a law and operating retroactively to July 1, 2000, paragraph (b) of subsection (1) of section 985.231, Florida Statutes, is amended to read:

985.231 Powers of disposition in delinquency cases.—

(1)

(b)*1.* When any child is adjudicated by the court to have committed a delinquent act and temporary legal custody of the child has been placed with a licensed child-caring agency or the Department of Juvenile Justice, the court shall order the ~~natural or adoptive~~ parents of such child, ~~including the natural father of such child born out of wedlock who has acknowledged his paternity in writing before the court, or the guardian of such child's estate, if possessed of assets that under law may be disbursed for the care, support, and maintenance of the child,~~ to pay fees to the department in the amount *of $5 per day that the child is under the care or supervision of the department in order to partially offset the* ~~not to exceed the actual~~ cost of the care, support, ~~and~~ maintenance*, and other usual and ordinary obligations of parents to provide for the needs of their children while* ~~of the child~~ in the recommended residential commitment level, unless the court makes a finding on the record that the parent or guardian of the child is indigent.

2. No later than the disposition hearing, the department shall provide the court with information concerning the actual cost of care, support, and maintenance of the child in the recommended residential commitment level and concerning the ability of the parent or guardian of the child to pay any fees. *If the court makes a finding of indigency, the parent or guardianship shall pay to the department a nominal subsistence fee of $2 per day that the child is committed outside the home or $1 per day if the child is otherwise supervised in lieu of other fees related to the parents' obligation for the child's cost of care. The nominal subsistence fee may only be waived or reduced if the court makes a finding that such payment would constitute a significant financial hardship. Such finding shall be in writing and shall contain a detailed description of the facts that led the court to make both the finding of indigency and the finding of significant financial hardship.* ~~As to each parent or guardian for whom the court makes a finding of indigency, the court may reduce the fees or waive the fees upon a showing by the parent or guardian of an inability to pay the full cost of the care, support, and maintenance of the child. If the court makes a finding of indigency or inability to pay the full cost of care, support, and maintenance of the child, the court shall order the parent or guardian to pay to the department a nominal subsistence fee on behalf of the child in the amount of at least $2 per day that the child is placed outside the home or at least $1 per day if the child is otherwise placed, unless the court makes a finding on the record that the parent or guardian would suffer a significant hardship if obligated for such amount.~~

3. In addition, the court may reduce the fees or waive the fees as to each parent or guardian if the court makes a finding on the record that the parent or guardian was the victim of the delinquent act or violation of law for which the child is subject to placement under this section and that the parent or guardian has cooperated in the investigation and prosecution of the offense. ~~As to each parent or guardian, the court may reduce the fees or waive the fees if the court makes a finding on the record that the parent or guardian has made a diligent and good faith effort to prevent the child from engaging in the delinquent act or violation of law.~~

4. All orders committing a child to a residential commitment program shall include specific findings as to what fees are ordered, reduced, or waived. If the court fails to enter an order as required by this paragraph, it shall be presumed that the court intended the parent or guardian to pay fees to the department in an amount *of $5 per day related to* ~~not to exceed the actual cost of~~ the care, support, and maintenance of the child. With regard to a child who reaches the age of 18 prior to the disposition hearing, the court may elect to direct an order required by this paragraph to such child, rather than the parent or guardian. With regard to a child who reaches the age of 18 while in the custody of the department, the court may, upon proper motion of any party, hold a hearing as to whether any party should be further obligated respecting the payment of fees. *When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.*

5. The clerk of the circuit court shall act as a depository for these fees. Upon each payment received, the clerk of the circuit court shall receive a fee from the total payment of 3 percent of any payment made except that no fee shall be less than $1 nor more than $5 per payment made. This fee shall serve as a service charge for the administration, management, and maintenance of each payment. At the end of each month, the clerk of the circuit court shall send all money collected under this section to the state Grants and Donations Trust Fund.

6. The parent or guardian shall provide to the department the parent or guardian's name, address, social security number, state of birth, and driver's license number or identification card number and sufficient financial information for the department to be able to determine the parent or guardian's ability to pay. If the parent or guardian refuses to provide the department with any identifying information or financial information, the court shall order the parent to comply and may pursue contempt of court sanctions for failure to comply.

7. The department may employ a collection agency for the purpose of receiving, collecting, and managing the payment of unpaid and delinquent fees. The collection agency must be registered and in good standing under chapter 559. The department may pay to the collection agency a fee from the amount collected under the claim or may authorize the agency to deduct the fee from the amount collected. The department may also pay for collection services from available authorized funds.

8. The department may enter into agreements with parents or guardians to establish a schedule of periodic payments if payment of the obligation in full presents an undue hardship. Any such agreement may provide for payment of interests consistent with prevailing loan rates.

9. The Department of Juvenile Justice shall provide to the payor documentation of any amounts paid by the payor to the Department of Juvenile Justice on behalf of the child. All payments received by the department pursuant to this subsection shall be deposited in the state Grants and Donations Trust Fund.

10. Neither the court nor the department may extend the child's length of stay in placement care solely for the purpose of collecting fees.

Section 26. Effective upon this act becoming a law and operating retroactively to July 1, 2000, paragraph (d) of subsection (4) of section 985.233, Florida Statutes, is amended to read:

985.233 Sentencing powers; procedures; alternatives for juveniles prosecuted as adults.—

(4) SENTENCING ALTERNATIVES.—

(d)*1.* Recoupment of cost of care in juvenile justice facilities.—When the court orders commitment of a child to the Department of Juvenile Justice for treatment in any of the department's programs for children, the court shall order the ~~natural or adoptive~~ parents of such child~~, including the natural father of such child born out of wedlock who has acknowledged his paternity in writing before the court, or guardian of such child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child,~~ to pay fees in the amount *of $5 per day that the child is under the care or supervision of the department in order to partially offset the* ~~not to exceed the actual~~ cost of the care, support, ~~and~~ maintenance*, and other usual and ordinary obligations of parents to provide for the needs of their children* ~~of the child~~, unless the court makes a finding on the record that the parent or legal guardian of the child is indigent.

2. Prior to commitment, the department shall provide the court with information concerning the actual cost of care in the recommended residential commitment level and concerning the ability of the parent or guardian of the child to pay specified fees. *If the court makes a finding of indigency, the parent or guardian shall pay to the department a nominal subsistence fee of $2 per day that the child is committed outside the home or $1 per day if the child is otherwise supervised in lieu of other fees related to the parent's obligation for the child's cost of care. The nominal subsistence fee may only be waived or reduced if the court makes a finding that such payment would constitute a significant financial hardship. Such finding shall be in writing and shall contain a detailed description of the facts that led the court to make both the finding of indigency and the finding of significant financial hardship.* ~~As to each parent or guardian for whom the court makes a finding of indigency, the court may reduce the fees or waive the fees upon a showing by the parent or guardian of an inability to pay the full cost of the care, support, and maintenance of the child. If the court makes a finding of indigency or inability to pay the full cost of care, support, and maintenance of the child, the court shall order the parent or guardian to pay the department a nominal subsistence fee on behalf of the child in the amount of at least $2 per day that the child is placed outside the home or at least $1 per day if the child is otherwise placed, unless the court makes a finding on the record that the parent or guardian would suffer a significant hardship if obligated for such amount.~~

3. In addition, the court may reduce the fees or waive the fees as to each parent or guardian if the court makes a finding on the record that the parent or guardian was the victim of the delinquent act or violation of law for which the child is subject to commitment under this section and that the parent or guardian has cooperated in the investigation and prosecution of the offense. ~~As to each parent or guardian, the court may reduce the fees or waive the fees if the court makes a finding on the record that the parent or guardian has made a diligent and good faith effort to prevent the child from engaging in the delinquent act or violation of law.~~ When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.

4. All orders committing a child to a residential commitment program shall include specific findings as to what fees are ordered, reduced, or waived. If the court fails to enter an order as required by this paragraph, it shall be presumed that the court intended the parent or guardian to pay fees to the department in an amount *of $5 per day related to* ~~not to exceed the actual cost of~~ the care, support, and maintenance of the child. With regard to a child who reaches the age of 18 prior to the disposition hearing, the court may elect to direct an order required by this paragraph to such child, rather than the parent or guardian. With regard to a child who reaches the age of 18 while in the custody of the department, the court may, upon proper motion of any party, hold a hearing as to whether any party should be further obligated respecting the payment of fees.

5. The clerk of the circuit court shall act as a depository for these fees. Upon each payment received, the clerk of the circuit court shall receive a fee from the total payment of 3 percent of any payment made except that no fee shall be less than $1 nor more than $5 per payment made. This fee shall serve as a service charge for the administration, management, and maintenance of each payment. At the end of each month, the clerk of the circuit court shall send all money collected under this section to the state Grants and Donations Trust Fund.

6. The parent or guardian shall provide to the department the parent or guardian's name, address, social security number, date of birth, and driver's license number or identification card number and sufficient financial information for the department to be able to determine the parent or guardian's ability to pay. If the parent or guardian refuses to provide the department with any identifying information or financial information, the court shall order the parent to comply and may pursue contempt of court sanctions for failure to comply.

7. The department may employ a collection agency for the purpose of receiving, collecting, and managing the payment of unpaid and delinquent fees. The collection agency must be registered and in good standing under chapter 559. The department may pay to the collection agency a fee from the amount collected under the claim or may authorize the agency to deduct the fee from the amount collected. The department may also pay for collection services from available authorized funds. The Department of Juvenile Justice shall provide to the payor documentation of any amounts paid by the payor to the Department of Juvenile Justice on behalf of the child. All payments received by the department pursuant to this subsection shall be deposited in the state Grants and Donations Trust Fund.

8. Neither the court nor the department may extend the child's length of stay in commitment care solely for the purpose of collecting fees.

Section 27. Paragraph (f) is added to subsection (4) of section 985.233, Florida Statutes, to read:

985.233 Sentencing powers; procedures; alternatives for juveniles prosecuted as adults.—

(4) SENTENCING ALTERNATIVES.—

(f) School attendance.—If the child is attending or is eligible to attend public school and the court finds that the victim or a sibling of the victim in the case is attending or may attend the same school as the child, the court placement order shall include a finding pursuant to the proceeding described in s. 985.23(1)(d).

It is the intent of the Legislature that the criteria and guidelines in this subsection are mandatory and that a determination of disposition under this subsection is subject to the right of the child to appellate review under s. 985.234.

Section 28. Subsection (2) of section 985.305, Florida Statutes, is amended to read:

985.305 Early delinquency intervention program; criteria.—

(2) The early delinquency intervention program shall consist of intensive residential treatment in a secure facility for 7 days to 6 weeks, followed by 6 to 9 months of *additional services* ~~conditional release~~. An early delinquency intervention program facility shall be designed to accommodate the placement of a maximum of 10 children, except that the facility may accommodate up to 2 children in excess of that maximum if the additional children have previously been released from the residential portion of the program and are later found to need additional residential treatment.

Section 29. Section 985.3065, Florida Statutes, is amended to read:

985.3065 Prearrest *or postarrest* diversion programs.—

(1) A law enforcement agency or school district, in cooperation with the state attorney, may establish a prearrest *or postarrest* diversion program.

(2) As part of the prearrest *or postarrest* diversion program, a child who is alleged to have committed a delinquent act may be required to surrender his or her driver's license, or refrain from applying for a driver's license, for not more than 90 days. If the child fails to comply with the requirements of the program, the state attorney may notify the Department of Highway Safety and Motor Vehicles in writing to suspend the child's driver's license for a period that may not exceed 90 days.

(3) The prearrest or postarrest diversion program may, upon agreement of the agencies that establish the program, provide for the expunction of the nonjudicial arrest record of a minor who successfully completes such a program pursuant to s. 943.0582.

Section 30. Paragraph (e) of subsection (3) and paragraph (a) of subsection (4) of section 985.31, Florida Statutes, are amended to read:

985.31 Serious or habitual juvenile offender.—

(3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND TREATMENT.—

(e) After a child has been adjudicated delinquent pursuant to s. 985.228, the court shall determine whether the child meets the criteria for a serious or habitual juvenile offender pursuant to s. 985.03*(48)*~~(47)~~. If the court determines that the child does not meet such criteria, the provisions of s. 985.231(1) shall apply.

(4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.—

(a) Pursuant to the provisions of this section, the department shall implement the comprehensive assessment instrument for the treatment needs of serious or habitual juvenile offenders and for the assessment, which assessment shall include the criteria under s. 985.03*(48)*~~(47)~~ and shall also include, but not be limited to, evaluation of the child's:

1. Amenability to treatment.

2. Proclivity toward violence.

3. Tendency toward gang involvement.

4. Substance abuse or addiction and the level thereof.

5. History of being a victim of child abuse or sexual abuse, or indication of sexual behavior dysfunction.

6. Number and type of previous adjudications, findings of guilt, and convictions.

7. Potential for rehabilitation.

Section 31. Subsection (4) of section 985.3155, Florida Statutes, is amended to read:

985.3155 Multiagency plan for vocational education.—

(4) The plan must also address strategies to facilitate involvement of business and industry in the design, delivery, and evaluation of vocational programming in juvenile justice commitment facilities and *conditional release* ~~aftercare~~ programs, including apprenticeship and work experience programs, mentoring and job shadowing, and other strategies that lead to postrelease employment. Incentives for business involvement, such as tax breaks, bonding, and liability limits should be investigated, implemented where appropriate, or recommended to the Legislature for consideration.

Section 32. Subsections (4) and (5) of section 985.316, Florida Statutes, are amended to read:

985.316 Conditional release.—

(4) ~~After a youth is released from a residential commitment program, conditional release services may be delivered through either minimum-risk nonresidential commitment restrictiveness programs or postcommitment probation.~~ A juvenile under ~~minimum-risk~~ nonresidential commitment placement will continue to be on commitment status and subject to the transfer provision under s. 985.404. ~~A juvenile on postcommitment probation will be subject to the provisions under s. 985.231(1)(a).~~

(5) Participation in the educational program by students of compulsory school attendance age pursuant to s. 232.01 is mandatory for juvenile justice youth on *conditional release* ~~aftercare~~ or postcommitment *probation* ~~community control~~ status. A student of noncompulsory school-attendance age who has not received a high school diploma or its equivalent must participate in the educational program. A youth who has received a high school diploma or its equivalent and is not employed must participate in workforce development or other vocational or technical education or attend a community college or a university while in the program, subject to available funding.

Section 33. Subsections (3) and (4) of section 985.404, Florida Statutes, are amended to read:

985.404 Administering the juvenile justice continuum.—

(3)*(a)* The department shall develop or contract for diversified and innovative programs to provide rehabilitative treatment, including early intervention and prevention, diversion, comprehensive intake, case management, diagnostic and classification assessments, individual and family counseling, shelter care, diversified detention care emphasizing alternatives to secure detention, diversified probation, halfway houses, foster homes, community-based substance abuse treatment services, community-based mental health treatment services, community-based residential and nonresidential programs, environmental programs, and programs for serious or habitual juvenile offenders. Each program shall place particular emphasis on reintegration and conditional release for all children in the program.

(b) The Legislature intends that, whenever possible and reasonable, the department make every effort to consider qualified faith-based organizations on an equal basis with other private organizations when selecting contract providers of services to juveniles.

(c) The department may contract with faith-based organizations on the same basis as any other nongovernmental provider, without impairing the religious character of such organizations. Any faith-based organization may act as a contractor in the delivery of services under any program, on the same basis as any other nongovernmental provider, without impairing the religious character of such organization. A faith-based organization, which has entered into a contract with the department, shall retain its independence from state and local governments with regard to control over the definition, development, practice, and expression of its religious beliefs. The department shall not require a faith-based organization to alter its form of internal government or remove religious art, icons, scripture, or other symbols in order to be eligible to contract as a provider.

(d) The department may include in any services contract a requirement that providers prepare plans describing their implementation of paragraphs (a) and (c) of this subsection. A failure to deliver such plans, if required, may be considered by the department as a breach of the contract that may result in cancellation of the contract.

(4) The department may transfer a child, when necessary to appropriately administer the child's commitment, from one facility or program to another facility or program operated, contracted, subcontracted, or designated by the department, including a postcommitment ~~minimum-risk~~ nonresidential conditional release program. The department shall notify the court that committed the child to the department and any attorney of record, in writing, of its intent to transfer the child from a commitment facility or program to another facility or program of a higher or lower restrictiveness level. The court that committed the child may agree to the transfer or may set a hearing to review the transfer. If the court does not respond within 10 days after receipt of the notice, the transfer of the child shall be deemed granted.

Section 34. Section 985.412, Florida Statutes, is amended to read:

985.412 Quality assurance *and cost-effectiveness*.—

(1)~~(a)~~ It is the intent of the Legislature *that the department* ~~to~~:

(a)~~1.~~ Ensure that information be provided to decisionmakers *in a timely manner* so that resources are allocated to programs of the department which achieve desired performance levels.

(b)~~2.~~ Provide information about the cost of such programs and their differential effectiveness so that the quality of such programs can be compared and improvements made continually.

(c)~~3.~~ Provide information to aid in developing related policy issues and concerns.

(d)~~4.~~ Provide information to the public about the effectiveness of such programs in meeting established goals and objectives.

(e)~~5.~~ Provide a basis for a system of accountability so that each client is afforded the best programs to meet his or her needs.

(f)~~6.~~ Improve service delivery to clients.

(g)~~7.~~ Modify or eliminate activities that are not effective.

(2)~~(b)~~ As used in this *section* ~~subsection~~, the term:

(a)~~1.~~ "Client" means any person who is being provided treatment or services by the department or by a provider under contract with the department.

(b)~~2.~~ "Program component" means an aggregation of generally related objectives which, because of their special character, related workload, and interrelated output, can logically be considered an entity for purposes of organization, management, accounting, reporting, and budgeting.

(c)~~3.~~ "Program effectiveness" means the ability of the program to achieve desired client outcomes, goals, and objectives.

(3) The department shall annually collect and report cost data for every program operated or contracted by the department. The cost data shall conform to a format approved by the department and the Legislature. Uniform cost data shall be reported and collected for state-operated and contracted programs so that comparisons can be made among programs. The department shall ensure that there is accurate cost accounting for state-operated services including market-equivalent rent and other shared cost. The cost of the educational program provided to a residential facility shall be reported and included in the cost of a program. The department shall submit an annual cost report to the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of each house of the Legislature, the appropriate substantive and fiscal committees of each house of the Legislature, and the Governor, no later than December 1 of each year. Cost-benefit analysis for educational programs will be developed and implemented in collaboration with and in cooperation with the Department of Education, local providers, and local school districts. Cost data for the report shall include data collected by the Department of Education for the purposes of preparing the annual report required by s. 230.23161(21).

(4)(a) The Department of Juvenile Justice, in consultation with the Office of Economic and Demographic Research, and contract service providers, shall develop a cost-effectiveness model and apply the model to each commitment program. Program recidivism rates shall be a component of the model. The cost-effectiveness model shall compare program costs to client outcomes and program outputs. It is the intent of the Legislature that continual development efforts take place to improve the validity and reliability of the cost-effectiveness model and to integrate the standard methodology developed under s. 985.401(4) for interpreting program outcome evaluations.

(b) The department shall rank commitment programs based on the cost-effectiveness model and shall submit a report to the appropriate substantive and fiscal committees of each house of the Legislature by December 31 of each year.

(c) Based on reports of the department on client outcomes and program outputs and on the department's most recent cost-effectiveness rankings, the department may terminate a program operated by the department or a provider if the program has failed to achieve a minimum threshold of program effectiveness. This paragraph does not preclude the department from terminating a contract as provided under s. 985.412 or as otherwise provided by law or contract, and does not limit the department's authority to enter into or terminate a contract.

(d) In collaboration with the Office of Economic and Demographic Research, and contract service providers, the department shall develop a work plan to refine the cost-effectiveness model so that the model is consistent with the performance-based program budgeting measures approved by the Legislature to the extent the department deems appropriate. The department shall notify the Office of Program Policy Analysis and Government Accountability of any meetings to refine the model.

(e) Contingent upon specific appropriation, the department, in consultation with the Office of Economic and Demographic Research, and contract service providers, shall:

1. Construct a profile of each commitment program that uses the results of the quality assurance report required by s. 985.412, the cost-effectiveness report required in this subsection, and other reports available to the department.

2. Target, for a more comprehensive evaluation, any commitment program that has achieved consistently high, low, or disparate ratings in the reports required under subparagraph 1.

3. Identify the essential factors that contribute to the high, low, or disparate program ratings.

4. Use the results of these evaluations in developing or refining juvenile justice programs or program models, client outcomes and program outputs, provider contracts, quality assurance standards, and the cost-effectiveness model.

(5)~~(c)~~ The department shall:

(a)~~1.~~ Establish a comprehensive quality assurance system for each program operated by the department or operated by a provider under contract with the department. Each contract entered into by the department must provide for quality assurance.

(b)~~2.~~ Provide operational definitions of and criteria for quality assurance for each specific program component.

(c)~~3.~~ Establish quality assurance goals and objectives for each specific program component.

(d)~~4.~~ Establish the information and specific data elements required for the quality assurance program.

(e)~~5.~~ Develop a quality assurance manual of specific, standardized terminology and procedures to be followed by each program.

(f)~~6.~~ Evaluate each program operated by the department or a provider under a contract with the department and establish minimum thresholds for each program component. If a provider fails to meet the established minimum thresholds, such failure shall cause the department to cancel the provider's contract unless the provider achieves compliance with minimum thresholds within 6 months or unless there are documented extenuating circumstances. In addition, the department may not contract with the same provider for the canceled service for a period of 12 months. If a department-operated program fails to meet the established minimum thresholds, the department must take necessary and sufficient steps to ensure and document program changes to achieve compliance with the established minimum thresholds. If the department-operated program fails to achieve compliance with the established minimum thresholds within 6 months and if there are no documented extenuating circumstances, the department must notify the Executive Office of the Governor and the Legislature of the corrective action taken. Appropriate corrective action may include, but is not limited to:

1.~~a.~~ Contracting out for the services provided in the program;

2.~~b.~~ Initiating appropriate disciplinary action against all employees whose conduct or performance is deemed to have materially contributed to the program's failure to meet established minimum thresholds;

3.~~c.~~ Redesigning the program; or

4.~~d.~~ Realigning the program.

The department shall submit an annual report to the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of each house of the Legislature, the appropriate substantive and fiscal committees of each house of the Legislature, and the Governor, no later than February 1 of each year. The annual report must contain, at a minimum, for each specific program component: a comprehensive description of the population served by the program; a specific description of the services provided by the program; cost; a comparison of expenditures to federal and state funding; immediate and long-range concerns; and recommendations to maintain, expand, improve, modify, or eliminate each program component so that changes in services lead to enhancement in program quality. The department shall ensure the reliability and validity of the information contained in the report.

(6)~~(2)~~ The department shall collect and analyze available statistical data for the purpose of ongoing evaluation of all programs. The department shall provide the Legislature with necessary information and reports to enable the Legislature to make informed decisions regarding the effectiveness of, and any needed changes in, services, programs, policies, and laws.

(7) No later than November 1, 2001, the department shall submit a proposal to the Legislature concerning funding incentives and disincentives for the department and for providers under contract with the department. The recommendations for funding incentives and disincentives shall be based upon both quality assurance performance and cost-effectiveness performance. The proposal should strive to achieve consistency in incentives and disincentives for both department-operated and contractor-provided programs. The department may include recommendations for the use of liquidated damages in the proposal; however, the department is not presently authorized to contract for liquidated damages.

Section 35. Subsection (1) of section 985.417, Florida Statutes, is amended to read:

985.417 Transfer of children from the Department of Corrections to the Department of Juvenile Justice.—

(1) When any child under the age of 18 years is sentenced by any court of competent jurisdiction to the Department of Corrections, the Secretary of Juvenile Justice may transfer such child to the department for the remainder of the sentence, or until his or her 21st birthday, whichever results in the shorter term. If, upon such person's attaining his or her 21st birthday, the sentence has not terminated, he or she shall be transferred to the Department of Corrections for placement in a youthful offender program*, transferred* ~~or, with the commission's consent,~~ to the supervision of the department, or be given any other transfer that may lawfully be made.

Section 36. Subsections (2) and (3) of section 14 of chapter 2000-134, Laws of Florida, are amended to read:

Section 14. Juvenile Arrest and Monitor Unit pilot program; creation; operation; duties of Orange County Sheriff's Office and Department of Juvenile Justice.—

(2) Under the pilot program created in subsection (1), the Orange County Sheriff's Office shall monitor selected juvenile offenders on *probation* ~~community control~~ in Orange County. The Department of Juvenile Justice shall recommend juvenile offenders on *probation* ~~community control~~, post-commitment *probation* ~~community control~~, and *conditional release* ~~aftercare~~ to be supervised under this program. The Orange County Sheriff's Office has the sole right and authority to accept or reject any or all juvenile offenders who have been recommended by the Department of Juvenile Justice to the Juvenile Arrest and Monitor Unit. The sheriff's office shall determine the number of juvenile offenders it will supervise. The Department of Juvenile Justice shall monthly recommend juvenile offenders to the sheriff's office, to ensure that the program operates at maximum capacity as determined by the sheriff's office. The Juvenile Arrest and Monitor Unit shall supervise up to 25 juveniles per deputy assigned to the unit. The Juvenile Arrest and Monitor Unit will accept juvenile offenders who have been determined by the Department of Juvenile Justice to be on *probation* ~~community control~~, post-commitment *probation* ~~community control~~, and *conditional release* ~~aftercare~~. The Orange County Sheriff's Office shall use all statutorily available means, ranging from a verbal warning to arrest and incarceration, to effect offenders' compliance with the terms of *probation* ~~community control~~.

(3) The Department of Juvenile Justice shall maintain all files and paperwork relating to all juveniles on *probation* ~~community control~~, post-commitment *probation* ~~community control~~, and *conditional release* ~~aftercare~~ who are supervised under this pilot program as required by the Florida Statutes.

Section 37. Section 985.42, Florida Statutes, is created to read:

985.42 Inspector general; inspectors.—The secretary is authorized to designate persons holding law enforcement certification within the Office of the Inspector General as law enforcement officers, as necessary, to enforce any criminal law, and conduct any criminal investigation that relates to state-operated programs or state-operated facilities over which the department has jurisdiction. Persons designated as law enforcement officers must be certified pursuant to s. 943.1395.

Section 38. Effective upon this act becoming a law, section 985.422, Florida Statutes, is created to read:

985.422 Maintenance of state-owned facilities.—

(1) If the terms of a provider contract require or allow the department to withhold a portion of the provider's payment to establish a fund for significant maintenance, repairs, or upgrades to state-owned or leased facilities, the department shall deposit all such withheld payments into the Administrative Trust Fund, which shall be used for such purposes pursuant to lawful appropriation.

(2) This section is repealed July 1, 2002.

Section 39. Paragraph (b) of subsection (4) of section 985.401, Florida Statutes, is amended to read:

985.401 Juvenile Justice Advisory Board.—

(4)

(b) In developing the standard methodology, the board shall consult with the department, the Office of Economic and Demographic Research, contract service providers, and other interested parties. It is the intent of the Legislature that this effort result in consensus recommendations, and, to the greatest extent possible, integrate the goals and legislatively approved measures of performance-based program budgeting provided in chapter 94-249, Laws of Florida, *and* the quality assurance program provided in s. 985.412~~, and the cost-effectiveness model provided in s. 985.404(11)~~. The board shall notify the Office of Program Policy Analysis and Government Accountability of any meetings to develop the methodology.

Section 40. *(1) The "Safety and Security Best Practices" developed by the Office of Program Policy Analysis and Government Accountability and approved by the Commissioner of Education shall be reviewed annually by the Office of Program Policy Analysis and Government Accountability and the Partnership for School Safety and Security established in s. 229.8347, Florida Statutes, and each entity shall make recommendations to the Commissioner of Education for the addition, revision, or deletion of best practices.*

(2) Each school district shall use the Safety and Security Best Practices to conduct a self-assessment of the school districts' current safety and security practices. Based on these self-assessment findings, the superintendent of each school district shall provide recommendations to the school board which identify strategies and activities that the school district should implement in order to improve school safety and security.

(3) By July 1, 2002, and annually thereafter, each school board must receive the self-assessment results at a publicly notice school board meeting to provide the public an opportunity to hear the school board members discuss and take action on the report findings. Each superintendent shall report the self-assessment results and school board action to the Commissioner of Education within 30 days following the school board meeting.

Section 41. *Subsections (10) and (11) of section 985.404, Florida Statutes, are repealed.*

Section 42. Except as otherwise provided herein, this act shall take effect October 1, 2001.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to juvenile justice; amending s. 20.316, F.S.; revising the juvenile justice continuum to include community-based residential commitment programs; deleting a requirement that information systems of the Department of Juvenile Justice support the Juvenile Justice Advisory

Board; amending s. 228.041, F.S.; authorizing additional teacher planning days for nonresidential programs of the Department of Juvenile Justice upon the request of the provider; amending s. 230.23161, F.S.; providing legislative goals with respect to education within department programs; amending s. 230.235, F.S.; requiring schools to adopt a policy of zero tolerance for victimization of students; requiring each school district to enter into an agreement with the Department of Juvenile Justice for the purpose of protecting victims; amending s. 231.0851, F.S.; requiring principals to take certain actions when a student has been a victim of a violent crime perpetrated by another student; providing ineligibility for certain performance pay policy incentives under certain circumstances; creating s. 232.265, F.S.; requiring the Department of Juvenile Justice to provide certain notice to school districts under certain circumstances; prohibiting certain persons from attending certain schools or riding on certain school buses under certain circumstances; providing for attending alternate schools; assigning responsibility for certain transportation under certain circumstances; amending s. 435.04, F.S.; revising requirements for level-2 screening standards for persons in positions of trust or responsibility; providing requirements for background investigations for employees of the Department of Juvenile Justice; limiting the department's authority to provide an exemption; creating s. 943.0582, F.S.; providing for prearrest, postarrest, or teen court diversion program expunction in certain circumstances; providing for retroactive effect; amending s. 960.001, F.S.; providing an additional guideline for attendance of a victim at the same school as a juvenile defendant; amending s. 985.228, F.S.; requiring certain court orders to include certain findings; amending s. 985.23, F.S.; requiring a court to determine the appropriateness of a no contact order under certain circumstances; amending s. 943.325, F.S.; requiring DNA analysis of persons who have committed certain offenses and who are transferred to the state under the Interstate Compact on Juveniles; amending ss. 984.01 and 985.01, F.S., relating to personnel standards and screening; requiring the Department of Juvenile Justice and the Department of Children and Family Services to ensure that certain contractors are of good moral character; amending s. 985.02, F.S.; clarifying legislative intent concerning the responsibilities of parents, custodians, and guardians of children in the juvenile justice system; amending s. 985.03, F.S.; revising definitions; defining the term "respite" for purposes of ch. 985, F.S.; amending s. 985.04, F.S.; providing that certain records maintained by the Department of Juvenile Justice need only be retained for 25 years; expanding the circumstances under which certain juvenile records are not considered confidential and exempt solely because of age; amending ss. 985.207 and 985.213, F.S.; clarifying circumstances under which a juvenile is taken into custody and assessed for placement; requiring the parent or guardian to provide certain information; amending s. 985.21, F.S.; requiring the parent or guardian of a juvenile to provide certain information to the juvenile probation officer; amending s. 985.215, F.S.; revising provisions related to the collection of certain fees; authorizing placing a juvenile into secure detention under certain circumstances for a specified period; authorizing the clerk of the circuit court to act as depository for fees; requiring the parent or guardian to provide certain information; providing for retroactive effect; amending s. 985.227, F.S.; revising requirements for state attorneys with respect to reporting direct-file guidelines; amending ss. 985.231 and 985.233, F.S.; requiring a court placement order or a commitment order to include certain findings; revising certain requirements for testing a juvenile for the use of alcohol or controlled substances; revising provisions related to the collection of certain fees; authorizing the clerk of the circuit court to act as depository for fees; requiring the parent or guardian to provide certain information; providing for retroactive effect; amending s. 985.305, F.S.; revising services provided under the early delinquency intervention program; amending s. 985.3065, F.S.; providing for postarrest diversion programs; providing for expunction of records; amending s. 985.31, F.S., relating to serious or habitual juvenile offenders; conforming provisions to changes made by the act; amending s. 985.3155, F.S.; revising requirements for the multiagency plan for vocational education; amending s. 985.316, F.S.; revising conditions under which a juvenile may be released on conditional release; amending s. 985.404, F.S.; providing legislative intent with regard to contracting with faith-based organizations that provide services to juveniles; clarifying conditions under which a juvenile may be transferred; deleting language relating to the collection and reporting of cost data and program ranking; amending s. 985.412, F.S.; adding requirements relating to the collection and reporting of cost data and program ranking; requiring the Department of Juvenile Justice to submit proposals for funding incentives and disincentives based upon quality assurance performance and cost-effectiveness performance to the Legislature by a date certain; amending s. 985.417, F.S.; revising conditions for transferring a juvenile from the Department of Corrections to the supervision of the Department of Juvenile Justice; amending s. 14 of ch. 2000-134, Laws of Florida; revising requirements for monitoring and supervising juvenile offenders under a pilot program; creating s. 985.42, F.S.; authorizing the secretary to designate certain employees as law enforcement officers; creating s. 985.422, F.S.; authorizing the deposit of repair and maintenance funds into the Administrative Trust Fund; amending s. 985.401, F.S., to conform; requiring the Office of Program Policy Analysis and Government Accountability to annually review certain safety and security best practices; requiring school districts to use such practices to conduct certain assessments; requiring school district superintendents to make certain recommendations to school boards based on such assessments; requiring school boards to hold public meetings on the assessments and recommendations; repealing s. 985.404(10) and (11), F.S., relating to an annual cost data collection and reporting program of the Department of Juvenile Justice and cost-effectiveness model development and application to commitment programs of the department; providing effective dates.

Rep. Barreiro moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/CS/HB 267. The vote was:

Session Vote Sequence: 340

Yeas—118

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

Nays—None

Votes after roll call:
Yeas—Bennett

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

On motion by Rep. Byrd, the House moved to the consideration of CS/HB 337.

CS/HB 337—A bill to be entitled An act relating to public libraries; amending s. 257.17, F.S.; extending the repeal date of a provision authorizing operating grants; requiring the Division of Library and Information Services to facilitate the extension of free library services through interlocal agreement; requiring reports; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 341

Yeas—119

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

CS/HB 345—A bill to be entitled An act relating to sports industry economic development projects; amending s. 212.20, F.S.; providing for the Department of Revenue to distribute sales tax reimbursements to certified sports industry economic development projects under certain circumstances; amending s. 213.053, F.S.; extending the current information sharing with the Office of Tourism, Trade, and Economic Development to include the sales tax reimbursement program for certified sports industry economic development projects; creating s. 288.113, F.S.; creating a tax reimbursement program for certified sports industry economic development projects; providing legislative findings and declarations; providing definitions; providing eligibility criteria for amateur sports businesses; prescribing the terms and amounts of tax reimbursements; providing a certification procedure, to be established and administered by the Office of Tourism, Trade, and Economic Development; providing for periodic recertification; abating or reducing funding in specified circumstances; providing a maximum number of years for which an amateur sports business may be certified; providing for decertification; providing a penalty for falsifying an application; providing for a tax reimbursement agreement and prescribing terms of the agreement; providing for annual claims for reimbursement; providing duties of the Department of Revenue; providing for administration of the program; providing for recordkeeping and submission of an annual report to the Legislature; amending s. 288.1229, F.S.; providing an additional purpose for which the Office of Tourism, Trade, and Economic Development may authorize a direct-support organization to assist the office; providing for the creation of new jobs in this state; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 342

Yeas—116

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

Nays—None

Votes after roll call:
Yeas—Lynn

So the bill passed, as amended, and was immediately certified to the Senate.

CS/HB 455—A bill to be entitled An act relating to mortgage brokering and lending; amending s. 494.001, F.S.; defining the term "principal representative"; creating s. 494.00295, F.S.; providing license renewal educational requirements for licensees and principal representatives; amending s. 494.00311, F.S.; expanding the scope of mortgage business schools to include training for certain other persons; amending s. 494.0034, F.S.; adding continuing education requirements for mortgage broker license renewal; amending s. 494.0035, F.S.; requiring brokerage experience requirements for principal brokers; amending s. 494.0061, F.S.; providing educational requirements for mortgage lenders and principal representatives; requiring the designation of a principal representative; requiring testing of such persons; amending s. 494.0062, F.S.; providing educational requirements for correspondent mortgage lenders; requiring the designation of a principal representative; requiring the testing of such persons; amending s. 494.0064, F.S.; requiring licensees to submit certification of completion of certain educational requirements by certain persons; amending s. 494.0067, F.S.; requiring licensees to require loan originators and associates to complete certain continuing education programs; requiring licensees to maintain certain records; providing effective dates.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 343

Yeas—112

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

Nays—4

Haridopolos	Hart	Kyle	Mack

Votes after roll call:
Yeas to Nays—Baker

So the bill passed, as amended, and was immediately certified to the Senate.

On motion by Rep. Lee, consideration of **HB 457** was temporarily postponed under Rule 11.10.

On motion by Rep. Baker, consideration of **HB 575** was temporarily postponed under Rule 11.10.

On motion by Rep. Byrd, the rules were waived and the House moved to the order of—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for CS for SB 1346 and CS for SB 1568; passed CS for CS for SB 1880, as amended; passed CS for SB 2174; passed SBs 1148 and 1766, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committees on Appropriations, Children and Families and Senator Saunders—

CS for CS for SB 1346—A bill to be entitled An act relating to behavioral health care service; amending s. 394.66, F.S.; providing legislative intent; creating s. 394.741, F.S.; requiring the Agency for Health Care Administration and the Department of Children and Family Services to accept accreditation in lieu of its administrative and program monitoring under certain circumstances; amending s. 394.90, F.S.; requiring the Agency for Health Care Administration to accept accreditation in lieu of its onsite licensure reviews; amending s. 397.411, F.S.; requiring the Department of Children and Family Services to accept accreditation in lieu of its onsite licensure reviews; amending s. 397.403, F.S.; conforming provisions; creating s. 394.499, F.S.; authorizing the Department of Children and Family Services, in consultation with the Agency for Health Care Administration, to establish children's behavioral crisis unit demonstration models to provide integrated emergency mental health and substance abuse services to persons under 18 years of age at facilities licensed as children's crisis stabilization units; providing for standards, procedures, and requirements for services; providing eligibility criteria; requiring the department to report on the initial demonstration models; providing for expanding the demonstration models; providing for independent evaluation and report; providing rulemaking authority; providing an effective date.

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

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

CS for SB 1568—A bill to be entitled An act relating to health care service programs; amending s. 641.51, F.S.; requiring that only certain physicians licensed in this state may render adverse determinations for health maintenance organizations and prepaid health clinics; clarifying the authority of the Board of Medicine and the Board of Osteopathic Medicine; providing an effective date.

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

By the Committees on Judiciary, Commerce and Economic Opportunities and Senator Klein—

CS for CS for SB 1880—A bill to be entitled An act relating to corporations; amending s. 607.01401, F.S.; redefining the term "electronic transmission" to include telegrams, cablegrams, telephone transmissions, and transmissions through the Internet for purposes of proxy voting; amending s. 607.0722, F.S.; specifying those persons who may vote on behalf of a shareholder; authorizing the appointment of a proxy by electronic transmission; deleting provisions limiting the period during which an appointment of proxy is irrevocable; authorizing the use of certain copies or reproductions in lieu of the original writing or electronic transmission; authorizing a corporation to adopt bylaws authorizing additional procedures for shareholders to use in exercising certain rights; amending s. 15.16, F.S.; authorizing the department to discount a filing fee in an amount equal to the convenience charge imposed for an electronic record filing by way of a contractor; amending s. 607.193, F.S.; waiving the charge for late filings of supplemental corporate fees when the business entity did not receive the uniform business report prescribed by the department; providing an effective date.

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

By the Committee on Banking and Insurance and Senator Holzendorf—

CS for SB 2174—A bill to be entitled An act relating to insurance; amending s. 624.318, F.S.; requiring access to records by the department; repealing s. 624.501(11) and (23), F.S.; repealing provisions establishing specified fees; amending s. 626.112, F.S.; prohibiting certain activities that constitute solicitation of insurance by unlicensed persons; amending s. 626.171, F.S.; revising agent application requirements; amending s. 626.181, F.S.; extending a period of eligibility for reappointment; creating s. 626.202, F.S.; requiring fingerprinting of specified persons; amending s. 626.431, F.S.; extending the nonappointment period to 48 months; amending s. 626.521, F.S.; requiring certain information upon demand of the department; amending s. 626.541, F.S.; requiring notification to the department of certain name changes and other information; amending s. 626.5715, F.S.; removing a requirement that the Department of Insurance adopt rules to assure parity of regulation; providing that the Insurance Code

applies to all transactions; amending s. 626.601, F.S.; revising a confidentiality provision; amending s. 626.611, F.S.; prohibiting the sale of unregistered securities; amending ss. 626.741, 626.792, 626.835, F.S.; limiting the authority of certain nonresident licenses to that granted by the resident state; amending s. 626.8427, F.S.; revising provisions governing the duration of licenses; amending s. 626.856, F.S.; revising the definition of the term "company employee adjuster"; amending s. 626.872, F.S.; limiting the term of a temporary adjuster's license; amending s. 626.873, F.S.; revising a catchline regarding nonresident company adjusters; amending s. 627.927; limiting an experience requirement for surplus lines agents; extending a renewal grace period; creating s. 626.9531, F.S.; requiring the identification of certain persons in advertisements and other communications; amending ss. 648.315, 648.38, 648.384, F.S.; extending a period of eligibility for reappointment; creating s. 626.9651, F.S.; requiring the Department of Insurance to adopt rules governing the use of a consumer's nonpublic personal financial and health information; providing standards for the rules; providing an effective date.

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

By Senator Crist—

SB 1148—A bill to be entitled An act relating to corrections; revising provisions relating to leased or managed work programs to conform to current operations and applications; amending ss. 946.502, 946.5025, 946.5026, 946.503, 946.506, 946.509, 946.511, 946.514, 946.516, 946.518, 946.520, F.S.; conforming internal cross-references; deleting obsolete provisions; clarifying a definition; changing a reporting date; amending s. 957.04, F.S., to conform a cross-reference; providing a declaration of important state interest; creating s. 946.525, F.S.; establishing participation requirements; amending s. 948.09, F.S.; revising the amount of the surcharge paid to the Department of Corrections by offenders placed on community control; providing an effective date.

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

By Senator Crist—

SB 1766—A bill to be entitled An act relating to public records; amending s. 119.07, F.S.; exempting from disclosure under s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution, certain information pertaining to county and municipal code enforcement officers and their families; providing for future repeal and prior legislative review of these exemptions; providing a statement of public necessity for the exemptions; amending s. 119.07, F.S.; expanding the exemption for code enforcement officers to include additional information and to include such officers' spouses and children; providing for future review and repeal; providing findings of public necessity; providing an effective date.

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

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for CS for SB 366, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committees on Appropriations, Criminal Justice and Senators Villalobos and Smith—

CS for CS for SB 366—A bill to be entitled An act relating to DNA evidence; creating s. 925.11, F.S.; providing for the examination of DNA evidence collected at the time a crime is investigated; providing a procedure under which a defendant who has been found guilty may petition the trial court to order an examination of DNA evidence; providing guidelines for seeking postsentencing DNA testing; requiring that the court make certain findings; providing for preservation of evidence for which testing of DNA may be requested; providing for right to appeal; creating s. 943.3251, F.S.; prescribing duties of the Department of Law Enforcement with respect to postsentencing DNA testing; amending s. 943.325, F.S.; requiring the Department of Law Enforcement to add certain felony offenses in a scheduled order to the DNA data bank's enumerated offenses; requiring the Department of Corrections to test certain violent felons in addition to those enumerated in the statute before being released from custody; providing effective dates.

—was read the first time by title.

On motion by Rep. Ball, the rules were waived, and CS for CS for SB 366 was substituted for CS/HB 147. Under Rule 5.15, the House bill was laid on the table. On motion by Rep. Ball, the rules were waived and CS for CS for SB 366 was read the second time by title and the third time by title. On passage, the vote was:

Session Vote Sequence: 344

Yeas—118

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

Nays—None

So the bill passed and was immediately certified to the Senate.

Continuation of Bills and Joint Resolutions on Third Reading

Reconsideration of CS/CS/HB 267

On motion by Rep. Lynn, the House reconsidered the vote by which **CS/CS/HB 267**, as amended, passed earlier today.

CS/CS/HB 267—A bill to be entitled An act relating to school attendance by violent offenders; amending s. 230.235, F.S.; requiring schools to adopt a policy of zero tolerance for victimization of students; requiring each school district to enter into an agreement with the Department of Juvenile Justice for the purpose of protecting victims; amending s. 231.0851, F.S.; requiring principals to take certain actions when a student has been a victim of a violent crime perpetrated by another student; providing ineligibility for certain performance pay policy incentives under certain circumstances; creating s. 232.265, F.S.;

requiring the Department of Juvenile Justice to provide certain notice to school districts under certain circumstances; prohibiting certain persons from attending certain schools or riding on certain school buses under certain circumstances; providing for attending alternate schools; assigning responsibility for certain transportation under certain circumstances; amending s. 960.001, F.S.; providing an additional guideline for attendance of a victim at the same school as a juvenile defendant; amending s. 985.228, F.S.; requiring certain court orders to include certain findings; amending s. 985.23, F.S.; requiring a court to determine the appropriateness of a no contact order under certain circumstances; amending ss. 985.231 and 985.233, F.S.; requiring a court placement order or a commitment order to include certain findings; providing an effective date.

The question recurred on the passage of CS/CS/HB 267.

Representative(s) Byrd and Lynn offered the following:

(Amendment Bar Code: 060947)

Amendment 3 (with title amendment)—On page 2, line 6,

insert:

Section 1. *(1) The "Safety and Security Best Practices" developed by the Office of Program Policy Analysis and Government Accountability and approved by the Commissioner of Education shall be reviewed annually by the Office of Program Policy Analysis and Government Accountability and the Partnership for School Safety and Security established in s. 229.8347, Florida Statutes, and each entity shall make recommendations to the Commissioner of Education for the addition, revision, or deletion of best practices.*

(2) Each school district shall use the Safety and Security Best Practices to conduct a self-assessment of the school districts' current safety and security practices. Based on these self-assessment findings, the superintendent of each school district shall provide recommendations to the school board which identify strategies and activities that the school district should implement in order to improve school safety and security.

(3) By July 1, 2002, and annually thereafter, each school board must receive the self-assessment results at a publicly notice school board meeting to provide the public an opportunity to hear the school board members discuss and take action on the report findings. Each superintendent shall report the self-assessment results and school board action to the Commissioner of Education within 30 days following the school board meeting.

Section 2. Subsection (1) of section 230.23161, Florida Statutes, is amended to read:

230.23161 Educational services in Department of Juvenile Justice programs.—

(1) The Legislature finds that education is the single most important factor in the rehabilitation of adjudicated delinquent youth in the custody of the Department of Juvenile Justice in detention or commitment facilities. It is the *goal* ~~intent~~ of the Legislature that youth in the juvenile justice system *continue to receive a high-quality* ~~be provided with equal opportunity and access to quality and effective~~ education ~~that will meet the individual needs of each child~~. The Department of Education shall serve as the lead agency for juvenile justice education programs*,* ~~to ensure that~~ curriculum, support services, and resources ~~are provided to maximize the public's investment in the custody and care of these youth~~. To this end, the Department of Education and the Department of Juvenile Justice shall each designate a Coordinator for Juvenile Justice Education Programs to serve as the point of contact for resolving issues not addressed by local district school boards and to *provide* ~~ensure~~ each department's participation in the following activities:

(a) Training, collaborating, and coordinating with the Department of Juvenile Justice, local school districts, educational contract providers, and juvenile justice providers, whether state operated or contracted.

(b) Collecting information on the academic performance of students in juvenile justice commitment and detention programs and reporting on the results.

(c) Developing academic and vocational protocols that provide guidance to school districts and providers in all aspects of education programming, including records transfer and transition.

(d) Prescribing the roles of program personnel and interdepartmental local school district or provider collaboration strategies.

Annually, a cooperative agreement and plan for juvenile justice education service enhancement shall be developed between the Department of Juvenile Justice and the Department of Education and submitted to the Secretary of Juvenile Justice and the Commissioner of Education by June 30.

And the title is amended as follows:

On page 1, line 3, before the word amending,

insert: requiring the Office of Program Policy Analysis and Government Accountability to annually review certain safety and security best practices; requiring school districts to use such practices to conduct certain assessments; requiring school district superintendents to make certain recommendations to school boards based on such assessments; requiring school boards to hold public meetings on the assessments and recommendations amending s. 230.23161, F.S.; providing legislative goals with respect to education within department programs;

Rep. Lynn moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/CS/HB 267. The vote was:

Session Vote Sequence: 345

Yeas—117

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

Nays—None

Votes after roll call:

Yeas—Alexander, Lynn, Trovillion

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

HB 575 was taken up. On motion by Rep. Baker, the rules were waived and—

CS for CS for SB 1880—A bill to be entitled An act relating to corporations; amending s. 607.01401, F.S.; redefining the term "electronic transmission" to include telegrams, cablegrams, telephone transmissions, and transmissions through the Internet for purposes of proxy voting; amending s. 607.0722, F.S.; specifying those persons who may vote on behalf of a shareholder; authorizing the appointment of a proxy by electronic transmission; deleting provisions limiting the period during which an appointment of proxy is irrevocable; authorizing the use of certain copies or reproductions in lieu of the original writing or electronic transmission; authorizing a corporation to adopt bylaws authorizing additional procedures for shareholders to use in exercising certain rights; amending s. 15.16, F.S.; authorizing the department to discount a filing fee in an amount equal to the convenience charge imposed for an electronic record filing by way of a contractor; amending s. 607.193, F.S.; waiving the charge for late filings of supplemental corporate fees when the business entity did not receive the uniform business report prescribed by the department; providing an effective date.

—was substituted for HB 575 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Baker, the rules were waived and CS for CS for SB 1880 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 346

Yeas—119

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

Nays—None

So the bill passed and was immediately certified to the Senate.

CS/HB 605—A bill to be entitled An act relating to health care facilities and programs; creating the "Florida Alzheimer's Training Act"; creating ss. 400.1755, 400.4786, 400.55715, and 400.626, F.S., and amending s. 400.6045, F.S.; prescribing training standards for employees of nursing homes, home health agencies, nurse registries, hospice programs, adult day care centers, and adult family-care homes, respectively, that provide care for persons with Alzheimer's disease or related disorders; prescribing duties of the Department of Elderly Affairs; providing rulemaking authority; providing timeframe for compliance; authorizing the Department of Elderly Affairs to contract for review of trainers and training materials; providing for costs; providing that a community care service system shall contain a dementia-specific care provider network; encouraging inclusion of certain training in healing arts curricula; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 347

Yeas—118

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

Nays—None

Votes after roll call:
Yeas—Kendrick

So the bill passed, as amended, and was immediately certified to the Senate.

HB 635—A bill to be entitled An act relating to drivers' licenses; creating s. 322.0515, F.S.; providing for compliance with federal requirements by certain applicants for drivers' licenses or identification cards; directing the Department of Highway Safety and Motor Vehicles to forward certain information to the federal Selective Service System with respect to certain applicants; providing described notice to applicants; directing the department to include a described statement on certain applications for drivers' licenses or identification cards; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 348

Yeas—120

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

Nays—None

So the bill passed and was immediately certified to the Senate.

HB 645—A bill to be entitled An act relating to alcoholic beverages; amending s. 561.501, F.S.; providing an exemption from the surcharge on alcoholic beverages for specified nonprofit organizations; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 349

Yeas—119

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

Nays—None

Votes after roll call:
Yeas to Nays—Cusack

So the bill passed and was immediately certified to the Senate.

CS/CS/HB 807—A bill to be entitled An act relating to the Department of Highway Safety and Motor Vehicles; amending s. 320.08056, F.S.; increasing the fee for the Florida educational license plate; creating s. 860.146, F.S.; defining the terms "fake airbag" and "junk-filled airbag compartment"; prohibiting the sale, purchase, or installation of fake airbags or junk-filled airbag compartments; providing criminal penalties; amending s. 322.056, F.S.; authorizing the court to direct the Department of Highway Safety and Motor Vehicles to issue a driver's license restricted to business or employment purposes only to certain persons under age 18 found guilty of certain alcohol, drug, or tobacco offenses; amending s. 316.003, F.S.; providing that certain vehicles of the Department of Health are authorized emergency vehicles; providing that a motorized scooter is not a motor vehicle for traffic control purposes; creating a definition of the term motorized scooter; amending s. 316.006, F.S.; authorizing the installation of multiparty stop signs on certain roads; providing guidelines for the installation of such signage; amending s. 316.1951, F.S.; revising provisions related to parking vehicles to display for sale; amending s. 316.1975, F.S.; exempting operators of solid waste and recovered materials vehicles from provisions regarding unattended motor vehicles; amending s. 316.2065, F.S.; providing motorized scooter operating regulations; amending s. 316.228, F.S.; requiring strobe lights to be placed on the exterior of a commercial vehicle transporting unprocessed forest products extending more than 4 feet beyond the rear of the vehicle; providing an alternate method for placing strobe lights in certain instances; requiring the use of a red flag on the load; amending s. 316.2397, F.S.; authorizing the emergency response vehicles of the Department of Health to use red flashing lights; amending s. 316.520, F.S.; clarifying that a violation of a provision governing loads on vehicles is a moving rather than a nonmoving violation; exempting certain vehicles carrying agricultural products; amending s. 316.640, F.S.; revising the powers and duties of traffic crash investigation officers; amending s. 316.650, F.S.; requiring the issuance of a copy of the traffic school reference guide with traffic citations under certain circumstances; amending s. 318.14, F.S.; deleting reference to a restriction on the number of elections a person may make to attend a basic driver improvement course; amending s. 318.1451, F.S.; providing an assessment fee with respect to driver improvement courses for persons who are ordered by the court to attend and for certain other violations; providing traffic school reference guide requirements; amending s. 322.0261, F.S.; deleting reference to a time period and increasing the amount of damage required with respect to a crash for the screening of certain crash reports; requiring the Department of Highway Safety and Motor Vehicles to approve and regulate certain courses for driver improvement schools; creating s. 322.02615, F.S.; providing for mandatory driver improvement courses for certain violations; amending s. 319.001, F.S.; providing definitions; amending s. 319.14, F.S.; authorizing the Department of Highway Safety and Motor Vehicles to place a decal on a rebuilt vehicle so as to clarify its identity; providing a penalty for the removal of the decal; amending s. 319.22, F.S.; providing a limitation on an action challenging the validity of a certificate of title issued pursuant to ch. 319, F.S.; amending s. 319.23, F.S.; providing a limitation on the issuance of certain titles; amending s. 319.27, F.S.; including reference to ownership interest with respect to liens on motor vehicles or mobile homes; providing special requirements with respect to an ownership interest which is different from that shown on an application for certificate of title; creating s. 319.275, F.S.; providing for interpleader actions for law enforcement officers alleging

possession of a stolen motor vehicle by a good faith purchaser or person duly issued a certificate of title; amending s. 319.32, F.S.; clarifying fees for recording of liens and ownership interests; amending s. 319.323, F.S.; revising language with respect to expedited service on title transfers; amending s. 319.23, F.S.; conforming the requirements for the transfer of ownership on an antique vehicle to that of any other motor vehicle; amending s. 319.28, F.S.; deleting the requirement that a copy of a contract for processing an application for title based on a contractual default be provided; amending s. 319.30, F.S.; clarifying the major component parts of a motor vehicle; amending s. 320.01, F.S.; conforming the length limitation for a motor home to that established in ch. 316, F.S.; providing that a motorized scooter is not a motor vehicle for registration purposes; amending s. 320.02, F.S.; requiring application forms for motor vehicle registration and renewal of registration to include language permitting a voluntary contribution to certain organizations; amending s. 320.023, F.S.; requiring certain organizations receiving voluntary check-off contributions to notify the department under certain circumstances and to meet specified requirements; conforming the section to the Florida Single Audit Act; requiring organizations seeking authorization to establish a voluntary check-off contribution on a motor vehicle registration application to conform to the requirements of ch. 496, F.S.; conforming this section to the Florida Single Audit Act; amending s. 320.025, Florida Statutes, conforming the vessel registration law to the motor vehicle registration law; requiring a decal to be affixed to a vessel that is registered under a fictitious name and operated by any law enforcement agency; amending s. 320.05, F.S.; conforming the vessel registration law to the motor vehicle registration law; providing instructions for the release of information regarding a vessel to the public; amending s. 320.055, F.S.; correcting the registration period for nonapportioned vehicles; amending s. 320.06, F.S.; providing for the placement of only one decal rather than two on a license plate; amending s. 320.072, F.S.; reducing the timeframe a registrant can use a previous license plate for the initial registration fee exemption; amending s. 320.0805, F.S.; reducing the timeframe for a personalized license plate to remain out of circulation prior to reassignment; amending s. 320.08056, F.S.; requiring certain organizations to notify the department under certain circumstances; including two more colleges to the discontinuance exemptions provided for collegiate specialty license plates; amending s. 320.08062, F.S.; conforming this section to the Florida Single Audit Act; amending s. 320.083, F.S.; increasing the weight restriction for a private-use vehicle so as to be eligible to apply for the Amateur Radio Operator specialty license plate; amending s. 320.089, F.S.; increasing the weight restriction for a private-use vehicle so as to be eligible to apply for the EX-POW or Purple Heart specialty license plate; amending s. 320.18, F.S.; providing for cancellation of license plates and fuel use tax decals for failure to pay motor carrier weight and safety violation penalties; amending s. 320.27, F.S.; redefining the term "motor vehicle auction"; deleting the requirement for a licensee to have the certificate of title or ownership indicia in his or her possession at an auction; deleting a requirement for establishing a pattern of wrongdoing; revising requirements for denial, suspension, or revocation of a motor vehicle dealer license; amending s. 320.60, F.S.; revising definitions used in ss. 320.61-320.70, F.S.; amending s. 320.61, F.S.; amending procedures to be followed when a complaint of unfair cancellation of a dealer agreement has been made by a motor vehicle dealer against a licensee; defining the term "final decision"; amending s. 320.64, F.S.; providing penalties and remedies for violations; deleting subsections (13) and (16); amending subsection (18); creating subsections (22) through (32) and renumbering sections; amending s. 320.641, F.S.; providing procedures relating to discontinuations, cancellations, nonrenewals, modifications, and replacements of franchise agreements; amending s. 320.643, F.S.; amending provisions relating to the transfer, assignment, or sale of franchise agreements; amending s. 320.645, F.S.; amending provisions relating to restrictions upon a licensee's owning a dealership; providing for "dealer development arrangements"; providing exceptions; amending s. 320.699, F.S.; amending procedures for administrative hearings; creating s. 320.6991; providing for severability; amending s. 320.691 F.S.; creating the Automobile Dealers Industry Advisory Board; amending s. 322.01, F.S.; providing that a motorized scooter is not a motor vehicle for drivers' licensing purposes; amending s. 322.05, F.S.; correcting a statutory reference regarding the requirements for an individual under 18 years of age to apply for a driver's license; amending s. 322.081, F.S.; requiring certain organizations receiving voluntary check-off contributions to notify the department under certain circumstances and to meet specified requirements; conforming the section to the Florida Single Audit Act; requiring organizations seeking authorization to establish a voluntary contribution on a motor vehicle registration to register with the Department of Agriculture and Consumer Services; amending s. 322.095, F.S.; requiring the Department of Highway Safety and Motor Vehicles to approve and regulate certain courses for driver improvement schools; creating s. 322.222, F.S.; authorizing the Department of Highway Safety and Motor Vehicles to hold a hearing when an individual's driver's license has been suspended or revoked due to medical reasons; amending s. 322.25, F.S.; correcting a cross reference; amending s. 322.2615, F.S.; complying with the USDOT's drunk driving prevention incentive program; reducing the timeframe for a temporary permit that is allotted when an individual is charged with driving with an unlawful blood-alcohol level; amending s. 322.27, F.S.; clarifying the time period for a driver's license revocation of a habitual traffic offender; amending s. 322.28, F.S.; deleting obsolete language regarding the revocation of a driver's license; repealing s. 322.282, F.S., relating to the procedure when the court revokes or suspends license or driving privilege and orders reinstatement; amending s. 322.292, F.S.; adding the requirement that DUI programs must be governmental programs or not-for-profit corporations; amending s. 322.61, F.S.; complying with the Federal Motor Carrier Safety Regulations; adding two more violations for which a commercial motor vehicle may be disqualified of driving privileges; amending s. 322.64, F.S.; reducing the timeframe for a temporary permit allotted when an individual holding a commercial driver's license is charged with an unlawful blood-alcohol level; repealing s. 322.331, F.S., relating to the reinstatement of a license of a habitual traffic offender; creating the Driver Licensing Study Commission within the Department of Highway Safety and Motor Vehicles; providing for membership and appointment; providing for staff; providing for duties of the commission; providing for dissolution of the commission upon submission of a required report; providing an appropriation; amending s. 324.091, F.S.; providing for electronic access to vehicle insurance information; amending s. 328.01, F.S.; deleting the requirement for a copy of a contract upon which a claim of ownership of a vessel is made on a contractual default; amending s. 328.42, F.S.; authorizing the department to deny or cancel any vessel registration, license plate, or fuel use decal when given a dishonored check by the customer; amending s. 328.56, F.S.; deleting the terms "commercial" and "recreational" when referring to vessels operated on the waters of this state; amending s. 328.72, F.S.; deleting the requirements for the transfer of ownership of an antique vessel; amending s. 328.76, F.S.; providing for the appropriation allotted for fiscal year 2000-2001 to be deposited into the Highway Safety Operating Trust Fund; amending s. 713.78, F.S.; adding the insurance company to the list of individuals to be contacted when a vehicle has been towed; providing storage periods before the expiration of which certain salvaged vehicles may not be sold; repealing s. 715.05, F.S., relating to the reporting of unclaimed motor vehicles; amending ss. 681.1096 and 681.1097, F.S.; revising program requirements for the Pilot RV Mediation and Arbitration program; amending s. 681.115, F.S.; providing that a motor vehicle sales agreement which prohibits disclosure of its terms is void; amending s. 715.07, F.S.; conforming the vessel registration law to the motor vehicle registration law; defining the term "vessel"; authorizing the removal of an undocumented vessel parked on private property; amending s. 832.09, F.S.; authorizing the department to create a standardized form to be used for notification of satisfaction of a worthless check; amending s. 212.08, F.S.; providing additional requirements on vehicle tax assessments; creating ch. 261, F.S.; creating the T. Mark Schmidt Off-Highway-Vehicle Safety and Recreation Act; providing legislative intent; providing definitions; creating the Off-Highway-Vehicle Recreation Advisory Committee; providing duties and responsibilities; providing for duties and responsibilities of the Department of Agriculture and Consumer Services; providing for rulemaking authority; providing for the publication and distribution of a guidebook; providing for the repair, maintenance, and rehabilitation of areas, trails, and lands; providing for contracts and agreements; providing criteria for

recreation areas and trails; providing for the use of designated off-highway-vehicle funds within the Incidental Trust Fund of the Division of Forestry, Department of Agriculture and Consumer Services; amending s. 316.2074, F.S.; revising the definition of the term "all-terrain vehicle"; prohibiting the use of all-terrain vehicles on public roadways in the state; creating the Florida Off-Highway-Vehicle Titling and Registration Act; providing legislative intent; providing definitions; providing for administration by the Department of Highway Safety and Motor Vehicles; providing for rules, forms, and notices; requiring certificates of title; providing for application for and issuance of certificates of title; providing for duplicate certificates of title; requiring the furnishing of a manufacturer's statement of origin; requiring registration; providing for application for and issuance of certificate of registration, registration number, and decal; providing for the registration period and for reregistration by mail; requiring notification of change of interest and address; providing for duplicate registration certificate and decal; providing for fees; providing for disposition of fees; providing for refusal to issue and authority to cancel a certificate of title or registration; providing for crimes relating to certificates of title and registration decals; providing penalties; providing for noncriminal infractions; providing penalties; amending s. 375.315, F.S., relating to the registration of off-road vehicles; providing an appropriation; amending ss. 316.605, 318.14, 318.18, and 322.121, F.S.; correcting cross references; providing effective dates.

—was read the third time by title.

Representative(s) Gardiner offered the following:

(Amendment Bar Code: 145343)

Amendment 14 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Subsections (1) and (21) of section 316.003, Florida Statutes, are amended, and subsection (82) is added to said section, to read:

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

(1) AUTHORIZED EMERGENCY VEHICLES.—Vehicles of the fire department (fire patrol), police vehicles, and such ambulances and emergency vehicles of municipal departments, public service corporations operated by private corporations, the Department of Environmental Protection, *the Department of Health,* and the Department of Transportation as are designated or authorized by their respective department or the chief of police of an incorporated city or any sheriff of any of the various counties.

(21) MOTOR VEHICLE.—Any self-propelled vehicle not operated upon rails or guideway, but not including any bicycle*, motorized scooter,* or moped.

(82) MOTORIZED SCOOTER.—Any vehicle not having a seat or saddle for the use of the rider, designed to travel on not more than three wheels, and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground.

Section 2. Subsections (2) and (3) of section 316.006, Florida Statutes, are amended to read:

316.006 Jurisdiction.—Jurisdiction to control traffic is vested as follows:

(2) MUNICIPALITIES.—

(a) Chartered municipalities shall have original jurisdiction over all streets and highways located within their boundaries, except state roads, and may place and maintain such traffic control devices which conform to the manual and specifications of the Department of Transportation upon all streets and highways under their original jurisdiction as they shall deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn, or guide traffic.

(b) A municipality may exercise jurisdiction over any private road or roads, or over any limited access road or roads owned or controlled by a special district, located within its boundaries if the municipality and party or parties owning or controlling such road or roads provide, by written agreement approved by the governing body of the municipality, for municipal traffic control jurisdiction over the road or roads encompassed by such agreement. Pursuant thereto:

1. Provision for reimbursement for actual costs of traffic control and enforcement and for liability insurance and indemnification by the party or parties, and such other terms as are mutually agreeable, may be included in such an agreement.

2. The exercise of jurisdiction provided for herein shall be in addition to jurisdictional authority presently exercised by municipalities under law, and nothing in this paragraph shall be construed to limit or remove any such jurisdictional authority. Such jurisdiction includes regulation of access to such road or roads by security devices or personnel.

3. Any such agreement may provide for the installation of multiparty stop signs by the parties controlling the roads covered by the agreement, if a determination is made by such parties that the signage will enhance traffic safety. Multiparty stop signs must conform to the manual and specifications of the Department of Transportation. However, minimum traffic volumes may not be required for the installation of such signage. Enforcement for the signs shall be as provided in s. 316.123.

This subsection shall not limit those counties which have the charter powers to provide and regulate arterial, toll, and other roads, bridges, tunnels, and related facilities from the proper exercise of those powers by the placement and maintenance of traffic control devices which conform to the manual and specifications of the Department of Transportation on streets and highways located within municipal boundaries.

(3) COUNTIES.—

(a) Counties shall have original jurisdiction over all streets and highways located within their boundaries, except all state roads and those streets and highways specified in subsection (2), and may place and maintain such traffic control devices which conform to the manual and specifications of the Department of Transportation upon all streets and highways under their original jurisdiction as they shall deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn, or guide traffic.

(b) A county may exercise jurisdiction over any private road or roads, or over any limited access road or roads owned or controlled by a special district, located in the unincorporated area within its boundaries if the county and party or parties owning or controlling such road or roads provide, by written agreement approved by the governing body of the county, for county traffic control jurisdiction over the road or roads encompassed by such agreement. Pursuant thereto:

1. Provision for reimbursement for actual costs of traffic control and enforcement and for liability insurance and indemnification by the party or parties, and such other terms as are mutually agreeable, may be included in such an agreement.

2. Prior to entering into an agreement which provides for enforcement of the traffic laws of the state over a private road or roads, or over any limited access road or roads owned or controlled by a special district, the governing body of the county shall consult with the sheriff. No such agreement shall take effect prior to October 1, the beginning of the county fiscal year, unless this requirement is waived in writing by the sheriff.

3. The exercise of jurisdiction provided for herein shall be in addition to jurisdictional authority presently exercised by counties under law, and nothing in this paragraph shall be construed to limit or remove any such jurisdictional authority.

4. Any such agreement may provide for the installation of multiparty stop signs by the parties controlling the roads covered by the agreement, if a determination is made by such parties that the signage will enhance

traffic safety. Multiparty stop signs must conform to the manual and specifications of the Department of Transportation. However, minimum traffic volumes may not be required for the installation of such signage. Enforcement for the signs shall be as provided in s. 316.123.

Notwithstanding the provisions of subsection (2), each county shall have original jurisdiction to regulate parking, by resolution of the board of county commissioners and the erection of signs conforming to the manual and specifications of the Department of Transportation, in parking areas located on property owned or leased by the county, whether or not such areas are located within the boundaries of chartered municipalities.

Section 3. Subsection (4) is added to section 316.0741, Florida Statutes, to read:

(4) Notwithstanding provisions of this section to the contrary, an inherently low-emission vehicle (ILEV) that is certified and labeled in accordance with federal regulations may be driven in an HOV lane at any time, regardless of its occupancy.

Section 4. Effective July 1, 2001, subsection (4) of section 316.1951, Florida Statutes, is amended to read:

316.1951 Parking for certain purposes prohibited.—

(4) A law enforcement officer*, compliance examiner,* ~~or~~ license inspector*,* or supervisor *of the department*~~, as authorized in s. 320.58(1)(a),~~ may cause to be removed at the owner's expense any motor vehicle found upon a public street, public parking lot, other public property, or private property, where the public has the right to travel by motor vehicle, which is in violation of subsection (1). Every written notice issued pursuant to this section shall be affixed in a conspicuous place upon a vehicle by a law enforcement officer*, compliance examiner,* ~~or~~ license inspector*,* or supervisor *of the department*. Any vehicle found in violation of subsection (1) within 10 days after a previous violation and written notice shall be subject to immediate removal without an additional waiting period.

Section 5. Subsection (4) of section 316.1967, Florida Statutes, is amended to read:

316.1967 Liability for payment of parking ticket violations and other parking violations.—

(4) Any person who elects to appear before a designated official to present evidence waives his or her right to pay the civil penalty provisions of the ticket. The official, after a hearing, shall make a determination as to whether a parking violation has been committed and may impose a civil penalty not to exceed $100 *or the fine amount designated by county ordinance,* plus court costs. Any person who fails to pay the civil penalty within the time allowed by the court is deemed to have been convicted of a parking ticket violation, and the court shall take appropriate measures to enforce collection of the fine.

Section 6. Subsection (2) of section 316.1975, Florida Statutes, is amended to read:

316.1975 Unattended motor vehicle.—

(2) This section does not apply to the operator of:

(a) An authorized emergency vehicle while in the performance of official duties and the vehicle is equipped with an activated antitheft device that prohibits the vehicle from being driven; ~~or~~

(b) A licensed delivery truck or other delivery vehicle while making deliveries*; or*~~.~~

(c) A solid waste or recovered materials vehicle while collecting such items.

Section 7. Section 316.2065, Florida Statutes, is amended to read:

316.2065 Bicycle *and motorized scooter* regulations.—

(1) Every person propelling a vehicle by human power*, or operating a motorized scooter as defined in s. 316.003,* has all of the rights and all of the duties applicable to the driver of any other vehicle under this chapter, except as to special regulations in this chapter, and except as to provisions of this chapter which by their nature can have no application.

(2) A person operating a bicycle may not ride other than upon or astride a permanent and regular seat attached thereto.

(3)(a) A bicycle may not be used to carry more persons at one time than the number for which it is designed or equipped, except that an adult rider may carry a child securely attached to his or her person in a backpack or sling.

(b) Except as provided in paragraph (a), a bicycle rider must carry any passenger who is a child under 4 years of age, or who weighs 40 pounds or less, in a seat or carrier that is designed to carry a child of that age or size and that secures and protects the child from the moving parts of the bicycle.

(c) A bicycle rider may not allow a passenger to remain in a child seat or carrier on a bicycle when the rider is not in immediate control of the bicycle.

(d) A bicycle rider or passenger who is under 16 years of age must wear a bicycle helmet that is properly fitted and is fastened securely upon the passenger's head by a strap, and that meets the standards of the American National Standards Institute (ANSI Z 90.4 Bicycle Helmet Standards), the standards of the Snell Memorial Foundation (1984 Standard for Protective Headgear for Use in Bicycling), or any other nationally recognized standards for bicycle helmets adopted by the department. As used in this subsection, the term "passenger" includes a child who is riding in a trailer or semitrailer attached to a bicycle.

(e) Law enforcement officers and school crossing guards may issue a bicycle safety brochure and a verbal warning to a bicycle rider or passenger who violates this subsection. A bicycle rider or passenger who violates this subsection may be issued a citation by a law enforcement officer and assessed a fine for a pedestrian violation, as provided in s. 318.18. The court shall dismiss the charge against a bicycle rider or passenger for a first violation of paragraph (d) upon proof of purchase of a bicycle helmet that complies with this subsection.

(f) A person operating a motorized scooter may not carry passengers.

(4) No person riding upon any bicycle, coaster, roller skates, sled, *motorized scooter,* or toy vehicle may attach the same or himself or herself to any vehicle upon a roadway. This subsection does not prohibit attaching a bicycle trailer or bicycle semitrailer to a bicycle if that trailer or semitrailer is commercially available and has been designed for such attachment.

(5)(a) Any person operating a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as close as practicable to the right-hand curb or edge of the roadway except under any of the following situations:

1. When overtaking and passing another bicycle*, motorized scooter,* or vehicle proceeding in the same direction.

2. When preparing for a left turn at an intersection or into a private road or driveway.

3. When reasonably necessary to avoid any condition, including, but not limited to, a fixed or moving object, parked or moving vehicle, bicycle, *motorized scooter,* pedestrian, animal, surface hazard, or substandard-width lane, that makes it unsafe to continue along the right-hand curb or edge. For the purposes of this subsection, a "substandard-width lane" is a lane that is too narrow for a bicycle *or motorized scooter* and another vehicle to travel safely side by side within the lane.

(b) Any person operating a bicycle *or motorized scooter* upon a one-way highway with two or more marked traffic lanes may ride as near the left-hand curb or edge of such roadway as practicable.

(6) Persons riding bicycles *or motorized scooters* upon a roadway may not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. Persons riding two abreast may not impede traffic when traveling at less than the normal speed of traffic at the time and place and under the conditions then existing and shall ride within a single lane.

(7) Any person operating a bicycle *or motorized scooter* shall keep at least one hand upon the handlebars.

(8) Every bicycle *or motorized scooter* in use between sunset and sunrise shall be equipped with a lamp on the front exhibiting a white light visible from a distance of at least 500 feet to the front and a lamp and reflector on the rear each exhibiting a red light visible from a distance of 600 feet to the rear. A bicycle or *motorized scooter* ~~its~~ rider may be equipped with lights or reflectors in addition to those required by this section.

(9) No parent of any minor child and no guardian of any minor ward may authorize or knowingly permit any such minor child or ward to violate any of the provisions of this section.

(10) A person propelling a vehicle by human power *or operating a motorized scooter,* upon and along a sidewalk, or across a roadway upon and along a crosswalk, has all the rights and duties applicable to a pedestrian under the same circumstances.

(11) A person propelling a bicycle upon and along a sidewalk, or across a roadway upon and along a crosswalk, shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

(12) No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device, may go upon any roadway except while crossing a street on a crosswalk; and, when so crossing, such person shall be granted all rights and shall be subject to all of the duties applicable to pedestrians.

(13) This section shall not apply upon any street while set aside as a play street authorized herein or as designated by state, county, or municipal authority.

(14) Every bicycle *and motorized scooter* shall be equipped with a brake or brakes which will enable its rider to stop the bicycle *or motorized scooter* within 25 feet from a speed of 10 miles per hour on dry, level, clean pavement.

(15) A person engaged in the business of selling bicycles *or motorized scooters* at retail shall not sell *such* ~~any~~ bicycle *or motorized scooter* unless *it* ~~the bicycle~~ has an identifying number permanently stamped or cast on its frame.

(16)(a) A person may not knowingly rent or lease any bicycle to be ridden by a child who is under the age of 16 years unless:

1. The child possesses a bicycle helmet; or

2. The lessor provides a bicycle helmet for the child to wear.

(b) A violation of this subsection is a nonmoving violation, punishable as provided in s. 318.18.

(17) The court may waive, reduce, or suspend payment of any fine imposed under subsection (3) or subsection (16) and may impose any other conditions on the waiver, reduction, or suspension. If the court finds that a person does not have sufficient funds to pay the fine, the court may require the performance of a specified number of hours of community service or attendance at a safety seminar.

(18) Notwithstanding s. 318.21, all proceeds collected pursuant to s. 318.18 for violations under paragraphs (3)(e) and (16)(b) shall be deposited into the State Transportation Trust Fund.

(19) The failure of a person to wear a bicycle helmet or the failure of a parent or guardian to prevent a child from riding a bicycle without a bicycle helmet may not be considered evidence of negligence or contributory negligence.

(20) Except as otherwise provided in this section, a violation of this section is a noncriminal traffic infraction, punishable as a pedestrian violation as provided in chapter 318. A law enforcement officer may issue traffic citations for a violation of subsection (3) or subsection (16) only if the violation occurs on a bicycle path or road, as defined in s. 334.03. However, they may not issue citations to persons on private property, except any part thereof which is open to the use of the public for purposes of vehicular traffic.

Section 8. Subsection (2) of section 316.228, Florida Statutes, is amended to read:

316.228 Lamps or flags on projecting load.—

(2) Any *commercial* motor vehicle or trailer~~, except as stated in s. 316.515(7),~~ transporting a load of *unprocessed* logs *or*~~, long~~ pulpwood, ~~poles, or posts~~ which *load extends* ~~extend~~ more than 4 feet beyond the rear of the body or bed of such vehicle, must have securely fixed as close as practical to the end of any such projection one amber strobe-type lamp equipped with a multidirectional type lens so mounted as to be visible from the rear and both sides of the projecting load. *If the mounting of one strobe lamp cannot be accomplished so that it is visible from the rear and both sides of the projecting load, multiple strobe lights shall be utilized so as to meet the visibility requirements of this subsection.* The strobe lamp must flash at a rate of at least 60 flashes per minute and must be plainly visible from a distance of at least 500 feet to the rear and sides of the projecting load at any time of the day or night. The lamp must be operating at any time of the day or night when the vehicle is operated on any highway or parked on the shoulder or immediately adjacent to the traveled portion of any public roadway. *The projecting load shall also be marked with a red flag as described in subsection (1).*

Section 9. Subsection (9) of section 316.2397, Florida Statutes, is amended to read:

316.2397 Certain lights prohibited; exceptions.—

(9) Flashing red lights may be used by emergency response vehicles of the Department of Environmental Protection *and the Department of Health* when responding to an emergency in the line of duty.

Section 10. Section 316.520, Florida Statutes, is amended to read:

316.520 Loads on vehicles.—

(1) A vehicle may not be driven or moved on any highway unless the vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking, blowing, or otherwise escaping therefrom, except that sand may be dropped only for the purpose of securing traction or water or other substance may be sprinkled on a roadway in cleaning or maintaining the roadway.

(2) It is the duty of every owner and driver, severally, of any vehicle hauling, upon any public road or highway open to the public, dirt, sand, lime rock, gravel, silica, or other similar aggregate or trash, garbage, or any similar material that could fall or blow from such vehicle, to prevent such materials from falling, blowing, or in any way escaping from such vehicle. Covering and securing the load with a close-fitting tarpaulin or other appropriate cover is required.

(3) A violation of this section is a noncriminal traffic infraction, punishable as a *moving* ~~nonmoving~~ violation as provided in chapter 318.

(4) This section does not apply to vehicles carrying agricultural products locally from a field harvest site to a farm storage site or to a farm feed lot on roads where the posted speed limit is 60 miles per hour or less and the distance driven on public roads is less than 20 miles.

Section 11. Subsections (1), (2), and (3) of section 316.640, Florida Statutes, are amended to read:

316.640 Enforcement.—The enforcement of the traffic laws of this state is vested as follows:

(1) STATE.—

(a)1.a. The Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles, the Division of Law Enforcement of the Fish and Wildlife Conservation Commission, the Division of Law Enforcement of the Department of Environmental Protection, and law enforcement officers of the Department of Transportation each have authority to enforce all of the traffic laws of this state on all the streets and highways thereof and elsewhere throughout the state wherever the public has a right to travel by motor vehicle. The Division of the Florida Highway Patrol may employ as a traffic accident investigation officer any individual who successfully completes at least 200 hours of instruction in traffic accident investigation and court presentation through the Selective Traffic Enforcement Program as approved by the Criminal Justice Standards and Training Commission and funded through the National Highway Traffic Safety Administration or a similar program approved by the commission, but who does not necessarily meet the uniform minimum standards established by the commission for law enforcement officers or auxiliary law enforcement officers under chapter 943. Any such traffic accident investigation officer who makes an investigation at the scene of a traffic accident may issue traffic citations, based upon personal investigation, when he or she has reasonable and probable grounds to believe that a person who was involved in the accident committed an offense under this chapter, chapter 319, chapter 320, or chapter 322 in connection with the accident. This paragraph does not permit the carrying of firearms or other weapons, nor do such officers have arrest authority ~~other than for the issuance of a traffic citation as authorized in this paragraph~~.

b. University police officers shall have authority to enforce all of the traffic laws of this state when such violations occur on or about any property or facilities that are under the guidance, supervision, regulation, or control of *a state university, a direct support organization of such state university, or any other organization controlled by the state university or a direct support organization of the state university* ~~the State University System~~, except that traffic laws may be enforced off-campus when hot pursuit originates ~~on-campus~~ *on or adjacent to any such property or facilities.*

c. Community college police officers shall have the authority to enforce all the traffic laws of this state only when such violations occur on any property or facilities that are under the guidance, supervision, regulation, or control of the community college system.

d. Police officers employed by an airport authority shall have the authority to enforce all of the traffic laws of this state only when such violations occur on any property or facilities that are owned or operated by an airport authority.

(I) An airport authority may employ as a parking enforcement specialist any individual who successfully completes a training program established and approved by the Criminal Justice Standards and Training Commission for parking enforcement specialists but who does not otherwise meet the uniform minimum standards established by the commission for law enforcement officers or auxiliary or part-time officers under s. 943.12. Nothing in this sub-sub-subparagraph shall be construed to permit the carrying of firearms or other weapons, nor shall such parking enforcement specialist have arrest authority.

(II) A parking enforcement specialist employed by an airport authority is authorized to enforce all state, county, and municipal laws and ordinances governing parking only when such violations are on property or facilities owned or operated by the airport authority employing the specialist, by appropriate state, county, or municipal traffic citation.

e. The Office of Agricultural Law Enforcement of the Department of Agriculture and Consumer Services shall have the authority to enforce traffic laws of this state only as authorized by the provisions of chapter 570. However, nothing in this section shall expand the authority of the Office of Agricultural Law Enforcement at its agricultural inspection stations to issue any traffic tickets except those traffic tickets for vehicles illegally passing the inspection station.

f. School safety officers shall have the authority to enforce all of the traffic laws of this state when such violations occur on or about any property or facilities which are under the guidance, supervision, regulation, or control of the district school board.

2. An agency of the state as described in subparagraph 1. is prohibited from establishing a traffic citation quota. A violation of this subparagraph is not subject to the penalties provided in chapter 318.

3. Any disciplinary action taken or performance evaluation conducted by an agency of the state as described in subparagraph 1. of a law enforcement officer's traffic enforcement activity must be in accordance with written work-performance standards. Such standards must be approved by the agency and any collective bargaining unit representing such law enforcement officer. A violation of this subparagraph is not subject to the penalties provided in chapter 318.

(b)1. The Department of Transportation has authority to enforce on all the streets and highways of this state all laws applicable within its authority.

2.a. The Department of Transportation shall develop training and qualifications standards for toll enforcement officers whose sole authority is to enforce the payment of tolls pursuant to s. 316.1001. Nothing in this subparagraph shall be construed to permit the carrying of firearms or other weapons, nor shall a toll enforcement officer have arrest authority.

b. For the purpose of enforcing s. 316.1001, governmental entities, as defined in s. 334.03, which own or operate a toll facility may employ independent contractors or designate employees as toll enforcement officers; however, any such toll enforcement officer must successfully meet the training and qualifications standards for toll enforcement officers established by the Department of Transportation.

(2) COUNTIES.—

(a) The sheriff's office of each of the several counties of this state shall enforce all of the traffic laws of this state on all the streets and highways thereof and elsewhere throughout the county wherever the public has the right to travel by motor vehicle. In addition, the sheriff's office may be required by the county to enforce the traffic laws of this state on any private or limited access road or roads over which the county has jurisdiction pursuant to a written agreement entered into under s. 316.006(3)(b).

(b) The sheriff's office of each county may employ as a traffic crash investigation officer any individual who successfully completes at least 200 hours of instruction in traffic crash investigation and court presentation through the Selective Traffic Enforcement Program (STEP) as approved by the Criminal Justice Standards and Training Commission and funded through the National Highway Traffic Safety Administration (NHTSA) or a similar program approved by the commission, but who does not necessarily otherwise meet the uniform minimum standards established by the commission for law enforcement officers or auxiliary law enforcement officers under chapter 943. Any such traffic crash investigation officer who makes an investigation at the scene of a traffic crash may issue traffic citations when, based upon personal investigation, he or she has reasonable and probable grounds to believe that a person who was involved *in the crash* has committed an offense under this chapter*, chapter 319, chapter 320, or chapter 322* in connection with the *crash* ~~accident~~. This paragraph does not permit the carrying of firearms or other weapons, nor do such officers have arrest authority ~~other than for the issuance of a traffic citation as authorized in this paragraph~~.

(c) The sheriff's office of each of the several counties of this state may employ as a parking enforcement specialist any individual who successfully completes a training program established and approved by the Criminal Justice Standards and Training Commission for parking enforcement specialists, but who does not necessarily otherwise meet the uniform minimum standards established by the commission for law enforcement officers or auxiliary or part-time officers under s. 943.12.

1. A parking enforcement specialist employed by the sheriff's office of each of the several counties of this state is authorized to enforce all state and county laws, ordinances, regulations, and official signs

governing parking within the unincorporated areas of the county by appropriate state or county citation and may issue such citations for parking in violation of signs erected pursuant to s. 316.006(3) at parking areas located on property owned or leased by a county, whether or not such areas are within the boundaries of a chartered municipality.

2. A parking enforcement specialist employed pursuant to this subsection shall not carry firearms or other weapons or have arrest authority.

(3) MUNICIPALITIES.—

(a) The police department of each chartered municipality shall enforce the traffic laws of this state on all the streets and highways thereof and elsewhere throughout the municipality wherever the public has the right to travel by motor vehicle. In addition, the police department may be required by a municipality to enforce the traffic laws of this state on any private or limited access road or roads over which the municipality has jurisdiction pursuant to a written agreement entered into under s. 316.006(2)(b). However, nothing in this chapter shall affect any law, general, special, or otherwise, in effect on January 1, 1972, relating to "hot pursuit" without the boundaries of the municipality.

(b) The police department of a chartered municipality may employ as a traffic crash investigation officer any individual who successfully completes at least 200 hours of instruction in traffic crash investigation and court presentation through the Selective Traffic Enforcement Program (STEP) as approved by the Criminal Justice Standards and Training Commission and funded through the National Highway Traffic Safety Administration (NHTSA) or a similar program approved by the commission, but who does not otherwise meet the uniform minimum standards established by the commission for law enforcement officers or auxiliary law enforcement officers under chapter 943. Any such traffic crash investigation officer who makes an investigation at the scene of a traffic crash is authorized to issue traffic citations when, based upon personal investigation, he or she has reasonable and probable grounds to believe that a person involved *in the crash* has committed an offense under the provisions of this chapter*, chapter 319, chapter 320, or chapter 322* in connection with the crash. ~~Nothing in~~ This paragraph *does not* ~~shall be construed to~~ permit the carrying of firearms or other weapons, nor *do* ~~shall~~ such officers have arrest authority ~~other than for the issuance of a traffic citation as authorized above~~.

(c)1. A chartered municipality or its authorized agency or instrumentality may employ as a parking enforcement specialist any individual who successfully completes a training program established and approved by the Criminal Justice Standards and Training Commission for parking enforcement specialists, but who does not otherwise meet the uniform minimum standards established by the commission for law enforcement officers or auxiliary or part-time officers under s. 943.12.

2. A parking enforcement specialist employed by a chartered municipality or its authorized agency or instrumentality is authorized to enforce all state, county, and municipal laws and ordinances governing parking within the boundaries of the municipality employing the specialist, by appropriate state, county, or municipal traffic citation. ~~Nothing in this paragraph shall be construed to permit the carrying of firearms or other weapons, nor shall such a parking enforcement specialist have arrest authority.~~

3. A parking enforcement specialist employed pursuant to this subsection may not carry firearms or other weapons or have arrest authority.

Section 12. Subsection (3) of section 316.650, Florida Statutes, is amended to read:

316.650 Traffic citations.—

(3) Every traffic enforcement officer, upon issuing a traffic citation to an alleged violator of any provision of the motor vehicle laws of this state or of any traffic ordinance of any city or town, shall deposit the original and one copy of such traffic citation or, in the case of a traffic enforcement agency which has an automated citation issuance system, shall provide an electronic facsimile with a court having jurisdiction over the alleged offense or with its traffic violations bureau within 5 days after issuance to the violator. *If a law enforcement officer distributes additional information, such information shall be a copy of the traffic school reference guide.*

Section 13. Subsection (9) of section 318.14, Florida Statutes, is amended to read:

318.14 Noncriminal traffic infractions; exception; procedures.—

(9) Any person who is cited for an infraction under this section other than a violation of s. 320.0605, s. 320.07(3)(a) or (b), s. 322.065, s. 322.15(1), s. 322.61, or s. 322.62 may, in lieu of a court appearance, elect to attend in the location of his or her choice within this state a basic driver improvement course approved by the Department of Highway Safety and Motor Vehicles. In such a case, adjudication must be withheld; points, as provided by s. 322.27, may not be assessed; and the civil penalty that is imposed by s. 318.18(3) must be reduced by 18 percent; however, a person may not make an election under this subsection if the person has made an election under this subsection in the preceding 12 months. ~~A person may make no more than five elections under this subsection.~~ The requirement for community service under s. 318.18(8) is not waived by a plea of nolo contendere or by the withholding of adjudication of guilt by a court.

Section 14. Subsection (6) and paragraph (a) of subsection (8) of section 318.18, Florida Statutes, are amended to read:

318.18 Amount of civil penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14 are as follows:

(6) One hundred dollars *or the fine amount designated by county ordinance, plus court costs* for illegally parking, under s. 316.1955, in a parking space provided for people who have disabilities. However, this fine will be waived if a person provides to the law enforcement agency that issued the citation for such a violation proof that the person committing the violation has a valid parking permit or license plate issued pursuant to s. 316.1958, s. 320.0842, s. 320.0843, s. 320.0845, or s. 320.0848 or a signed affidavit that the owner of the disabled parking permit or license plate was present at the time the violation occurred, and that such a parking permit or license plate was valid at the time the violation occurred. The law enforcement officer, upon determining that all required documentation has been submitted verifying that the required parking permit or license plate was valid at the time of the violation, must sign an affidavit of compliance. Upon provision of the affidavit of compliance and payment of a $5 dismissal fee to the clerk of the circuit court, the clerk shall dismiss the citation.

(8)(a) Any person who fails to comply with the court's requirements or who fails to pay the civil penalties specified in this section within the 30-day period provided for in s. 318.14 must pay an additional civil penalty of $12, $2.50 of which must be deposited into the General Revenue Fund, and $9.50 of which must be deposited in the Highway Safety Operating Trust Fund. There is hereby appropriated from the Highway Safety Operating Trust Fund for fiscal year 1996-1997 the amount of $4 million. From this appropriation the department shall contract with the Florida Association of Court Clerks, Inc., to design, establish, operate, upgrade, and maintain an automated statewide Uniform Traffic Citation Accounting System to be operated by the clerks of the court which shall include, but not be limited to, the accounting for traffic infractions by type, a record of the disposition of the citations, and an accounting system for the fines assessed and the subsequent fine amounts paid to the clerks of the court. On or before December 1, *2002* ~~2001~~, the clerks of the court must provide the information required by this chapter to be transmitted to the department by electronic transmission pursuant to the contract.

(b) Any person who fails to comply with the court's requirements as to civil penalties specified in this section due to demonstrable financial hardship shall be authorized to satisfy such civil penalties by public works or community service. Each hour of such service shall be applied, at the rate of the minimum wage, toward payment of the person's civil

penalties; provided, however, that if the person has a trade or profession for which there is a community service need and application, the rate for each hour of such service shall be the average standard wage for such trade or profession. Any person who fails to comply with the court's requirements as to such civil penalties who does not demonstrate financial hardship may also, at the discretion of the court, be authorized to satisfy such civil penalties by public works or community service in the same manner.

(c) If the noncriminal infraction has caused or resulted in the death of another, the person who committed the infraction may perform 120 community service hours under s. 316.027(4), in addition to any other penalties.

Section 15. Paragraph (b) of subsection (1) and subsection (2) of section 322.0261, Florida Statutes, are amended to read:

322.0261 Mandatory driver improvement course; certain crashes.—

(1) The department shall screen crash reports received under s. 316.066 or s. 324.051 to identify crashes involving the following:

(b) A ~~second~~ crash ~~by the same operator within the previous 2-year period~~ involving property damage in an apparent amount of at least *$2,500* ~~$500~~.

(2) With respect to an operator convicted of, or who pleaded nolo contendere to, a traffic offense giving rise to a crash identified pursuant to subsection (1), the department shall require that the operator, in addition to other applicable penalties, attend a departmentally approved *basic* driver improvement course in order to maintain driving privileges. If the operator fails to complete the course within 90 days of receiving notice from the department, the operator's driver's license shall be canceled by the department until the course is successfully completed.

Section 16. Section 322.02615, Florida Statutes, is created to read:

322.02615 Mandatory driver improvement course; certain violations.—

(1) The department shall screen reports of convictions for violations of chapter 316 to identify operators who:

(a) Are less than 21 years of age and have been convicted of, or pleaded nolo contendere to, a noncriminal moving infraction and have also been convicted of, or pleaded nolo contendere to, another noncriminal moving infraction since initial license issuance.

(b) Have been convicted of, or pleaded nolo contendere to, more than one noncriminal moving infraction in a 12-month period.

(2) With respect to an operator convicted of, or who has pleaded nolo contendere to, a noncriminal traffic offense identified under subsection (1), the department shall require that the operator, in addition to other applicable penalties, attend a departmentally approved basic driver improvement course in order to maintain driving privileges. If the operator fails to complete the course within 90 days after receiving notice from the department, the operator's driver's license shall be suspended by the department until the course is successfully completed.

(3) Attendance of a course approved by the department as a driver improvement course for purposes of s. 318.14(9) shall satisfy the requirements of this section. However, attendance of a course as required by this section is not included in the limitation on course elections under s. 318.14(9).

Section 17. Subsection (5) of section 318.1451, Florida Statutes, is amended to read:

318.1451 Driver improvement schools.—

(5)(a) No governmental entity or court shall provide, issue, or maintain any information or orders regarding driver improvement schools or course providers, with the exception of *the traffic school reference guide or course provider list referred to in paragraph (b)* ~~directing inquiries or requests to the local telephone directory heading of driving instruction or the traffic school reference guide~~. However, the department is authorized to maintain the information and records necessary to administer its duties and responsibilities for driver improvement courses. Where such information is a public record as defined in chapter 119, it shall be made available to the public upon request pursuant to s. 119.07(1). *Course providers receiving requests for information about traffic schools from geographic areas that they do not serve shall provide a telephone number for a course provider that they believe services such geographic area.*

(b) The department shall prepare for any governmental entity *or court* ~~to distribute~~ a traffic school reference guide which shall list the benefits of attending a driver improvement school *and contain the names of the fully approved course providers with a single telephone number for each such provider, as furnished by the provider. The cost of producing the traffic school reference guide must be assumed equally by providers electing to have their course included in the guide. Clerks of court may reproduce the traffic school reference guide course provider list, provided that each name is rotated on each reproduction so that each provider occupies each position on the list in a equitable manner*~~, but under no circumstance may any list of course providers or schools be included, and shall refer further inquiries to the telephone directory under driving instruction~~.

Section 18. Section 319.001, Florida Statutes, is amended to read:

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

(1) "Department" means the Department of Highway Safety and Motor Vehicles.

(2) "Front-end assembly" means fenders, hood, grill, and bumper.

(3)~~(2)~~ "Licensed dealer," unless otherwise specifically provided, means a motor vehicle dealer licensed under s. 320.27, a mobile home dealer licensed under s. 320.77, or a recreational vehicle dealer licensed under s. 320.771.

(4) "Motorcycle body assembly" means frame, fenders, and gas tanks.

(5) "Motorcycle engine" means cylinder block, heads, engine case, and crank case.

(6) "Motorcycle transmission" means drive train.

(7)~~(3)~~ "New mobile home" means a mobile home the equitable or legal title to which has never been transferred by a manufacturer, distributor, importer, or dealer to an ultimate purchaser.

(8)~~(4)~~ "New motor vehicle" means a motor vehicle the equitable or legal title to which has never been transferred by a manufacturer, distributor, importer, or dealer to an ultimate purchaser; however, when legal title is not transferred but possession of a motor vehicle is transferred pursuant to a conditional sales contract or lease and the conditions are not satisfied and the vehicle is returned to the motor vehicle dealer, the motor vehicle may be resold by the motor vehicle dealer as a new motor vehicle, provided the selling motor vehicle dealer gives the following written notice to the purchaser: "THIS VEHICLE WAS DELIVERED TO A PREVIOUS PURCHASER." The purchaser shall sign an acknowledgment, a copy of which is kept in the selling dealer's file.

(9) "Rear body section" means both quarter panels, decklid, bumper, and floor pan.

(10)~~(5)~~ "Satisfaction of lien" means full payment of a debt or release of a debtor from a lien by the lienholder.

(11)~~(6)~~ "Used motor vehicle" means any motor vehicle that is not a "new motor vehicle" as defined in subsection *(8)*~~(4)~~.

Section 19. Subsections (1), (2), and (3) of section 319.14, Florida Statutes, are amended, subsections (6), (7), and (8) are renumbered as subsections (7), (8), and (9), respectively, and a new subsection (6) is added to said section, to read:

319.14 Sale of motor vehicles registered or used as taxicabs, police vehicles, lease vehicles, or rebuilt vehicles and nonconforming vehicles.—

(1)(a) No person shall knowingly offer for sale, sell, or exchange any vehicle that has been licensed, registered, or used as a taxicab, police vehicle, or short-term-lease vehicle, or a vehicle that has been repurchased by a manufacturer pursuant to a settlement, determination, or decision under chapter 681, until the department has stamped in a conspicuous place on the certificate of title of the vehicle, or its duplicate, words stating the nature of the previous use of the vehicle or the title has been stamped "Manufacturer's Buy Back" to reflect that the vehicle is a nonconforming vehicle. If the certificate of title or duplicate was not so stamped upon initial issuance thereof or if, subsequent to initial issuance of the title, the use of the vehicle is changed to a use requiring the notation provided for in this section, the owner or lienholder of the vehicle shall surrender the certificate of title or duplicate to the department prior to offering the vehicle for sale, and the department shall stamp the certificate or duplicate as required herein. When a vehicle has been repurchased by a manufacturer pursuant to a settlement, determination, or decision under chapter 681, the title shall be stamped "Manufacturer's Buy Back" to reflect that the vehicle is a nonconforming vehicle.

(b) No person shall knowingly offer for sale, sell, or exchange a rebuilt vehicle until the department has stamped in a conspicuous place on the certificate of title for the vehicle words stating that the vehicle has been rebuilt *or*~~,~~ assembled from parts, ~~or combined,~~ or is a kit car, glider kit, replica, or flood vehicle unless proper application for a certificate of title for a vehicle that is rebuilt *or*~~,~~ assembled from parts, ~~or combined,~~ or is a kit car, glider kit, replica, or flood vehicle has been made to the department in accordance with this chapter and the department or its agent has conducted the physical examination of the vehicle to assure the identity of the vehicle *and all major component parts, as defined in s. 319.30(1)(e), which have been repaired or replaced. Thereafter, the department shall affix a decal to the vehicle, in the manner prescribed by the department, showing the vehicle to be rebuilt*.

(c) As used in this section:

1. "Police vehicle" means a motor vehicle owned or leased by the state or a county or municipality and used in law enforcement.

2.a. "Short-term-lease vehicle" means a motor vehicle leased without a driver and under a written agreement to one or more persons from time to time for a period of less than 12 months.

b. "Long-term-lease vehicle" means a motor vehicle leased without a driver and under a written agreement to one person for a period of 12 months or longer.

c. "Lease vehicle" includes both short-term-lease vehicles and long-term-lease vehicles.

3. "Rebuilt vehicle" means a motor vehicle or mobile home built from salvage or junk, as defined in s. 319.30(1).

4. "Assembled from parts" means a motor vehicle or mobile home assembled from parts *or combined from parts* of motor vehicles or mobile homes, new or used. "Assembled from parts" does not mean a motor vehicle defined as a "rebuilt vehicle" in subparagraph 3., which has been declared a total loss pursuant to s. 319.30.

~~5. "Combined" means assembled by combining two motor vehicles neither of which has been titled and branded as "Salvage Unrebuildable."~~

5.~~6.~~ "Kit car" means a motor vehicle assembled with a kit supplied by a manufacturer to rebuild a wrecked or outdated motor vehicle with a new body kit.

6.~~7.~~ "Glider kit" means a vehicle assembled with a kit supplied by a manufacturer to rebuild a wrecked or outdated truck or truck tractor.

7.~~8.~~ "Replica" means a complete new motor vehicle manufactured to look like an old vehicle.

8.~~9.~~ "Flood vehicle" means a motor vehicle or mobile home that has been declared to be a total loss pursuant to s. 319.30(3)(a) resulting from damage caused by water.

9.~~10.~~ "Nonconforming vehicle" means a motor vehicle which has been purchased by a manufacturer pursuant to a settlement, determination, or decision under chapter 681.

10.~~11.~~ "Settlement" means an agreement entered into between a manufacturer and a consumer that occurs after a dispute is submitted to a program, or an informal dispute settlement procedure established by a manufacturer or is approved for arbitration before the New Motor Vehicle Arbitration Board as defined in s. 681.102.

(2) No person shall knowingly sell, exchange, or transfer a vehicle referred to in subsection (1) without, prior to consummating the sale, exchange, or transfer, disclosing in writing to the purchaser, customer, or transferee the fact that the vehicle has previously been titled, registered, or used as a taxicab, police vehicle, or short-term-lease vehicle or is a vehicle that is rebuilt *or*~~,~~ assembled from parts, ~~or combined,~~ or is a kit car, glider kit, replica, or flood vehicle, or is a nonconforming vehicle, as the case may be.

(3) Any person who, with intent to offer for sale or exchange any vehicle referred to in subsection (1), knowingly or intentionally advertises, publishes, disseminates, circulates, or places before the public in any communications medium, whether directly or indirectly, any offer to sell or exchange the vehicle shall clearly and precisely state in each such offer that the vehicle has previously been titled, registered, or used as a taxicab, police vehicle, or short-term-lease vehicle or that the vehicle or mobile home is a vehicle that is rebuilt *or*~~,~~ assembled from parts, ~~or combined,~~ or is a kit car, glider kit, replica, or flood vehicle, or a nonconforming vehicle, as the case may be. Any person who violates this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(6) Any person who removes a rebuilt decal from a rebuilt vehicle or who knowingly possesses a rebuilt vehicle from which a rebuilt decal has been removed is guilty of a felony of the third degree punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 20. Paragraph (c) of subsection (3) of section 319.23, Florida Statutes, is amended to read:

319.23 Application for, and issuance of, certificate of title.—

(3) If a certificate of title has not previously been issued for a motor vehicle or mobile home in this state, the application, unless otherwise provided for in this chapter, shall be accompanied by a proper bill of sale or sworn statement of ownership, or a duly certified copy thereof, or by a certificate of title, bill of sale, or other evidence of ownership required by the law of the state or county from which the motor vehicle or mobile home was brought into this state. The application shall also be accompanied by:

~~(c) If the vehicle is an ancient or antique vehicle, as defined in s. 320.086, the application shall be accompanied by a certificate of title; a bill of sale and a registration; or a bill of sale and an affidavit by the owner defending the title from all claims. The bill of sale must contain a complete vehicle description to include the vehicle identification or engine number, year make, color, selling price, and signatures of the seller and purchaser.~~

Verification of the vehicle identification number is not required for any new motor vehicle; any mobile home; any trailer or semitrailer with a net weight of less than 2,000 pounds; or any travel trailer, camping trailer, truck camper, or fifth-wheel recreation trailer.

Section 21. Paragraph (a) of subsection (1) of section 319.28, Florida Statutes, is amended to read:

319.28 Transfer of ownership by operation of law.—

(1)(a) In the event of the transfer of ownership of a motor vehicle or mobile home by operation of law as upon inheritance, devise or bequest, order in bankruptcy, insolvency, replevin, attachment, execution or

other judicial sale or whenever the engine of a motor vehicle is replaced by another engine or whenever a motor vehicle is sold to satisfy storage or repair charges or repossession is had upon default in performance of the terms of a security agreement, chattel mortgage, conditional sales contract, trust receipt, or other like agreement, and upon the surrender of the prior certificate of title or, when that is not possible, presentation of satisfactory proof to the department of ownership and right of possession to such motor vehicle or mobile home, and upon payment of the fee prescribed by law and presentation of an application for certificate of title, the department may issue to the applicant a certificate of title thereto. ~~If the application is predicated upon a security agreement, chattel mortgage, conditional sales contract, trust receipt, or other like agreement, the original instrument or a certified copy thereof shall accompany the application; however, if an owner under a chattel mortgage voluntarily surrenders possession of the motor vehicle or mobile home, the original or a certified copy of the chattel mortgage shall accompany the application for a certificate of title and it shall not be necessary to institute proceedings in any court to foreclose such mortgage.~~

Section 22. Paragraphs (e) and (f) of subsection (1) and paragraph (b) of subsection (3) of section 319.30, Florida Statutes, are amended to read:

319.30 Definitions; dismantling, destruction, change of identity of motor vehicle or mobile home; salvage.—

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

(e) "Major component parts" means*:*

1. For motor vehicles other than motorcycles: the front-end assembly (fenders, hood, grill, bumper), cowl assembly, rear body section (both quarter panels, decklid, bumper), floor pan, door assemblies, engine, frame, transmission, and airbag.

2. For trucks, in addition to 1. above: the truck bed.

3. For motorcycles: body assembly, frame, fenders, gas tanks, engine, cylinder block, heads, engine case, crank case, transmission, drive train, front fork assembly, and wheels.

4. For mobile homes: the frame. ~~the front-end assembly (fenders, hood, grill, and bumper); cowl assembly; rear body section (both quarter panels, decklid, bumper, and floor pan); door assemblies; engine; frame; or transmission.~~

(f) "Major part" means the front-end assembly ~~(fenders, hood, grill, and bumper); cowl assembly; or rear body section (both quarter panels, decklid, bumper, and floor pan)~~.

(3)

(b) The owner of any motor vehicle or mobile home which is considered to be salvage shall, within 72 hours after the motor vehicle or mobile home becomes salvage, forward the title to the motor vehicle or mobile home to the department for processing. However, an insurance company which pays money as compensation for total loss of a motor vehicle or mobile home shall obtain the certificate of title for the motor vehicle or mobile home and, within 72 hours after receiving such certificate of title, shall forward such title to the department for processing. The owner or insurance company, as the case may be, may not dispose of a vehicle or mobile home that is a total loss before it has obtained a salvage certificate of title or certificate of destruction from the department. When applying for a salvage certificate of title or certificate of destruction, the owner or insurance company must provide the department with an estimate of the costs of repairing the physical and mechanical damage suffered by the vehicle for which a salvage certificate of title or certificate of destruction is sought. If the estimated costs of repairing the physical and mechanical damage to the vehicle are equal to 80 percent or more of the current retail cost of the vehicle, as established in any official used car or used mobile home guide, the department shall declare the vehicle unrebuildable and print a certificate of destruction, which authorizes the dismantling or destruction of the motor vehicle or mobile home described therein. This certificate of destruction shall be reassignable a maximum of two times before dismantling or destruction of the vehicle shall be required, and shall accompany the motor vehicle or mobile home for which it is issued, when such motor vehicle or mobile home is sold for such purposes, in lieu of a certificate of title, and, thereafter, the department shall refuse issuance of any certificate of title for that vehicle. Nothing in this subsection shall be applicable when a vehicle is worth less than $1,500 retail in undamaged condition in any official used motor vehicle guide or used mobile home guide*. An insurer paying a total loss claim may obtain a certificate of destruction for such vehicle.* ~~or~~ When a stolen motor vehicle or mobile home is recovered in substantially intact condition and is readily resalable without extensive repairs to or replacement of the frame or engine*, the insurer shall obtain a certificate of title in its own name before the vehicle may be sold or transferred*. Any person who willfully and deliberately violates this paragraph or falsifies any document to avoid the requirements of this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 23. Subsection (1) of section 320.01, Florida Statutes, is amended to read:

320.01 Definitions, general.—As used in the Florida Statutes, except as otherwise provided, the term:

(1) "Motor vehicle" means:

(a) An automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated on the roads of this state, used to transport persons or property, and propelled by power other than muscular power, but the term does not include traction engines, road rollers, such vehicles as run only upon a track, bicycles, *motorized scooters,* or mopeds.

(b) A recreational vehicle-type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. Recreational vehicle-type units, when traveling on the public roadways of this state, must comply with the length and width provisions of s. 316.515, as that section may hereafter be amended. As defined below, the basic entities are:

1. The "travel trailer," which is a vehicular portable unit, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a motorized vehicle. It is primarily designed and constructed to provide temporary living quarters for recreational, camping, or travel use. It has a body width of no more than 8½ feet and an overall body length of no more than 40 feet when factory-equipped for the road.

2. The "camping trailer," which is a vehicular portable unit mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

3. The "truck camper," which is a truck equipped with a portable unit designed to be loaded onto, or affixed to, the bed or chassis of the truck and constructed to provide temporary living quarters for recreational, camping, or travel use.

4. The "motor home," which is a vehicular unit which does not exceed *the* ~~40 feet in~~ length*,* ~~and the~~ height*,* and ~~the~~ width limitations provided in s. 316.515, is a self-propelled motor vehicle, and is primarily designed to provide temporary living quarters for recreational, camping, or travel use.

5. The "private motor coach," which is a vehicular unit which does not exceed the length, width, and height limitations provided in s. 316.515(9), is built on a self-propelled bus type chassis having no fewer than three load-bearing axles, and is primarily designed to provide temporary living quarters for recreational, camping, or travel use.

6. The "van conversion," which is a vehicular unit which does not exceed the length and width limitations provided in s. 316.515, is built on a self-propelled motor vehicle chassis, and is designed for recreation, camping, and travel use.

7. The "park trailer," which is a transportable unit which has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. The total area of the unit in a setup mode, when measured from the exterior surface of the exterior stud walls at the level of maximum dimensions, not including any bay window, does not exceed 400 square feet when constructed to ANSI A-119.5 standards, and 500 square feet when constructed to United States Department of Housing and Urban Development Standards. The length of a park trailer means the distance from the exterior of the front of the body (nearest to the drawbar and coupling mechanism) to the exterior of the rear of the body (at the opposite end of the body), including any protrusions.

8. The "fifth-wheel trailer," which is a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit, of gross trailer area not to exceed 400 square feet in the setup mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

Section 24. Subsections (18) and (19) are added to section 320.02, Florida Statutes, to read:

320.02 Registration required; application for registration; forms.—

(18) The application form for motor vehicle registration and renewal of registration must include language permitting a voluntary contribution of $2 per applicant, which shall be distributed to the Hearing Research Institute, Incorporated, for the purpose of infant hearing screening in Florida.

(19) The application form for motor vehicle registration and renewal of registration must include language permitting a voluntary contribution of $1 per applicant, which shall be distributed to the Juvenile Diabetes Foundation International.

Section 25. Paragraph (b) of subsection (4) and subsections (5), (6), and (7) of section 320.023, Florida Statutes, are amended, and subsection (8) is added to said section, to read:

320.023 Requests to establish voluntary checkoff on motor vehicle registration application.—

(4)

(b) The department is authorized to discontinue the voluntary contribution and distribution of associated proceeds if the organization no longer exists, if the organization has stopped providing services that are authorized to be funded from the voluntary contributions, or pursuant to an organizational recipient's request. *Organizations are required to notify the department immediately to stop warrants for voluntary check-off contributions if any of the conditions in this subsection exist, and must meet the requirements of paragraph (5)(b) or paragraph (5)(c), if applicable, for any period of operation during the fiscal year.*

(5) A voluntary contribution collected and distributed under this chapter, or any interest earned from those contributions, may not be used for commercial or for-profit activities nor for general or administrative expenses, except as authorized by law~~, or to pay the cost of the audit or report required by law~~.

(a) All organizations that receive annual use fee proceeds from the department are responsible for ensuring that proceeds are used in accordance with law.

~~(b) All organizational recipients of any voluntary contributions in excess of $15,000, not otherwise subject to annual audit by the Office of the Auditor General, shall submit an annual audit of the expenditures of these contributions and interest earned from these contributions, to determine if expenditures are being made in accordance with the specifications outlined by law. The audit shall be prepared by a certified public accountant licensed under chapter 473 at that organizational recipient's expense. The notes to the financial statements should state whether expenditures were made in accordance with law.~~

(b)~~(c)~~ *Any organization not subject to* ~~In lieu of an annual~~ audit *pursuant to s. 215.97 shall*~~,any organization receiving less than $15,000 in voluntary contributions directly from the department may~~ annually *attest* ~~report~~, under penalties of perjury, that such proceeds were used in compliance with law. The attestation shall be made annually in a form and format determined by the department.

(c)~~(d)~~ Any voluntary contributions authorized by law shall only be distributed to an organization under an appropriation by the Legislature.

(d)~~(c)~~ *Any organization subject to audit pursuant to s. 215.97 shall submit an audit report in accordance with rules promulgated by the Auditor General.* The annual *attestation* ~~audit or report~~ shall be submitted to the department for review within *9 months* ~~180 days~~ after the end of the organization's fiscal year.

(6) Within 90 days after receiving an organization's audit or *attestation* ~~report~~, the department shall determine which recipients have not complied with subsection (5). If the department determines that an organization has not complied or has failed to use the revenues in accordance with law, the department must discontinue the distribution of the revenues to the organization until the department determines that the organization has complied. If an organization fails to comply within 12 months after the voluntary contributions are withheld by the department, the proceeds shall be deposited into the Highway Safety Operating Trust Fund to offset department costs.

(7) The ~~Auditor General and the~~ department *has* ~~have~~ the authority to examine all records pertaining to the use of funds from the voluntary contributions authorized.

(8) All organizations seeking to establish a voluntary contribution on a motor vehicle registration application that are required to operate under the Solicitation of Contributions Act, as provided in chapter 496, must do so before funds may be distributed.

Section 26. Subsections (1) and (2) of section 320.025, Florida Statutes, are amended to read:

320.025 Registration certificate and license plate issued under fictitious name; application.—

(1) A confidential registration certificate and registration license plate *or decal* shall be issued under a fictitious name only for a motor vehicle *or vessel* owned or operated by a law enforcement agency of state, county, municipal, or federal government, the Attorney General's Medicaid Fraud Control Unit, or any state public defender's office. The requesting agency shall file a written application with the department on forms furnished by the department, which includes a statement that the license plate will be used for the Attorney General's Medicaid Fraud Control Unit, or law enforcement or any state public defender's office activities requiring concealment of publicly leased or owned motor vehicles *or vessels* and a statement of the position classifications of the individuals who are authorized to use the license plate. The department may modify its records to reflect the fictitious identity of the owner or lessee until such time as the license plate and registration certificate are surrendered to it.

(2) Except as provided in subsection (1), any motor vehicle owned or exclusively operated by the state or any county, municipality, or other governmental entity must at all times display a license plate of the type prescribed in s. 320.0655. *Any vessel owned or exclusively operated by the state or any county, municipality, or other governmental entity must at all times display a registration number as required in s. 328.56 and a vessel decal as required in s. 328.48(5).*

Section 27. Subsections (1) and (2) of section 320.05, Florida Statutes, are amended read:

320.05 Records of the department; inspection procedure; lists and searches; fees.—

(1) Except as provided in *ss.* ~~s.~~ 119.07(3) *and 320.025(3)*, the department may release records as provided in this section.

(2) Upon receipt of an application for the registration of a motor vehicle*, vessel,* or mobile home, as herein provided for, the department shall register the motor vehicle*, vessel,* or mobile home under the distinctive number assigned to such motor vehicle*, vessel,* or mobile home by the department. Electronic registration records shall be open to the inspection of the public during business hours. Information on a motor vehicle *or vessel* registration may not be made available to a person unless the person requesting the information furnishes positive proof of identification. The agency that furnishes a motor vehicle *or vessel* registration record shall record the name and address of any person other than a representative of a law enforcement agency who requests and receives information from a motor vehicle *or vessel* registration record and shall also record the name and address of the person who is the subject of the inquiry or other information identifying the entity about which information is requested. A record of each such inquiry must be maintained for a period of 6 months from the date upon which the information was released to the inquirer. Nothing in this section shall prohibit any financial institution, insurance company, motor vehicle dealer, licensee under chapter 493, attorney, or other agency which the department determines has the right to know from obtaining, for professional or business use only, information in such records from the department through any means of telecommunication pursuant to a code developed by the department providing all fees specified in subsection (3) have been paid. The department shall disclose records or information to the child support enforcement agency to assist in the location of individuals who owe or potentially owe child support or to whom such an obligation is owed pursuant to Title IV-D of the Social Security Act.

Section 28. Subsection (5) of section 320.055, Florida Statutes, is amended to read:

320.055 Registration periods; renewal periods.—The following registration periods and renewal periods are established:

(5) For a vehicle subject to *apportioned* registration under s. 320.08(4), (5)(a)1., (e), (6)(b), or (14), the registration period shall be a period of 12 months beginning in a month designated by the department and ending on the last day of the 12th month. For a vehicle subject to this registration period, the renewal period is the last month of the registration period. The registration period may be shortened or extended at the discretion of the department, on receipt of the appropriate prorated fees, in order to evenly distribute such registrations on a monthly basis. *For vehicles subject to registration other than apportioned under s. 320.08(4), (5)(a)1., (6)(b), or (14), the registration period begins December 1 and ends November 30. The renewal period is the 31-day period beginning December 1.*

Section 29. Paragraphs (b) and (c) of subsection (1) of section 320.06, Florida Statutes, are amended to read:

320.06 Registration certificates, license plates, and validation stickers generally.—

(1)

(b) Registration license plates bearing a graphic symbol and the alphanumeric system of identification shall be issued for a 5-year period. At the end of said 5-year period, upon renewal, the plate shall be replaced. The fee for such replacement shall be $10, $2 of which shall be paid each year before the plate is replaced, to be credited towards the next $10 replacement fee. The fees shall be deposited into the Highway Safety Operating Trust Fund. A credit or refund shall not be given for any prior years' payments of such prorated replacement fee when the plate is replaced or surrendered before the end of the 5-year period. With each license plate, there shall be issued a validation sticker showing the owner's birth month*, license plate number, and the year of expiration* or the appropriate renewal period if the owner is not a natural person. *The validation sticker is to be placed on the upper right corner of the license plate.* ~~This validation sticker shall be placed on the upper left corner of the license plate and shall be issued one time during the life of the license plate, or upon request when it has been damaged or destroyed. There shall also be issued with each license plate a serially numbered validation sticker showing the year of expiration, which sticker shall be placed on the upper right corner of the license plate.~~ Such license plate and validation stickers shall be issued based on the applicant's appropriate renewal period. The registration period shall be a period of 12 months, and all expirations shall occur based on the applicant's appropriate registration period. A vehicle with an apportioned registration shall be issued an annual license plate and a cab card that denote the declared gross vehicle weight for each apportioned jurisdiction in which the vehicle is authorized to operate.

(c) Registration license plates equipped with validation stickers shall be valid for not more than 12 months and shall expire at midnight on the last day of the registration period. For each registration period after the one in which the metal registration license plate is issued, and until the license plate is required to be replaced, a validation sticker showing the *month and* year of expiration shall be issued upon payment of the proper license tax amount and fees and shall be valid for not more than 12 months. When license plates equipped with validation stickers are issued in any month other than the owner's birth month or the designated registration period for any other motor vehicle, the effective date shall reflect the birth month or month and the year of renewal. However, when a license plate or validation sticker is issued for a period of less than 12 months, the applicant shall pay the appropriate amount of license tax and the applicable fee under the provisions of s. 320.14 in addition to all other fees. Validation stickers issued for vehicles taxed under the provisions of s. 320.08(6)(a), for any company which owns 250 vehicles or more, or for semitrailers taxed under the provisions of s. 320.08(5)(a), for any company which owns 50 vehicles or more, may be placed on any vehicle in the fleet so long as the vehicle receiving the validation sticker has the same owner's name and address as the vehicle to which the validation sticker was originally assigned.

Section 30. Paragraphs (h) and (i) are added to subsection (2) of section 320.072, Florida Statutes, to read:

320.072 Additional fee imposed on certain motor vehicle registration transactions.—

(1) A fee of $100 is imposed upon the initial application for registration pursuant to s. 320.06 of every motor vehicle classified in s. 320.08(2), (3), and (9)(c) and (d).

(2) The fee imposed by subsection (1) shall not apply to:

(h) Any license plate issued in the previous 10-year period from the date the transaction is being processed.

(i) Any license plate issued to a vehicle taxed under s. 320.08(2), (3), and (9)(c) or (d) at any time during the previous 10-year period.

Section 31. Subsection (6) of section 320.0805, Florida Statutes, is amended to read:

320.0805 Personalized prestige license plates.—

(6) A personalized prestige license plate shall be issued for the exclusive continuing use of the applicant. An exact duplicate of any plate may not be issued to any other applicant during the same registration period. An exact duplicate may not be issued for any succeeding year unless the previous owner of a specific plate relinquishes it by failure to apply for renewal or reissuance for *1 year following the last year of issuance* ~~three consecutive annual registration periods following the original year of issuance~~.

Section 32. Paragraph (h) of subsection (4) of section 320.08056, Florida Statutes, is amended to read:

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(h) Florida educational license plate, *$25* ~~$15~~.

Section 33. Paragraph (ff) is added to subsection (4) of section 320.08056, Florida Statutes, and paragraphs (a), (b), and (c) of subsection (8) of that section, are amended to read:

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(ff) Florida Golf license plate, $25.

(8)(a) The department must discontinue the issuance of an approved specialty license plate if:

1. Less than 8,000 plates*, including annual renewals,* are issued for that specialty license plate by the end of the 5th year of sales.

2. Less than 8,000 plates*, including annual renewals,* are issued for that specialty license plate during any subsequent 5-year period.

(b) The department is authorized to discontinue the issuance of a specialty license plate and distribution of associated annual use fee proceeds if the organization no longer exists, if the organization has stopped providing services that are authorized to be funded from the annual use fee proceeds, or pursuant to an organizational recipient's request. *An organization is required to notify the department immediately to stop all warrants for plate sales if any of the conditions in this section exist, and the organization must comply with s. 320.08062 for any period of operation during a fiscal year.*

(c) The requirements of paragraph (a) shall not apply to collegiate specialty license plates authorized in s. 320.08058(3)*,* ~~and~~ (13)*, (21), and (26)*.

Section 34. Subsection (32) is added to section 320.08058, Florida Statutes, to read:

320.08058 Specialty license plates.—

(32) FLORIDA GOLF LICENSE PLATES.—

(a) The Department of Highway Safety and Motor Vehicles shall develop a Florida Golf license plate as provided in this section. The word "Florida" must appear at the bottom of the plate. The Dade Amateur Golf Association, following consultation with the PGA TOUR, the Florida Sports Foundation, the LPGA and the PGA of America may submit a revised sample plate for consideration by the department.

(b) The department shall distribute the Florida Golf license plate annual use fee to the Florida Sports Foundation, a direct support organization of the Office of Tourism, Trade, and Economic Development. The license plate annual use fees are to be annually allocated as follows:

1. Up to five percent of the proceeds from the annual use fees may be used by the Florida Sports Foundation for the administration of the Florida Youth Golf Program.

2. The Dade Amateur Golf Association shall receive the first $80,000 in proceeds from the annual use fees for the operation of youth golf programs in Miami-Dade County. Thereafter, 15 percent of the proceeds from the annual use fee shall be provided to the Dade Amateur Golf Association for the operation of youth golf programs in Miami-Dade County.

3. The remaining proceeds from the annual use fee shall be available for grants to nonprofit organizations to operate youth golf programs and for the purpose of marketing the Florida Golf License Plates. All grant recipients, including the Dade Amateur Golf Association, shall be required to provide to the Florida Sports Foundation an annual program and financial report regarding the use of grant funds. Such reports shall be made available to the public.

(c) The Florida Sports Foundation shall establish a Florida Youth Golf Program. The Florida Youth Golf Program shall assist organizations for the benefit of youth, introduce young people to golf, instruct young people in golf, teach the values of golf, and stress life skills, fair play, courtesy, and self-discipline.

(d) The Florida Sports Foundation shall establish a five-member committee to offer advice regarding the distribution of the annual use fees for grants to nonprofit organizations. The advisory committee shall consist of one member from a group serving youth, one member from a group serving disabled youth, and three members at large.

Section 35. Section 320.08062, Florida Statutes, is amended to read:

320.08062 Audits *and attestation* required; annual use fees of specialty license plates.—

(1)(a) All organizations that receive annual use fee proceeds from the department are responsible for ensuring that proceeds are used in accordance with ss. 320.08056 and 320.08058.

~~(b) All organizational recipients of any specialty license plate annual use fee authorized in this chapter, not otherwise subject to annual audit by the Office of the Auditor General, shall submit an annual audit of the expenditures of annual use fees and interest earned from these fees, to determine if expenditures are being made in accordance with the specifications outlined by law. The audit shall be prepared by a certified public accountant licensed under chapter 473 at that organizational recipient's expense. The notes to the financial statements should state whether expenditures were made in accordance with ss. 320.08056 and 320.08058.~~

(b)~~(c)~~ *Any organization not subject to* ~~In lieu of an annual~~ audit *pursuant to s. 215.97 shall*~~, any organization receiving less than $25,000 in annual use fee proceeds directly from the department, or from another state agency, may~~ annually *attest* ~~report~~, under penalties of perjury, that such proceeds were used in compliance with ss. 320.08056 and 320.08058. The attestation shall be made annually in a form and format determined by the department.

(c)~~(d)~~ *Any organization subject to audit pursuant to s. 215.97 shall submit an audit report in accordance with rules promulgated by the Auditor General.* The annual *attestation* ~~audit~~ or report shall be submitted to the department for review within *9 months* ~~180 days~~ after the end of the organization's fiscal year.

(2) Within 90 days after receiving an organization's audit or *attestation* ~~report~~, the department shall determine which recipients of revenues from specialty license plate annual use fees have not complied with subsection (1). If the department determines that an organization has not complied or has failed to use the revenues in accordance with ss. 320.08056 and 320.08058, the department must discontinue the distribution of the revenues to the organization until the department determines that the organization has complied. If an organization fails to comply within 12 months after the annual use fee proceeds are withheld by the department, the proceeds shall be deposited into the Highway Safety Operating Trust Fund to offset department costs related to the issuance of specialty license plates.

(3) The ~~Auditor General and the~~ department *has* ~~have~~ the authority to examine all records pertaining to the use of funds from the sale of specialty license plates.

Section 36. Subsection (1) of section 320.083, Florida Statutes, is amended to read:

320.083 Amateur radio operators; special license plates; fees.—

(1) A person who is the owner or lessee of an automobile *or truck* for private use, a truck weighing not more than *7,999* ~~5,000~~ pounds, or a recreational vehicle as specified in s. 320.08(9)(c) or (d), which is not used for hire or commercial use; who is a resident of the state; and who holds a valid official amateur radio station license issued by the Federal Communications Commission shall be issued a special license plate upon application, accompanied by proof of ownership of such radio station license, and payment of the following tax and fees:

(a) The license tax required for the vehicle, as prescribed by s. 320.08(2), (3)(a), (b), or (c), *(4)(a), (b), (c), (d), (e), or (f),* or (9); and

(b) An initial additional fee of $5, and an additional fee of $1.50 thereafter.

Section 37. Subsections (1), (2), and (3) of section 320.089, Florida Statutes, are amended to read:

320.089 Members of National Guard and active United States Armed Forces reservists; former prisoners of war; survivors of Pearl Harbor; Purple Heart medal recipients; special license plates; fee.—

(1)(a) Each owner or lessee of an automobile or truck for private use or recreational vehicle as specified in s. 320.08(9)(c) or (d), which is not used for hire or commercial use, who is a resident of the state and an active or retired member of the Florida National Guard, a survivor of the attack on Pearl Harbor, a recipient of the Purple Heart medal, or an active member of any branch of the United States Armed Forces Reserve shall, upon application to the department, accompanied by proof of active membership or retired status in the Florida National Guard, proof of membership in the Pearl Harbor Survivors Association or proof of active military duty in Pearl Harbor on December 7, 1941, proof of being a Purple Heart medal recipient, or proof of active membership in any branch of the Armed Forces Reserve, and upon payment of the license tax for the vehicle as provided in s. 320.08, be issued a license plate as provided by s. 320.06, upon which, in lieu of the serial numbers prescribed by s. 320.06, shall be stamped the words "National Guard," "Pearl Harbor Survivor," "Combat-wounded veteran," or "U.S. Reserve," as appropriate, followed by the serial number of the license plate. Additionally, the Purple Heart plate may have the words "Purple Heart" stamped on the plate and the likeness of the Purple Heart medal appearing on the plate.

(b) Notwithstanding any other provision of law to the contrary beginning with fiscal year 2000-2001 and annually thereafter, the first $50,000 in general revenue generated from the sale of license plates issued under this section which are stamped with the words "National Guard," "Pearl Harbor Survivor," "Combat-wounded veteran," or "U.S. Reserve" shall be deposited into the Grants and Donations Trust Fund, as described in s. 296.38(2), to be used for the purposes established by law for that trust fund.

(c) Notwithstanding any provisions of law to the contrary, an applicant for a Pearl Harbor Survivor license plate or a Purple Heart license plate who also qualifies for a disabled veteran's license plate under s. 320.084 shall be issued one appropriate special license plate without payment of the license tax imposed by s. 320.08.

(2) Each owner or lessee of an automobile *or truck* for private use, truck weighing not more than *7,999* ~~5,000~~ pounds, or recreational vehicle as specified in s. 320.08(9)(c) or (d), which is not used for hire or commercial use, who is a resident of the state and who is a former prisoner of war, or their unremarried surviving spouse, shall, upon application therefor to the department, be issued a license plate as provided in s. 320.06, on which license plate are stamped the words "Ex-POW" followed by the serial number. Each application shall be accompanied by proof that the applicant meets the qualifications specified in paragraph (a) or paragraph (b).

(a) A citizen of the United States who served as a member of the Armed Forces of the United States or the armed forces of a nation allied with the United States who was held as a prisoner of war at such time as the Armed Forces of the United States were engaged in combat, or their unremarried surviving spouse, may be issued the special license plate provided for in this subsection without payment of the license tax imposed by s. 320.08.

(b) A person who was serving as a civilian with the consent of the United States Government, or a person who was a member of the Armed Forces of the United States who was not a United States citizen and was held as a prisoner of war when the Armed Forces of the United States were engaged in combat, or their unremarried surviving spouse, may be issued the special license plate provided for in this subsection upon payment of the license tax imposed by s. 320.08.

(3) Each owner or lessee of an automobile *or truck* for private use, truck weighing not more than *7,999* ~~5,000~~ pounds, or recreational vehicle as specified in s. 320.08(9)(c) or (d), which is not used for hire or commercial use, who is a resident of this state and who is the unremarried surviving spouse of a recipient of the Purple Heart medal shall, upon application therefor to the department, with the payment of the required fees, be issued a license plate as provided in s. 320.06, on which license plate are stamped the words "Purple Heart" and the likeness of the Purple Heart medal followed by the serial number. Each application shall be accompanied by proof that the applicant is the unremarried surviving spouse of a recipient of the Purple Heart medal.

Section 38. Subsection (1) of section 320.18, Florida Statutes, is amended to read:

320.18 Withholding registration.—

(1) The department may withhold the registration of any motor vehicle or mobile home the owner of which has failed to register it under the provisions of law for any previous period or periods for which it appears registration should have been made in this state, until the tax for such period or periods is paid. The department may cancel any license plate or fuel-use tax decal if the owner pays for the license plate, fuel-use tax decal, or any tax liability, penalty, or interest specified in chapter 207 by a dishonored check*, or if the vehicle owner or motor carrier has failed to pay a penalty for a weight or safety violation issued by the Department of Transportation Motor Carrier Compliance Office.*. The Department of Transportation and the Department of Highway Safety and Motor Vehicles may impound any commercial motor vehicle that has a canceled license plate or fuel-use tax decal until the tax liability, penalty, and interest specified in chapter 207, the license tax, or the fuel-use decal fee, and applicable administrative fees have been paid for by certified funds.

Section 39. Paragraph (c) of subsection (1) of secton 320.27, Florida Statutes, is amended, paragraph (f) is added to said subsection, and subsections (7) and (9) of said section are amended, to read:

320.27 Motor vehicle dealers.—

(1) DEFINITIONS.—The following words, terms, and phrases when used in this section have the meanings respectively ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(c) "Motor vehicle dealer" means any person engaged in the business of buying, selling, or dealing in motor vehicles or offering or displaying motor vehicles for sale at wholesale or retail, or who may service and repair motor vehicles pursuant to an agreement as defined in s. 320.60(1). Any person who buys, sells, or deals in three or more motor vehicles in any 12-month period or who offers or displays for sale three or more motor vehicles in any 12-month period shall be prima facie presumed to be engaged in such business. The terms "selling" and "sale" include lease-purchase transactions. A motor vehicle dealer may, at retail or wholesale, sell a recreational vehicle as described in s. 320.01(1)(b)1.-6. and 8., acquired in exchange for the sale of a motor vehicle, provided such acquisition is incidental to the principal business of being a motor vehicle dealer. However, a motor vehicle dealer may not buy a recreational vehicle for the purpose of resale unless licensed as a recreational vehicle dealer pursuant to s. 320.771. A motor vehicle dealer may apply for a certificate of title to a motor vehicle required to be registered under s. 320.08(2)(b), (c), and (d), using a manufacturer's statement of origin as permitted by s. 319.23(1), only if such dealer is authorized by a franchised agreement as defined in s. 320.60(1), to buy, sell, or deal in such vehicle and is authorized by such agreement to perform delivery and preparation obligations and warranty defect adjustments on the motor vehicle; provided this limitation shall not apply to recreational vehicles, van conversions, or any other motor vehicle manufactured on a truck chassis. The transfer of a motor vehicle by a dealer not meeting these qualifications shall be titled as a used vehicle. The classifications of motor vehicle dealers are defined as follows:

1. "Franchised motor vehicle dealer" means any person who engages in the business of repairing, servicing, buying, selling, or dealing in motor vehicles pursuant to an agreement as defined in s. 320.60(1).

2. "Independent motor vehicle dealer" means any person other than a franchised or wholesale motor vehicle dealer who engages in the

business of buying, selling, or dealing in motor vehicles, and who may service and repair motor vehicles.

3. "Wholesale motor vehicle dealer" means any person who engages exclusively in the business of buying, selling, or dealing in motor vehicles at wholesale or with motor vehicle auctions. Such person shall be licensed to do business in this state, shall not sell or auction a vehicle to any person who is not a licensed dealer, and shall not have the privilege of the use of dealer license plates. Any person who buys, sells, or deals in motor vehicles at wholesale or with motor vehicle auctions on behalf of a licensed motor vehicle dealer and as a bona fide employee of such licensed motor vehicle dealer is not required to be licensed as a wholesale motor vehicle dealer. In such cases it shall be prima facie presumed that a bona fide employer-employee relationship exists. A wholesale motor vehicle dealer shall be exempt from the display provisions of this section but shall maintain an office wherein records are kept in order that those records may be inspected.

4. "Motor vehicle auction" means any person offering motor vehicles or recreational vehicles for sale to the highest bidder where ~~both sellers and~~ buyers are licensed motor vehicle dealers. Such person shall not sell a vehicle to anyone other than a licensed motor vehicle dealer.

5. "Salvage motor vehicle dealer" means any person who engages in the business of acquiring salvaged or wrecked motor vehicles for the purpose of reselling them and their parts.

The term "motor vehicle dealer" does not include persons not engaged in the purchase or sale of motor vehicles as a business who are disposing of vehicles acquired for their own use or for use in their business or acquired by foreclosure or by operation of law, provided such vehicles are acquired and sold in good faith and not for the purpose of avoiding the provisions of this law; persons engaged in the business of manufacturing, selling, or offering or displaying for sale at wholesale or retail no more than 25 trailers in a 12-month period; public officers while performing their official duties; receivers; trustees, administrators, executors, guardians, or other persons appointed by, or acting under the judgment or order of, any court; banks, finance companies, or other loan agencies that acquire motor vehicles as an incident to their regular business; motor vehicle brokers; and motor vehicle rental and leasing companies that sell motor vehicles to motor vehicle dealers licensed under this section. Vehicles owned under circumstances described in this paragraph may be disposed of at retail, wholesale, or auction, unless otherwise restricted. A manufacturer of fire trucks, ambulances, or school buses may sell such vehicles directly to governmental agencies or to persons who contract to perform or provide firefighting, ambulance, or school transportation services exclusively to governmental agencies without processing such sales through dealers if such fire trucks, ambulances, school buses, or similar vehicles are not presently available through motor vehicle dealers licensed by the department.

(f) "Bona fide employee" means a person who is employed by a licensed motor vehicle dealer and receives annually an Internal Revenue Service Form W-2, or an independent contractor who has a written contract with a licensed motor vehicle dealer and receives annually an Internal Revenue Service Form 1099, for the purpose of acting in the capacity of or conducting motor vehicle sales transactions as a motor vehicle dealer.

(7) CERTIFICATE OF TITLE REQUIRED.—For each used motor vehicle in the possession of a licensee and offered for sale by him or her, the licensee either shall have in his or her possession *or control* a duly assigned certificate of title from the owner in accordance with the provisions of chapter 319, from the time when the motor vehicle is delivered to the licensee and offered for sale by him or her until it has been disposed of by the licensee, or shall have reasonable indicia of ownership or right of possession, or shall have made proper application for a certificate of title or duplicate certificate of title in accordance with the provisions of chapter 319. A motor vehicle dealer may not sell or offer for sale a vehicle in his or her possession unless the dealer satisfies the requirements of this subsection. Reasonable indicia of ownership shall include a duly assigned certificate of title; in the case of a new motor vehicle, a manufacturer's certificate of origin issued to or reassigned to the dealer; a consignment contract between the owner and the dealer along with a secure power of attorney from the owner to the dealer authorizing the dealer to apply for a duplicate certificate of title and assign the title on behalf of the owner; a court order awarding title to the vehicle to the dealer; a salvage certificate of title; a photocopy of a duly assigned certificate of title being held by a financial institution as collateral for a business loan of money to the dealer ("floor plan"); a copy of a canceled check or other documentation evidencing that an outstanding lien on a vehicle taken in trade by a licensed dealer has been satisfied and that the certificate of title will be, but has not yet been, received by the dealer; a vehicle purchase order or installment contract for a specific vehicle identifying that vehicle as a trade-in on a replacement vehicle; or a duly executed odometer disclosure statement as required by Title IV of the Motor Vehicle Information and Cost Savings Act of 1972 (Pub. L. No. 92-513, as amended by Pub. L. No. 94-364 and Pub. L. No. 100-561) and by 49 C.F.R. part 580 bearing the signatures of the titled owners of a traded-in vehicle.

(9) DENIAL, SUSPENSION, OR REVOCATION.—The department may deny, suspend, or revoke any license issued hereunder or under the provisions of s. 320.77 or s. 320.771, upon proof that a licensee has failed to comply with any of the following provisions ~~with sufficient frequency so as to establish a pattern of wrongdoing on the part of the licensee~~:

(a) Willful violation of any other law of this state, including chapter 319, this chapter, or ss. 559.901-559.9221, which has to do with dealing in or repairing motor vehicles or mobile homes or willful failure to comply with any administrative rule promulgated by the department. Additionally, in the case of used motor vehicles, the willful violation of the federal law and rule in 15 U.S.C. s. 2304, 16 C.F.R. part 455, pertaining to the consumer sales window form.

(b) Commission of fraud or willful misrepresentation in application for or in obtaining a license.

(c) Perpetration of a fraud upon any person as a result of dealing in motor vehicles, including, without limitation, the misrepresentation to any person by the licensee of the licensee's relationship to any manufacturer, importer, or distributor.

(d) Representation that a demonstrator is a new motor vehicle, or the attempt to sell or the sale of a demonstrator as a new motor vehicle without written notice to the purchaser that the vehicle is a demonstrator. For the purposes of this section, a "demonstrator," a "new motor vehicle," and a "used motor vehicle" shall be defined as under s. 320.60.

(e) Unjustifiable refusal to comply with a licensee's responsibility under the terms of the new motor vehicle warranty issued by its respective manufacturer, distributor, or importer. However, if such refusal is at the direction of the manufacturer, distributor, or importer, such refusal shall not be a ground under this section.

(f) Misrepresentation or false, deceptive, or misleading statements with regard to the sale or financing of motor vehicles which any motor vehicle dealer has, or causes to have, advertised, printed, displayed, published, distributed, broadcast, televised, or made in any manner with regard to the sale or financing of motor vehicles.

(g) Requirement by any motor vehicle dealer that a customer or purchaser accept equipment on his or her motor vehicle which was not ordered by the customer or purchaser.

(h) Requirement by any motor vehicle dealer that any customer or purchaser finance a motor vehicle with a specific financial institution or company.

(i) Failure by any motor vehicle dealer to provide a customer or purchaser with an odometer disclosure statement and a copy of any bona fide written, executed sales contract or agreement of purchase connected with the purchase of the motor vehicle purchased by the customer or purchaser.

(j) Failure of any motor vehicle dealer to comply with the terms of any bona fide written, executed agreement, pursuant to the sale of a motor vehicle.

(k) Requirement by the motor vehicle dealer that the purchaser of a motor vehicle contract with the dealer for physical damage insurance.

(l) Violation of any of the provisions of s. 319.35 by any motor vehicle dealer.

(m) Either a history of bad credit or an unfavorable credit rating as revealed by the applicant's official credit report or by investigation by the department.

(n) Failure to disclose damage to a new motor vehicle as defined in s. 320.60(10) of which the dealer had actual knowledge if the dealer's actual cost of repair, excluding tires, bumpers, and glass, exceeds 3 percent of the manufacturer's suggested retail price; provided, however, if only the application of exterior paint is involved, disclosure shall be made if such touch-up paint application exceeds $100.

(o) Failure to apply for transfer of a title as prescribed in s. 319.23(6).

(p) Use of the dealer license identification number by any person other than the licensed dealer or his or her designee.

(q) Conviction of a felony.

(r) Failure to continually meet the requirements of the licensure law.

(s) *A person who has been* ~~When a motor vehicle dealer is~~ convicted of a crime*, infraction, or violation as set forth in paragraph (g)* ~~which results in his or her being prohibited from continuing in that capacity, the dealer~~ may not *serve* ~~continue~~ in any capacity within the industry. *Such person* ~~The offender~~ shall have no financial interest, management, sales, or other role in the operation of a dealership. Further, the *person* ~~offender~~ may not derive income from the dealership beyond reasonable compensation for the sale of his or her ownership interest in the business. *The license or application of any dealership in which such person has an interest or plays a role in violation of this subsection shall be denied or revoked, as the case may be.*

(t) Representation to a customer or any advertisement to the general public representing or suggesting that a motor vehicle is a new motor vehicle if such vehicle lawfully cannot be titled in the name of the customer or other member of the general public by the seller using a manufacturer's statement of origin as permitted in s. 319.23(1).

(u) Failure to honor a bank draft or check given to a motor vehicle dealer for the purchase of a motor vehicle by another motor vehicle dealer within 10 days after notification that the bank draft or check has been dishonored. A single violation of this paragraph is sufficient for revocation or suspension. If the transaction is disputed, the maker of the bank draft or check shall post a bond in accordance with the provisions of s. 559.917, and no proceeding for revocation or suspension shall be commenced until the dispute is resolved.

(v) Sale by a motor vehicle dealer of a vehicle offered in trade by a customer prior to consummation of the sale, exchange, or transfer of a newly acquired vehicle to the customer, unless the customer provides written authorization for the sale of the trade-in vehicle prior to delivery of the newly acquired vehicle.

Section 40. Paragraph (a) of subsection (11) of section 320.60, Florida Statutes, is amended and a new subsection (15) is added to read:

320.60 Definitions for ss. 320.61-320.70.—Whenever used in ss. 320.61-320.70, unless the context otherwise requires, the following words and terms have the following meanings:

(11)(a) "Motor vehicle dealer" means any person, firm, *company,* ~~or~~ corporation*, or other entity,* who,

1. Is licensed pursuant to s. 320.27 as a "franchised motor vehicle dealer" and, for commission, money or other things of value, repairs or services motor vehicles or used motor vehicles pursuant to an agreement as defined in subsection (1), or

2. Who sells, exchanges, buys, *leases* or rents, or offers, or attempts to negotiate a sale or exchange of any interest in, motor vehicles*,* or

3. Who is engaged wholly or in part in the business of selling motor vehicles, whether or not such motor vehicles are owned by such person, firm, *company,* or corporation.

(15) "Sell," "selling," "sold," "exchange," "retail sales," and "leases" includes any transaction where the title of motor vehicle or used motor vehicle is transferred to a retail consumer, and also any retail lease transaction where a retail customer leases a vehicle for a period of at least 12 months. Establishing a price for sale pursuant to s. 320.64(24) does not constitute a sale or lease.

Section 41. Subsection (4) of section 320.61, Florida Statutes, is amended to read:

320.61 Licenses required of motor vehicle manufacturers, distributors, importers, etc.—

(4) When a complaint of unfair *or prohibited* cancellation *or nonrenewal* of a dealer agreement is made by a motor vehicle dealer against a licensee and *such complaint is pending* ~~is in the process of being heard~~ pursuant to ss. 320.60-320.70 ~~by the department~~, no replacement application for such agreement shall be granted *and no license shall be issued by the department under s. 320.27 to any replacement dealer* until a final decision is rendered ~~by the department~~ on the complaint of unfair cancellation*, so long as the dealer agreement of the complaining dealer is in effect as provided under s. 320.641(7).*

Section 42. Subsections (13) and (16) are stricken, subsections (14), (15), and (17)-(23) are renumbered, subsection (20) is amended and renumbered as (18), and subsections (22)-(33) are added to section 320.64, Florida Statutes, to read:

320.64 Denial, suspension, or revocation of license; grounds.—A license *of a licensee under s. 320.61* may be denied, suspended, or revoked within the entire state or at any specific location or locations within the state at which the applicant or licensee engages or proposes to engage in business, *upon a proof that the section was violated with sufficient frequency to establish a pattern of wrongdoing and a licensee or applicant shall be liable for claims and remedies provided in s. 320.695 and s. 320.697 for any violation of any of the following provisions. A licensee is prohibited from committing the following acts:* ~~upon proof that an applicant or licensee has failed to comply with any of the following provisions with sufficient frequency so as to establish a pattern of wrongdoing on the part of the applicant:~~

(18)~~(20)~~ The applicant or licensee has established a system of motor vehicle allocation or distribution or has implemented a system of allocation or distribution of motor vehicles to one or more of its franchised motor vehicle dealers which is unfair, inequitable, unreasonably discriminatory, or not supportable by reason and good cause after considering the equities of the affected motor vehicles dealer or dealers. *An applicant or licensee shall maintain for 3 years records that describe its methods or formula of allocation and distribution of its motor vehicles and records of its actual allocation and distribution of motor vehicles to its motor vehicle dealers in this state.*

(22) The applicant or licensee has refused to deliver, in reasonable quantities and within a reasonable time, to any duly licensed motor vehicle dealer who has an agreement with such applicant or licensee for the retail sale of new motor vehicles and parts for motor vehicles sold or distributed by the applicant or licensee, any such motor vehicles or parts as are covered by such agreement. Such refusal includes the failure to offer to its same line-make franchised motor vehicle dealers all models manufactured for that line-make, or requiring a dealer to pay any extra fee, require a dealer to execute a separate franchise agreement, purchase unreasonable advertising displays or other materials, or remodel, renovate, or recondition the dealer's existing facilities, or provide exclusive facilities as a prerequisite to receiving a model or series of vehicles. However, the failure to deliver any motor vehicle or part will not be considered a violation of this section if the failure is due to an act of God, work stoppage, or delay due to a strike or labor difficulty, a freight embargo, product shortage, or other cause over which the applicant or licensee has no control. An applicant or licensee may impose reasonable requirements on the motor vehicle dealer, other than the items listed

above, including, but not limited to, the purchase of special tools required to properly service a motor vehicle, the undertaking of sales person or service person training related to the motor vehicle.

(23) The applicant or licensee has competed or is competing with respect to any activity covered by the franchise agreement with a motor vehicle dealer of the same line-make located in this state with whom the applicant or licensee has entered into a franchise agreement, except as permitted in s. 320.645.

(24) The applicant or licensee has sold a motor vehicle to any retail consumer in the state except through a motor vehicle dealer holding a franchise agreement for the line-make that includes the motor vehicle. This section does not apply to sales by the applicant or licensee of motor vehicles to its current employees, employees of companies affiliated by common ownership, charitable not-for-profit- organizations, and the federal government.

(25) The applicant or licensee has undertaken an audit of warranty payments or incentive payment previously paid to a motor vehicle dealer in violation of this section or has failed to comply with s. 320.696. An applicant or licensee may reasonably and periodically audit a motor vehicle dealer to determine the validity of paid claims. Audit of warranty payments shall only be for the 1-year period immediately following the date the claim was paid. Audit of incentive payments shall only be for an 18-month period immediately following the date the incentive was paid. An applicant or licensee shall not deny a claim or charge a motor vehicle dealer back subsequent to the payment of the claim unless the applicant or licensee can show that the claim was false or fraudulent or that the motor vehicle dealer failed to substantially comply with the reasonable written and uniformly applied procedures of the applicant or licensee for such repairs or incentives.

(26) Notwithstanding the terms of any franchise agreement, the applicant or licensee has refused to allocate, sell, or deliver motor vehicles, charged back or withheld payments or other things of value for which the dealer is otherwise eligible under a sales promotion, program, or contest, or prevented the motor vehicle dealer from participating in any promotion, program, or contest for selling a motor vehicle to a customer who was present at the dealership and the motor vehicle dealer did not know or should not have reasonably known that the vehicle would be shipped to a foreign country. There will be a rebuttable presumption that the dealer did not know or should not have reasonably known that the vehicle would be shipped to a foreign country if the vehicle is titled in one of the fifty United States.

(27) Notwithstanding the terms of any franchise agreement, the applicant or licensee has failed or refused to indemnify and hold harmless any motor vehicle dealer against any judgment for damages, or settlements agreed to by the applicant or licensee, including, without limitation, court costs and reasonable attorneys fees, arising out of complaints, claims, or lawsuits, including, without limitation, strict liability, negligence, misrepresentation, express or implied warranty, or revocation or rescission of acceptance of the sale of a motor vehicle, to the extent the judgment or settlement relates to the alleged negligent manufacture, design, or assembly of motor vehicles, parts, or accessories. Nothing herein shall obviate the licensee's obligations pursuant to chapter 681.

(28) The applicant or licensee has published, disclosed, or otherwise made available in any form information provided by a motor vehicle dealer with respect to sales prices of motor vehicles or profit per motor vehicle sold. Other confidential financial information provided by motor vehicle dealers shall not be published, disclosed, or otherwise made publicly available except in composite form. However, this information may be disclosed with the written consent of the dealer or in response to a subpoena or order of the Department, a court or a lawful tribunal, or introduced into evidence in such a proceeding, after timely notice to an affected dealer.

(29) The applicant or licensee has failed to reimburse a motor vehicle dealer in full for the reasonable cost of providing a loaner vehicle to any customer who is having a vehicle serviced at the motor vehicle dealer, if a loaner is required by the applicant or licensee, or a loaner is expressly part of an applicant or licensee's customer satisfaction index or computation.

(30) The applicant or licensee has conducted or threatened to conduct any audit of a motor vehicle dealer in order to coerce or attempt to coerce the dealer to forego any rights granted to the dealer under ss. 320.60-320.70 or under the agreement between the licensee and the motor vehicle dealer. Nothing in this section shall prohibit an applicant or licensee from reasonably and periodically auditing a dealer to determine the validity of paid claims.

(31) From and after the effective date of enactment of this provision, the applicant or licensee has offered to any motor vehicle dealer a franchise agreement that:

(a) Requires that a motor vehicle dealer bring an administrative or legal action in a venue outside of this state, or

(b) Requires that any arbitration, mediation, or other legal proceeding be conducted outside of this state, or

(c) Requires that a law of a state other than Florida be applied to any legal proceeding between a motor vehicle dealer and a licensee.

(32) Notwithstanding the terms of any franchise agreement, the applicant or licensee has rejected or withheld approval of any proposed transfer in violation of s. 320.643 or a proposed change of executive management in violation of s. 320.644.

Section 43. Section 320.641, Florida Statutes, is amended and a new subsection (8) is added to read:

320.641 *Discontinuations, cancellations, nonrenewals, modifications, and replacement*~~Unfair cancellation~~ of franchise agreements.—

(1)(a) An applicant or licensee shall give written notice to the motor vehicle dealer and the department of the licensee's intention to discontinue, cancel, or fail to renew a franchise agreement or of the licensee's intention to modify a franchise or replace a franchise with a succeeding franchise, which modification or replacement will adversely alter the rights or obligations of a motor vehicle dealer under an existing franchise agreement or will substantially impair the sales, service obligations, or investment of the motor vehicle dealer, at least 90 days before the effective date thereof, together with the specific grounds for such action.

(b) The failure by the licensee to comply with the 90-day notice period and procedure prescribed herein shall render voidable, at the option of the motor vehicle dealer, any discontinuation, cancellation, nonrenewal, modification, or replacement of any franchise agreement. Designation of a franchise agreement at a specific location as a "nondesignated point" shall be deemed an evasion of this section and constitutes an unfair cancellation.

(2) Franchise agreements are deemed to be continuing unless the applicant or licensee has notified the department of the discontinuation of, cancellation of, failure to renew, modification of, or replacement of the agreement of any of its motor vehicle dealers; and annual renewal of the license provided for under ss. 320.60-320.70 is not necessary for any cause of action against the licensee.

(3) Any motor vehicle dealer *who receives a notice of intent to discontinue, cancel, not renew, modify, or replace* ~~whose franchise agreement is discontinued, canceled, not renewed, modified, or replaced~~ may, within the 90-day notice period, file a petition or complaint for a determination of whether such action is an unfair or prohibited discontinuation, cancellation, nonrenewal, modification, or replacement. Agreements and certificates of appointment shall continue in effect until final determination of the issues raised in such petition or complaint by the motor vehicle dealer. A discontinuation, cancellation, or nonrenewal of a franchise agreement is unfair if it is not clearly permitted by the franchise agreement; is not undertaken in good faith; is not undertaken for good cause; or is based on an alleged breach of the franchise agreement which is not in fact a material and substantial breach*; or, if the grounds relied upon for termination, cancellation, or*

nonrenewal have not been applied in a uniform and consistent manner by the licensee. A modification or replacement is unfair if it is not clearly permitted by the franchise agreement; is not undertaken in good faith; or is not undertaken for good cause. The applicant or licensee shall have burden of proof that such action is fair and not prohibited.

(4) Notwithstanding any other provision of this section, the failure of a motor vehicle dealer to be engaged in business with the public for 10 consecutive business days constitutes abandonment by the dealer of his or her franchise agreement. If any motor vehicle dealer abandons his or her franchise agreement, he or she has no cause of action under this section. For the purpose of this section, a dealer shall be considered to be engaged in business with the public if a sales and service facility is open and is performing such services 8 hours a day, 5 days a week, excluding holidays. However, it will not be considered abandonment if such failure to engage in business is due to an act of God, a work stoppage, or a delay due to a strike or labor difficulty, a freight embargo, or other cause over which the motor vehicle dealer has no control, including any violation of ss. 320.60-320.70.

(5) Notwithstanding any other provision of this section, if a motor vehicle dealer has abandoned his or her franchise agreement as provided in subsection (4), the licensee may give written notice to the dealer and the department of the licensee's intention to discontinue, cancel, or fail to renew the franchise agreement with the dealer at least 15 days before the effective date thereof, specifying the grounds for such action. A motor vehicle dealer receiving such notice may file a petition or complaint for determination of whether in fact there has been an abandonment of the franchise.

(6) If the complainant motor vehicle dealer prevails, he or she shall have a cause of action against the licensee for reasonable attorneys' fees and costs incurred by him or her in such proceeding, and he or she shall have a cause of action under s. 320.697.

(7) Except as provided in s. 320.643, no replacement motor vehicle dealer shall be named for this point or location to engage in business *and the franchise agreement shall remain in effect until a final judgment is entered after all appeals are exhausted, provided that, when a motor vehicle dealer appeals a decision upholding a discontinuation, cancellation, or nonrenewal based upon abandonment or revocation of the dealer's license pursuant to s. 320.27, as lawful reasons for such discontinuation, cancellation, or nonrenewal, the franchise agreement shall remain in effect pending exhaustion of all appeals only if the motor vehicle dealer establishes a likelihood of success on appeal and that the public interest will not be harmed by keeping the franchise agreement in effect pending entry of final judgment after such appeal.* ~~prior to the final adjudication by the department on the petition or complaint and the exhaustion of all appellate remedies by the canceled or discontinued dealer, if a stay is issued by either the department or an appellate court.~~

(8) If a transfer is proposed pursuant to s. 320.643(1) or (2) after a notice of intent to discontinue, cancel, or not renew a franchise agreement is received but, prior to the final determination, including exhaustion of all appellate remedies of a motor vehicle dealer's complaint or petition contesting such action, the termination proceedings shall be stayed, without bond, during the period that the transfer is being reviewed by the licensee pursuant to s. 320.643.~~,~~ During the period that the transfer is being reviewed by the licensee, pursuant to s. 320.643, the franchise agreement shall remain in full force and effect, and the motor vehicle dealer shall retain all rights and remedies pursuant to the terms and conditions of the franchise agreement and applicable law, including all rights of transfer until such time as the licensee has accepted or rejected the proposed tranfer. If the proposed transfer is rejected, the motor vehicle dealer shall retain all of its rights pursuant to s. 320.643 to an administrative determination as to whether the licensee's rejection is in compliance with the provisions of s. 320.643, and during the pendency of any such administrative proceeding, and any related appellate proceedings, the termination proceedings shall remain stayed without bond, the franchise agreement shall remain in full force and effect and the motor vehicle dealer shall retain all rights and remedies pursuant to the terms and conditions of the franchise agreement and applicable law, including all rights of transfer. If a transfer is approved by the licensee or mandated by law, the termination proceedings shall be dismissed with prejudice as moot. The subsection (8) applies only to the first two proposed transfers pursuant to s. 320.643(1) or (2) after notice of intent to discontinue, cancel, or not renew is received.

Section 44. Section 320.643, Florida Statutes, is amended to read:

320.643 Transfer, assignment, or sale of franchise agreements.—

(1) A motor vehicle dealer shall not transfer, assign, or sell a franchise agreement to another person unless the dealer first notifies the licensee of the dealer's decision to make such transfer, by written notice setting forth the prospective transferee's name, address, financial qualification, and business experience during the previous 5 years. The licensee shall, in writing, within 60 days after receipt of such notice, inform the dealer either of the licensee's approval of the transfer, assignment, or sale or of the unacceptability of the proposed transferee, setting forth the material reasons for the rejection. If the licensee does not so inform the dealer within the 60-day period, its approval of the proposed transfer is deemed granted. No such transfer, assignment, or sale will be valid unless the transferee agrees in writing to comply with all requirements of the franchise then in effect. ~~Notwithstanding the terms of any franchise agreement, the acceptance by the licensee of the proposed transferee shall not be unreasonably withheld.~~ For the purposes of this section, the refusal by the licensee to accept a proposed transferee who is of good moral character and who otherwise meets the written, reasonable, and uniformly applied standards or qualifications, if any, of the licensee relating to *financial qualifications of the transferee and* the business experience of *the transferee or* the transferee's executive management ~~required by the licensee of its motor vehicle dealers~~ is presumed to be unreasonable. A *motor vehicle dealer whose proposed sale is rejected* ~~licensee who receives such notice~~ may, within 60 days following such receipt *of such rejection*, file with the department a ~~verified~~ complaint for a determination that the proposed transferee *has been rejected in violation of* ~~is not a person qualified to be a transferee under~~ this section. The licensee has the burden of proof with respect to all issues raised by such ~~verified~~ complaint. The department shall determine, and enter an order providing, that the proposed transferee is either qualified or is not and cannot be qualified for specified reasons, or the order may provide the conditions under which a proposed transferee would be qualified. If the licensee fails to file such *a response to the motor vehicle dealer's* ~~verified~~ complaint within *30*~~such 60~~ day*s after receipt of the complaint, unless the parties agree in writing to an extension,* ~~period~~ or if the department, after a hearing, ~~dismisses the complaint or~~ renders a decision other than one disqualifying the proposed transferee, the franchise agreement between the motor vehicle dealer and the licensee shall be deemed amended to incorporate such transfer or amended in accordance with the determination and order rendered, effective upon compliance by the proposed transferee with any conditions set forth in the determination or order.

(2)(a) Notwithstanding the terms of any franchise agreement, a licensee shall not, by contract or otherwise, fail or refuse to give effect to, prevent, prohibit, or penalize, or attempt to refuse to give effect to, prevent, prohibit, or penalize, any motor vehicle dealer or any proprietor, partner, stockholder, owner, or other person who holds or otherwise owns an interest therein from selling, assigning, transferring, alienating, or otherwise disposing of, in whole or in part, the equity interest of any of them in such motor vehicle dealer to any other person or persons, including a corporation established or existing for the purpose of owning or holding the stock or ownership interests of other entities, unless the licensee proves at a hearing pursuant to this section that such sale, transfer, alienation, or other disposition is to a person who is not, or whose controlling executive management is not, of good moral character. A motor vehicle dealer, or any proprietor, partner, stockholder, owner, or other person who holds or otherwise owns an interest in the motor vehicle dealer, who desires to sell, assign, transfer, alienate, or otherwise dispose of any interest in such motor vehicle dealer shall notify, or cause the proposed transferee to so notify, the licensee, in writing, of the identity and address of the proposed transferee. A licensee who receives such notice may, within 60 days following such receipt, *notify the motor vehicle dealer in writing* ~~file with the department a verified complaint for a determination~~ that the

proposed transferee is not a person qualified to be a transferee under this section *and setting forth the material reasons for such rejection. Failure of the licensee to notify the motor vehicle dealer within the 60-day period of such rejection shall be deemed an approval of the transfer. Any person whose proposed sale of stock is rejected may file within 60 days of receipt of such rejection a complaint with the Department alleging that the rejection was in violation of the law or the franchise agreement.* The licensee has the burden of proof with respect to all issues raised by such ~~verified~~ complaint. The department shall determine, and enter an order providing, that the proposed transferee either is qualified or is not and cannot be qualified for specified reasons; or the order may provide the conditions under which a proposed transferee would be qualified. If *the licensee fails to file a response to the motor vehicle dealer's complaint within 30 days of receipt of the complaint, unless the parties agree in writing to an extension, or if* ~~the licensee fails to file such verified complaint within such 60-day period or if~~ the department, after a hearing, ~~dismisses the complaint or~~ renders a decision *on the complaint* other than one disqualifying the proposed transferee, the transfer *shall be deemed approved* ~~franchise agreement between the motor vehicle dealer and the licensee shall be deemed amended to incorporate such transfer or amended~~ in accordance with the determination and order rendered, effective upon compliance by the proposed transferee with any conditions set forth in the determination or order.

(b) During the pendency of any such hearing, the franchise agreement of the motor vehicle dealer shall continue in effect in accordance with its terms. The department shall expedite any determination requested under this section.

(3) Notwithstanding the terms of any franchise agreement, the acceptance by the licensee of the proposed transferee shall not be unreasonably withheld. For the purposes of this section, the refusal by the licensee to accept a proposed transferee who satisfies the criteria set forth in subsection (1) or (2) is presumed to be unreasonable.

Section 45. Section 320.645, Florida Statutes, is amended to read:

320.645 Restriction upon ownership of dealership by licensee.—

(1) No licensee, including a manufacturer or agent of a manufacturer, or any parent, subsidiary, common entity, or officer or representative of the licensee shall own or operate, either directly or indirectly, a motor vehicle dealership in this state for the sale or service of motor vehicles which have been or are offered for sale under a franchise agreement with a motor vehicle dealer in this state. *A licensee may not be issued a motor vehicle dealer license pursuant to s. 320.27.* However, no such licensee will be deemed to be in violation of this section:

(a) When operating a motor vehicle dealership for a temporary period, not to exceed 1 year, during the transition from one owner of the motor vehicle dealership to another;

(b) When operating a motor vehicle dealership temporarily for a reasonable period *for the exclusive purpose of broadening the diversity of its dealer body and enhancing opportunities for qualified persons who are part of a group that has historically been underrepresented in its dealer body, or for other qualified persons who the licensee deems lack the resources to purchase or capitalize the dealership outright*, ~~not to exceed 1 year, or~~ in a bona fide relationship with an independent person, other than a licensee or its agent or affiliate, who has made a significant investment that is subject to loss in the dealership *within the dealership's first year of operation* and who can reasonably expect to acquire full ownership of the dealership on reasonable terms and conditions; or

(c) If the department determines, after a hearing on the matter, pursuant to chapter 120, at the request of any person, that there is no independent person available in the community or territory to own and operate the motor vehicle dealership in a manner consistent with the public interest.

In any such case, the licensee must continue to make the motor vehicle dealership available for sale to an independent person at a fair and reasonable price. Approval of the sale of such a motor vehicle dealership to a proposed motor vehicle dealer shall not be unreasonably withheld.

(2) As used in this section, the term:

(a) "Independent person" is a person who is not an officer, director, or employee of the licensee.

(b) "Reasonable terms and conditions" requires that profits from the dealership are reasonably expected to be sufficient to allow full ownership of the dealership by the independent person within a reasonable time period not to exceed 10 years, which time period may be extended if there is a reasonable basis to do so and is not being sought to evade the purpose of this section; that the independent person has sufficient control to permit acquisition of ownership; and that the relationship cannot be terminated solely to avoid full ownership. The terms and conditions are not reasonable if they preclude the independent person from an expedited purchase of the dealership using a monetary source other than profits from the dealership's operation; provided, however, that the independent person must pay or make an agreement to pay to the licensee any and all reasonable prepayment charges and costs, including all unrecouped restored losses, associated with the expedited purchase of the dealership. For the purpose of this section, unrecouped restored losses are monies that the manufacturer has provided to the dealership to restore losses of the dealership that the manufacturer has not been paid back through profits of the dealership.

(c) "Significant investment" means a reasonable amount, considering the reasonable capital requirements of the dealership, acquired and obtained from sources other than the licensee or any of its affiliates and not encumbered by the person's interest in the dealership.

(3) Nothing in this section shall prohibit, limit, restrict, or impose conditions on:

(a) The business activities, including, without limitation, the dealings with motor vehicle manufacturers and their representatives and affiliates, of any person that is primarily engaged in the business of short term not to exceed 12 months rental of motor vehicles and industrial and construction equipment and activities incidental to that business, provided that:

1. Any motor vehicles sold by such person are limited to used motor vehicles that have been previously used exclusively and regularly by such person in the conduct of its rental business and used motor vehicles traded in on motor vehicles sold by such person;

2. Warranty repairs performed under any manufacturer's new vehicle warranty by such person on motor vehicles are limited to those motor vehicles that it owns. As to previously owned vehicles, warranty repairs can be performed only if pursuant to a motor vehicle service agreement as defined in chapter 634, part I, issued by such person or an express warranty issued by such person on the retail sale of those vehicles previously owned; and

3. Motor vehicle financing provided by such person to retail consumers for motor vehicles is limited to used motor vehicles sold by such person in the conduct of its business; or

(b) The direct or indirect ownership, affiliation or control of a person described in paragraph (a) of this subsection.

(4) This section does not apply to any dealership that is owned, controlled, or operated by a licensee on July 1, 2000.

~~(2) This section shall not be construed to prohibit any licensee from owning or operating a motor vehicle dealership in this state if such dealership was owned or operated by the licensee on May 31, 1984.~~

Section 46. Subsection (2) of section 320.699, Florida Statutes, is amended to read:

320.699 Administrative hearings and adjudications; procedure.—

(2) If a written objection or notice of protest is filed with the department under paragraph (1)(b), a hearing shall be held *not sooner than 180 days nor later than 240 days from* ~~within 180 days of~~ the date

of filing of the first objection or notice of protest, unless the time is extended by the *Administrative Law Judge for good cause shown. This subsection shall govern the schedule of hearings in lieu of any other provision of law with respect to administrative hearings conducted by the Department of Highway Safety and Motor Vehicles or the Division of Administrative Hearings, including performance standards of state agencies, which may be included in current and future appropriations acts.* ~~hearing officer for good cause shown. If a hearing is not scheduled within said time, any party may request such hearing which shall be held forthwith by the hearing officer.~~

Section 47. Section 320.6991, Florida Statutes, is created to read:

Section 320.6991 Severability.—If a provision of ss. 320.60-320.70 or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of ss. 320.60-320.70 that can be given effect without the invalid provision or application, and to this end the provisions of 320.60-320.70 are severable.

Section 48. Section 320.691, Florida Statutes, is created to read:

320.691 Automobile Dealers Industry Advisory Board.—

(1) AUTOMOBILE DEALERS INDUSTRY ADVISORY BOARD.—The Automobile Dealers Industry Advisory Board is created within the Department of Highway Safety and Motor Vehicles. The board shall make recommendations on proposed legislation, make recommendations on proposed rules and procedures, present licensed motor vehicle dealer industry issues to the department for its consideration, consider any matters relating to the motor vehicle industry presented to it by the department, and submit an annual report to the Executive Director of the department and file copies with the Governor, President of the Senate, and the Speaker of the House of Representatives.

(2) MEMBERSHIP, TERMS, MEETINGS.—

(a) The board shall be composed of 12 members. The Executive Director of the Department of Highway Safety and Motor Vehicles shall appoint the members from names submitted by the entities for the designated categories the member will represent. The Executive Director shall appoint one representative of the Department of Highway Safety and Motor Vehicles, who must represent the Division of Motor Vehicles; two representatives of the independent motor vehicle industry as recommended by the Florida Independent Automobile Dealers Association; two representatives of the franchise motor vehicle industry as recommended by the Florida Automobile Dealers Association; one representative of the auction motor vehicle industry who is from an auction chain and is recommended by a group affiliated with the National Auto Auction Association; one representative of the auction motor vehicle industry who is from an independent auction and is recommended by a group affiliated with the National Auto Auction Association; one representative from the Department of Revenue; a Florida Tax Collector representative recommended by the Florida Tax Collectors Association; one representative from the Better Business Bureau; one representative from the Department of Agriculture and Consumer Services, who must represent the Division of Consumer Services; and one representative of the insurance industry who writes motor vehicle dealer surety bonds.

(b)1. The Executive Director shall appoint the following initial members to 1-year terms: one representative from the motor vehicle auction industry who represents an auction chain, one representative from the independent motor vehicle industry, one representative from the franchise motor vehicle industry, one representative from the Department of Revenue, one Florida Tax Collector, and one representative from the Better Business Bureau.

2. The Executive Director shall appoint the following initial members to 2-year terms: one representative from the motor vehicle auction industry who represents an independent auction, one representative from the independent motor vehicle industry, one representative from the franchise motor vehicle industry, one representative from the Division of Consumer Services, one representative from the insurance industry, and one representative from the Division of Motor Vehicles.

3. As the initial terms expire, the Executive Director shall appoint successors from the same designated category for terms of 2 years. If renominated, a member may succeed himself or herself.

4. The board shall appoint a chair and vice chair at its initial meeting and every 2 years thereafter.

(c) The board shall meet at least two times per year. Meetings may be called by the chair of the board or by the Executive Director of the department. One meeting shall be held in the fall of the year to review legislative proposals. The board shall conduct all meetings in accordance with applicable Florida Statutes and shall keep minutes of all meetings. Meetings may be held in locations around the state in department facilities or in other appropriate locations.

(3) PER DIEM, TRAVEL, AND STAFFING.—Members of the board from the private sector are not entitled to per diem or reimbursement for travel expenses. However, members of the board from the public sector are entitled to reimbursement, if any, from their respective agency. Members of the board may request assistance from the Department of Highway Safety and Motor Vehicles as necessary.

Section 49. Subsection (26) of section 322.01, Florida Statutes, is amended to read:

322.01 Definitions.—As used in this chapter:

(26) "Motor vehicle" means any self-propelled vehicle, including a motor vehicle combination, not operated upon rails or guideway, excluding vehicles moved solely by human power, motorized wheelchairs, *motorized scooters,* and motorized bicycles as defined in s. 316.003.

Section 50. Subsections (4) and (5) are added to section 322.0261, Florida Statutes, to read:

322.0261 Mandatory driver improvement course; certain crashes.—

(4) The Department of Highway Safety and Motor Vehicles shall approve and regulate courses that use technology as the delivery method of all driver improvement schools as the courses relate to this section.

(5) In determining whether to approve courses of driver improvement schools that use technology as the delivery method as the courses relate to this section, the department shall consider only those courses submitted by a person, business, or entity which receive:

(a) Approval for statewide delivery.

(b) Independent scientific research evidence of course effectiveness.

Section 51. Section 322.161, Florida Statutes, is amended to read:

322.161 High-risk drivers; restricted licenses.—

(1)(a) Notwithstanding any provision of law to the contrary, the department shall restrict the driving privilege of any Class D or Class E licensee who is age 15 through 17 and who has accumulated *six* ~~four~~ or more points pursuant to s. 318.14, excluding parking violations, within a 12-month period.

(b) Upon determination that any person has accumulated *six* ~~four~~ or more points, the department shall notify the licensee and issue the licensee a restricted license for business purposes only. The licensee must appear before the department within 10 days after notification to have this restriction applied. The period of restriction shall be for a period of no less than 1 year beginning on the date it is applied by the department.

(c) The restriction shall be automatically withdrawn by the department after 1 year if the licensee does not accumulate any additional points. If the licensee accumulates any additional points, then the period of restriction shall be extended 90 days for each point. The restriction shall also be automatically withdrawn upon the licensee's 18th birthday if no other grounds for restriction exist. The licensee must appear before the department to have the restriction removed and a duplicate license issued.

(2)(a) Any Class E licensee who is age 15 through 17 and who has accumulated *six* ~~four~~ or more points pursuant to s. 318.14, excluding parking violations, within a 12-month period shall not be eligible to obtain a Class D license for a period of no less than 1 year. The period of ineligibility shall begin on the date of conviction for the violation that results in the licensee's accumulation of *six* ~~four~~ or more points.

(b) The period of ineligibility shall automatically expire after 1 year if the licensee does not accumulate any additional points. If the licensee accumulates any additional points, then the period of ineligibility shall be extended 90 days for each point. The period of ineligibility shall also automatically expire upon the licensee's 18th birthday if no other grounds for ineligibility exist.

(3) Any action taken by the department pursuant to this section shall not be subject to any formal or informal administrative hearing or similar administrative procedure.

(4) The department shall adopt rules to carry out the purposes of this section.

Section 52. Subsection (4) of section 322.05, Florida Statutes, is amended to read:

322.05 Persons not to be licensed.—The department may not issue a license:

(4) Except as provided by this subsection, to any person, as a Class A licensee, Class B licensee, Class C licensee, or Class D licensee, who is under the age of 18 years. A person age 16 or 17 years who applies for a Class D driver's license is subject to all the requirements and provisions of ss. *322.05(2)(a) and (b),* 322.09*,* and 322.16(2) and (3). ~~Any person who applies for a Class D driver's license who is age 16 or 17 years must have had a learner's driver's license or a driver's license for at least 90 days before he or she is eligible to receive a Class D driver's license.~~ The department may require of any such applicant for a Class D driver's license such examination of the qualifications of the applicant as the department considers proper, and the department may limit the use of any license granted as it considers proper.

Section 53. Paragraph (b) of subsection (4) and subsections (5), (6), and (7) of section 322.081, Florida Statutes, are amended, and subsection (8) is added to said section, to read:

322.081 Requests to establish voluntary *check-off* ~~checkoff~~ on driver's license application.—

(4)

(b) The department is authorized to discontinue the voluntary contribution and distribution of associated proceeds if the organization no longer exists, if the organization has stopped providing services that are authorized to be funded from the voluntary contributions, or pursuant to an organizational recipient's request. *Organizations are required to notify the department immediately to stop warrants for voluntary check-off contribution, if any of the conditions in this subsection exist, and must meet the requirements of paragraph (5)(b) or paragraph (5)(c), if applicable, for any period of operation during the fiscal year.*

(5) A voluntary contribution collected and distributed under this chapter, or any interest earned from those contributions, may not be used for commercial or for-profit activities nor for general or administrative expenses, except as authorized by law~~, or to pay the cost of the audit or report required by law~~.

(a) All organizations that receive annual use fee proceeds from the department are responsible for ensuring that proceeds are used in accordance with law.

~~(b) All organizational recipients of any voluntary contributions in excess of $15,000, not otherwise subject to annual audit by the Office of the Auditor General, shall submit an annual audit of the expenditures of these contributions and interest earned from these contributions, to determine if expenditures are being made in accordance with the specifications outlined by law. The audit shall be prepared by a certified public accountant licensed under chapter 473 at that organizational recipient's expense. The notes to the financial statements should state whether expenditures were made in accordance with law.~~

(b)~~(c)~~ *Any organization not subject to* ~~In lieu of an annual~~ audit *pursuant to s. 215.97 shall*~~, any organization receiving less than $15,000 in voluntary contributions directly from the department may~~ annually *attest* ~~report~~, under penalties of perjury, that such proceeds were used in compliance with law. The attestation shall be made annually in a form and format determined by the department.

(c)~~(d)~~ Any voluntary contributions authorized by law shall only be distributed to an organization under an appropriation by the Legislature.

(d)~~(c)~~ *Any organization subject to audit pursuant to s. 215.97 shall submit an audit report in accordance with rules promulgated by the Auditor General.* The annual *attestation* ~~audit or report~~ must be submitted to the department for review within *9 months* ~~180 days~~ after the end of the organization's fiscal year.

(6) Within 90 days after receiving an organization's audit or *attestation* ~~report~~, the department shall determine which recipients have not complied with subsection (5). If the department determines that an organization has not complied or has failed to use the revenues in accordance with law, the department must discontinue the distribution of the revenues to the organization until the department determines that the organization has complied. If an organization fails to comply within 12 months after the voluntary contributions are withheld by the department, the proceeds shall be deposited into the Highway Safety Operating Trust Fund to offset department costs.

(7) The ~~Auditor General and the~~ department *has* ~~have~~ the authority to examine all records pertaining to the use of funds from the voluntary contributions authorized.

(8) All organizations seeking to establish a voluntary contribution on a driver's license application that are required to operate under the Solicitation of Contributions Act, as provided in chapter 496, must do so before funds may be distributed.

Section 54. Present subsections (2) through (7) of section 322.095, Florida Statutes, are renumbered as subsections (4) through (9), respectively, and new subsections (2) and (3) are added to said section, to read:

322.095 Traffic law and substance abuse education program for driver's license applicants.—

(2) The Department of Highway Safety and Motor Vehicles shall approve and regulate courses that use technology as the delivery method of all driver improvement schools as the courses relate to this section.

(3) In determining whether to approve courses of driver improvement schools that use technology as the delivery method as the courses relate to this section, for courses submitted on or after July 1, 2001, the department shall consider only those courses submitted by a person, business, or entity which receive:

(a) Approval for statewide delivery.

(b) Independent scientific research evidence of course effectiveness.

Section 55. Section 322.222, Florida Statutes, is created to read:

322.222 Right to review.—A driver may request an administrative hearing to review a revocation pursuant to s. 322.221(3). The hearing shall be held in accordance with the department's administrative rules that the department shall have promulgated pursuant to chapter 120.

Section 56. Subsection (7) of section 322.25, Florida Statutes, is amended to read:

322.25 When court to forward license to department and report convictions; temporary reinstatement of driving privileges.—

(7) Any licensed driver convicted of driving, or being in the actual physical control of, a vehicle within this state while under the influence

of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893, when affected to the extent that his or her normal faculties are impaired, and whose license and driving privilege have been revoked as provided in subsection (1) may be issued a court order for reinstatement of a driving privilege on a temporary basis; provided that, as a part of the penalty, upon conviction, the defendant is required to enroll in and complete a driver improvement course for the rehabilitation of drinking drivers and the driver is otherwise eligible for reinstatement of the driving privilege ~~as provided by s. 322.282~~. The court order for reinstatement shall be on a form provided by the department and must be taken by the person convicted to a Florida driver's license examining office, where a temporary driving permit may be issued. The period of time for which a temporary permit issued in accordance with this subsection is valid shall be deemed to be part of the period of revocation imposed by the court.

Section 57. Subsections (1), (3), and (10) of section 322.2615, Florida Statutes, are amended to read:

322.2615 Suspension of license; right to review.—

(1)(a) A law enforcement officer or correctional officer shall, on behalf of the department, suspend the driving privilege of a person who has been arrested by a law enforcement officer for a violation of s. 316.193, relating to unlawful blood-alcohol level or breath-alcohol level, or of a person who has refused to submit to a breath, urine, or blood test authorized by s. 316.1932. The officer shall take the person's driver's license and issue the person a *10-day* ~~30-day~~ temporary permit if the person is otherwise eligible for the driving privilege and shall issue the person a notice of suspension. If a blood test has been administered, the results of which are not available to the officer at the time of the arrest, the agency employing the officer shall transmit such results to the department within 5 days after receipt of the results. If the department then determines that the person was arrested for a violation of s. 316.193 and that the person had a blood-alcohol level or breath-alcohol level of 0.08 or higher, the department shall suspend the person's driver's license pursuant to subsection (3).

(b) The suspension under paragraph (a) shall be pursuant to, and the notice of suspension shall inform the driver of, the following:

1.a. The driver refused to submit to a lawful breath, blood, or urine test and his or her driving privilege is suspended for a period of 1 year for a first refusal or for a period of 18 months if his or her driving privilege has been previously suspended as a result of a refusal to submit to such a test; or

b. The driver violated s. 316.193 by driving with an unlawful blood-alcohol level as provided in that section and his or her driving privilege is suspended for a period of 6 months for a first offense or for a period of 1 year if his or her driving privilege has been previously suspended for a violation of s. 316.193.

2. The suspension period shall commence on the date of arrest or issuance of the notice of suspension, whichever is later.

3. The driver may request a formal or informal review of the suspension by the department within 10 days after the date of arrest or issuance of the notice of suspension, whichever is later.

4. The temporary permit issued at the time of arrest will expire at midnight of the *10th* ~~30th~~ day following the date of arrest or issuance of the notice of suspension, whichever is later.

5. The driver may submit to the department any materials relevant to the arrest.

(3) If the department determines that the license of the person arrested should be suspended pursuant to this section and if the notice of suspension has not already been served upon the person by a law enforcement officer or correctional officer as provided in subsection (1), the department shall issue a notice of suspension and, unless the notice is mailed pursuant to s. 322.251, a temporary permit which expires *10* ~~30~~ days after the date of issuance if the driver is otherwise eligible.

(10) A person whose driver's license is suspended under subsection (1) or subsection (3) may apply for issuance of a license for business or employment purposes only if the person is otherwise eligible for the driving privilege pursuant to s. 322.271.

(a) If the suspension of the driver's license of the person for failure to submit to a breath, urine, or blood test is sustained, the person is not eligible to receive a license for business or employment purposes only, pursuant to s. 322.271, until 90 days have elapsed after the expiration of the last temporary permit issued. If the driver is not issued a *10-day* ~~30-day~~ permit pursuant to this section or s. 322.64 because he or she is ineligible for the permit and the suspension for failure to submit to a breath, urine, or blood test is not invalidated by the department, the driver is not eligible to receive a business or employment license pursuant to s. 322.271 until 90 days have elapsed from the date of the suspension.

(b) If the suspension of the driver's license of the person arrested for a violation of s. 316.193, relating to unlawful blood-alcohol level, is sustained, the person is not eligible to receive a license for business or employment purposes only pursuant to s. 322.271 until 30 days have elapsed after the expiration of the last temporary permit issued. If the driver is not issued a *10-day* ~~30-day~~ permit pursuant to this section or s. 322.64 because he or she is ineligible for the permit and the suspension for a violation of s. 316.193, relating to unlawful blood-alcohol level, is not invalidated by the department, the driver is not eligible to receive a business or employment license pursuant to s. 322.271 until 30 days have elapsed from the date of the arrest.

Section 58. Subsection (5) of section 322.27, Florida Statutes, is amended to read:

322.27 Authority of department to suspend or revoke license.—

(5) The department shall revoke the license of any person designated a habitual offender, as set forth in s. 322.264, and such person shall not be eligible to be relicensed for ~~a minimum of~~ 5 years from the date of revocation, except as provided for in s. 322.271. Any person whose license is revoked may, by petition to the department, show cause why his or her license should not be revoked.

Section 59. Subsection (2) of section 322.28, Florida Statutes, is amended to read:

322.28 Period of suspension or revocation.—

(2) In a prosecution for a violation of s. 316.193 or former s. 316.1931, the following provisions apply:

(a) Upon conviction of the driver, the court, along with imposing sentence, shall revoke the driver's license or driving privilege of the person so convicted, effective on the date of conviction, and shall prescribe the period of such revocation in accordance with the following provisions:

1. Upon a first conviction for a violation of the provisions of s. 316.193, except a violation resulting in death, the driver's license or driving privilege shall be revoked for not less than 180 days or more than 1 year.

2. Upon a second conviction within a period of 5 years from the date of a prior conviction for a violation of the provisions of s. 316.193 or former s. 316.1931 or a combination of such sections, the driver's license or driving privilege shall be revoked for not less than 5 years.

3. Upon a third conviction within a period of 10 years from the date of conviction of the first of three or more convictions for the violation of the provisions of s. 316.193 or former s. 316.1931 or a combination of such sections, the driver's license or driving privilege shall be revoked for not less than 10 years.

For the purposes of this paragraph, a previous conviction outside this state for driving under the influence, driving while intoxicated, driving with an unlawful blood-alcohol level, or any other alcohol-related or drug-related traffic offense similar to the offense of driving under the influence as proscribed by s. 316.193 will be considered a previous

conviction for violation of s. 316.193, and a conviction for violation of former s. 316.028, former s. 316.1931, or former s. 860.01 is considered a conviction for violation of s. 316.193.

(b) If the period of revocation was not specified by the court at the time of imposing sentence or within 30 days thereafter, and is not otherwise specified by law, the department shall forthwith revoke the driver's license or driving privilege for the maximum period applicable under paragraph (a) for a first conviction and for the minimum period applicable under paragraph (a) for any subsequent convictions. The driver may, within 30 days after such revocation by the department, petition the court for further hearing on the period of revocation, and the court may reopen the case and determine the period of revocation within the limits specified in paragraph (a).

(c) The forfeiture of bail bond, not vacated within 20 days, in any prosecution for the offense of driving while under the influence of alcoholic beverages, chemical substances, or controlled substances to the extent of depriving the defendant of his or her normal faculties shall be deemed equivalent to a conviction for the purposes of this paragraph, and the department shall forthwith revoke the defendant's driver's license or driving privilege for the maximum period applicable under paragraph (a) for a first conviction and for the minimum period applicable under paragraph (a) for a second or subsequent conviction; however, if the defendant is later convicted of the charge, the period of revocation imposed by the department for such conviction shall not exceed the difference between the applicable maximum for a first conviction or minimum for a second or subsequent conviction and the revocation period under this subsection that has actually elapsed; upon conviction of such charge, the court may impose revocation for a period of time as specified in paragraph (a). This paragraph does not apply if an appropriate motion contesting the forfeiture is filed within the 20-day period.

~~(d) When any driver's license or driving privilege has been revoked pursuant to the provisions of this section, the department shall not grant a new license, except upon reexamination of the licensee after the expiration of the period of revocation so prescribed. However, the court may, in its sound discretion, issue an order of reinstatement on a form furnished by the department which the person may take to any driver's license examining office for reinstatement by the department pursuant to s. 322.282.~~

(d)~~(e)~~ The court shall permanently revoke the driver's license or driving privilege of a person who has been convicted four times for violation of s. 316.193 or former s. 316.1931 or a combination of such sections. The court shall permanently revoke the driver's license or driving privilege of any person who has been convicted of DUI manslaughter in violation of s. 316.193. If the court has not permanently revoked such driver's license or driving privilege within 30 days after imposing sentence, the department shall permanently revoke the driver's license or driving privilege pursuant to this paragraph. No driver's license or driving privilege may be issued or granted to any such person. This paragraph applies only if at least one of the convictions for violation of s. 316.193 or former s. 316.1931 was for a violation that occurred after July 1, 1982. For the purposes of this paragraph, a conviction for violation of former s. 316.028, former s. 316.1931, or former s. 860.01 is also considered a conviction for violation of s. 316.193. Also, a conviction of driving under the influence, driving while intoxicated, driving with an unlawful blood-alcohol level, or any other similar alcohol-related or drug-related traffic offense outside this state is considered a conviction for the purposes of this paragraph.

Section 60. *Section 322.282, Florida Statutes, is repealed.*

Section 61. Subsection (3) is added to section 322.292, Florida Statutes, to read:

322.292 DUI programs supervision; powers and duties of the department.—

(3) DUI programs shall be either governmental programs or not-for-profit corporations.

Section 62. *Section 322.331, Florida Statutes, is repealed.*

Section 63. Subsections (8), (9), and (10) are added to section 322.61, Florida Statutes, to read:

322.61 Disqualification from operating a commercial motor vehicle.—

(8) A driver who is convicted of or otherwise found to have committed a violation of an out-of-service order while driving a commercial motor vehicle is disqualified as follows:

(a) Not less than 90 days nor more than 1 year if the driver is convicted of or otherwise found to have committed a first violation of an out-of-service order.

(b) Not less than 1 year nor more than 5 years if, during any 10-year period, the driver is convicted of or otherwise found to have committed two violations of out-of-service orders in separate incidents.

(c) Not less than 3 years nor more than 5 years if, during any 10-year period, the driver is convicted of or otherwise found to have committed three or more violations of out-of-service orders in separate incidents.

(d) Not less than 180 days nor more than 2 years if the driver is convicted of or otherwise found to have committed a first violation of an out-of-service order while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, 49 U.S.C. 5101 et seq., or while operating motor vehicles designed to transport more than 15 passengers, including the driver. A driver is disqualified for a period of not less than 3 years nor more than 5 years if, during any 10-year period, the driver is convicted of or otherwise found to have committed any subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act 49 U.S.C. 5101 et seq., or while operating motor vehicles designed to transport more than 15 passengers, including the driver.

(9) A driver who is convicted of or otherwise found to have committed an offense of operating a CMV in violation of federal, state, or local law or regulation pertaining to one of the following six offenses at a railroad-highway grade crossing must be disqualified for the period of time specified in subsection (10):

(a) For drivers who are not always required to stop, failing to slow down and check that the tracks are clear of approaching trains.

(b) For drivers who are not always required to stop, failing to stop before reaching the crossing if the tracks are not clear.

(c) For drivers who are always required to stop, failing to stop before driving onto the crossing.

(d) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping.

(e) For all drivers, failing to obey a traffic control device or all directions of an enforcement official at the crossing.

(f) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

(10)(a) A driver must be disqualified for not less than 60 days if the driver is convicted of or otherwise found to have committed a first violation of a railroad-highway grade crossing violation.

(b) A driver must be disqualified for not less than 120 days if, during any 3-year period, the driver is convicted of or otherwise found to have committed a second railroad-highway grade crossing violation in separate incidents.

(c) A driver must be disqualified for not less than 1 year if, during any 3-year period, the driver is convicted of or otherwise found to have committed a third or subsequent railroad-highway grade crossing violation in separate incidents.

Section 64. Subsections (1) and (3) of section 322.64, Florida Statutes, are amended to read:

322.64 Holder of commercial driver's license; driving with unlawful blood-alcohol level; refusal to submit to breath, urine, or blood test.—

(1)(a) A law enforcement officer or correctional officer shall, on behalf of the department, disqualify from operating any commercial motor vehicle a person who while operating or in actual physical control of a commercial motor vehicle is arrested for a violation of s. 316.193, relating to unlawful blood-alcohol level or breath-alcohol level, or a person who has refused to submit to a breath, urine, or blood test authorized by s. 322.63 arising out of the operation or actual physical control of a commercial motor vehicle. Upon disqualification of the person, the officer shall take the person's driver's license and issue the person a *10-day* ~~30-day~~ temporary permit if the person is otherwise eligible for the driving privilege and shall issue the person a notice of disqualification. If the person has been given a blood, breath, or urine test, the results of which are not available to the officer at the time of the arrest, the agency employing the officer shall transmit such results to the department within 5 days after receipt of the results. If the department then determines that the person was arrested for a violation of s. 316.193 and that the person had a blood-alcohol level or breath-alcohol level of 0.08 or higher, the department shall disqualify the person from operating a commercial motor vehicle pursuant to subsection (3).

(b) The disqualification under paragraph (a) shall be pursuant to, and the notice of disqualification shall inform the driver of, the following:

1.a. The driver refused to submit to a lawful breath, blood, or urine test and he or she is disqualified from operating a commercial motor vehicle for a period of 1 year, for a first refusal, or permanently, if he or she has previously been disqualified as a result of a refusal to submit to such a test; or

b. The driver violated s. 316.193 by driving with an unlawful blood-alcohol level and he or she is disqualified from operating a commercial motor vehicle for a period of 6 months for a first offense or for a period of 1 year if he or she has previously been disqualified, or his or her driving privilege has been previously suspended, for a violation of s. 316.193.

2. The disqualification period shall commence on the date of arrest or issuance of notice of disqualification, whichever is later.

3. The driver may request a formal or informal review of the disqualification by the department within 10 days after the date of arrest or issuance of notice of disqualification, whichever is later.

4. The temporary permit issued at the time of arrest or disqualification will expire at midnight of the *10th* ~~30th~~ day following the date of disqualification.

5. The driver may submit to the department any materials relevant to the arrest.

(3) If the department determines that the person arrested should be disqualified from operating a commercial motor vehicle pursuant to this section and if the notice of disqualification has not already been served upon the person by a law enforcement officer or correctional officer as provided in subsection (1), the department shall issue a notice of disqualification and, unless the notice is mailed pursuant to s. 322.251, a temporary permit which expires *10* ~~30~~ days after the date of issuance if the driver is otherwise eligible.

Section 65. *Driver Licensing Study Commission created.—*

(1) The Driver Licensing Study Commission is created within the Department of Highway Safety and Motor Vehicles. The commission shall consist of eight members, to be appointed as follows:

(a) The Speaker of the House of Representatives shall appoint two members, at least one of whom must have business managerial experience in the private sector.

(b) The President of the Senate shall appoint two members, at least one of whom must have business managerial experience in the private sector.

(c) The Governor shall appoint three members, at least one of whom must have information technology experience relating to systems utilizing complex databases.

(d) The Executive Director of the Department of Highway Safety and Motor Vehicles shall serve as an ex officio, nonvoting member of the commission.

(2) The commission shall elect a chair and a vice chair from its membership at its first meeting.

(3) The commission shall be appointed no later than June 15, 2001, and its first meeting shall be held no later than July 15, 2001. The commission shall meet periodically at the request of the chair.

(3) Members of the commission shall serve without compensation, except for per diem and reimbursement for travel expenses as provided by s. 112.061, Florida Statutes.

(4) A vacancy in the commission shall be filled within 30 days after its occurrence in the same manner as the original appointment.

(5) The Department of Highway Safety and Motor Vehicles shall serve as primary staff to the commission, providing technical and administrative assistance and ensuring that commission meetings are electronically recorded. Such recordings shall be preserved pursuant to chs. 119 and 257, Florida Statutes.

(6) The commission shall study and make recommendations on the feasibility of using privatization, outsourcing, and public-private partnership techniques in the delivery of driver's license services. The commission shall review local government driver's licensing programs and shall review results available from driver's licensing privatization pilot projects in the state. The study shall address the following issues:

(a) Identification of functions that are appropriate for privatization or outsourcing and functions for which the public sector should maintain direct control.

(b) Technology and re-engineering of business processes to achieve greater efficiencies, ultimately resulting in cost reduction.

(c) The format and type of necessary procurement procedures and oversight and audit mechanisms to protect the interests of the State of Florida in dealings with private service providers.

(d) Contractual controls to ensure appropriate service delivery and customer satisfaction levels.

(e) Safeguards for control of personal information.

(f) Ways to encourage the use of alternative service delivery options.

(g) Service center size and location to ensure that the public is best served.

(h) Issues related to utilization and placement of current public driver's license employees in public-private licensing enterprises.

(i) Any other issues the commission deems relevant to the privatization of drivers licensing functions.

(7) The commission shall prepare an initial report of its findings and recommendations on the issues listed in subsection (6) and shall submit the report to the Governor, the Speaker of the House of Representatives, and the President of the Senate on or before January 1, 2002. The commission shall prepare a final report of its findings and recommendations, taking into consideration the results of any pilot projects for delivery of driver's license services, and shall submit the report to the Governor, the Speaker of the House of Representatives, and the President of the Senate on or before January 1, 2003. The commission is dissolved at the time it submits its final report.

Section 66. *There is appropriated from the Highway Safety Operating Trust Fund to the Driver Licensing Study Commission the sum of $100,000 for the purpose of conducting the study required in this act.*

Section 67. Section 324.091, Florida Statutes, is amended to read:

324.091 Notice to department; notice to insurer.—

(1) Each owner and operator involved in a crash or conviction case within the purview of this chapter shall furnish evidence of automobile liability insurance, motor vehicle liability insurance, or surety bond within 30 days from the date of the mailing of notice of crash by the department in such form and manner as it may designate. Upon receipt of evidence that an automobile liability policy, motor vehicle liability policy, or surety bond was in effect at the time of the crash or conviction case, the department shall forward by United States mail, postage prepaid, to the insurer or surety insurer a copy of such information and shall assume that such policy or bond was in effect unless the insurer or surety insurer shall notify the department otherwise within 20 days from the mailing of the notice to the insurer or surety insurer; provided that if the department shall later ascertain that an automobile liability policy, motor vehicle liability policy, or surety bond was not in effect and did not provide coverage for both the owner and the operator, it shall at such time take such action as it is otherwise authorized to do under this chapter. Proof of mailing to the insurer or surety insurer may be made by the department by naming the insurer or surety insurer to whom such mailing was made and specifying the time, place and manner of mailing.

(2) Each insurer doing business in this state shall immediately give notice to the department of each motor vehicle liability policy when issued to effect the return of a license which has been suspended under s. 324.051(2); and said notice shall be upon such form and in such manner as the department may designate.

(3) Electronic access to the vehicle insurer information maintained in the department's vehicle database may be provided by an approved third-party provider to insurers, lawyers, and financial institutions in compliance with s. 627.736(9)(a) and for subrogation and claims purposes only. The compilation and retention of this information is strictly prohibited.

Section 68. Paragraph (b) of subsection (3) of section 328.01, Florida Statutes, is amended to read:

328.01 Application for certificate of title.—

(3)

(b) If the application for transfer of title is based upon a contractual default, the recorded lienholder shall establish proof of right to ownership by submitting with the application the original certificate of title ~~and a copy of the applicable contract upon which the claim of ownership is made~~. If the claim is based upon a court order or judgment, a copy of such document shall accompany the application for transfer of title. If, on the basis of departmental records, there appears to be any other lien on the vessel, the certificate of title must contain a statement of such a lien, unless the application for a certificate of title is either accompanied by proper evidence of the satisfaction or extinction of the lien or contains a statement certifying that any lienholder named on the last-issued certificate of title has been sent notice by certified mail, at least 5 days before the application was filed, of the applicant's intention to seek a repossessed title. If such notice is given and no written protest to the department is presented by a subsequent lienholder within 15 days after the date on which the notice was mailed, the certificate of title shall be issued showing no liens. If the former owner or any subsequent lienholder files a written protest under oath within the 15-day period, the department shall not issue the repossessed certificate for 10 days thereafter. If, within the 10-day period, no injunction or other order of a court of competent jurisdiction has been served on the department commanding it not to deliver the certificate, the department shall deliver the repossessed certificate to the applicant, or as is otherwise directed in the application, showing no other liens than those shown in the application.

The department shall adopt suitable language that must appear upon the certificate of title to effectuate the manner in which the interest in or title to the vessel is held.

Section 69. Subsection (2) of section 328.42, Florida Statutes, is amended to read:

328.42 Suspension or denial of a vessel registration due to child support delinquency; dishonored checks.—

(2) The department may deny or cancel any vessel registration*, license plate, or fuel-use tax decal if the owner pays for the registration, license plate, fuel-use tax decal, or any tax liability, penalty, or interest specified in chapter 207 by a dishonored check* ~~if the owner pays for the registration by a dishonored check~~.

Section 70. Section 328.56, Florida Statutes, is amended to read:

328.56 Vessel registration number.—Each vessel that is used on the waters of the state must display a ~~commercial or recreational~~ Florida registration number, unless it is:

(1) A vessel used exclusively on private lakes and ponds.

(2) A vessel owned by the United States Government.

(3) A vessel used exclusively as a ship's lifeboat.

(4) A non-motor-powered vessel.

(5) A federally documented vessel.

(6) A vessel already covered by a registration number in full force and effect which has been awarded to it pursuant to a federally approved numbering system of another state or by the United States Coast Guard in a state without a federally approved numbering system, if the vessel has not been within this state for a period in excess of 90 consecutive days.

(7) A vessel operating under a valid temporary certificate of number.

(8) A vessel from a country other than the United States temporarily using the waters of this state.

(9) An undocumented vessel used exclusively for racing.

Section 71. Subsection (4) of section 328.72, Florida Statutes, is amended to read:

328.72 Classification; registration; fees and charges; surcharge; disposition of fees; fines; marine turtle stickers.—

(4) TRANSFER OF OWNERSHIP.—

~~(a)~~ When the ownership of a registered vessel changes, an application for transfer of registration shall be filed with the county tax collector by the new owner within 30 days with a fee of $3.25. The county tax collector shall retain $2.25 of the fee and shall remit $1 to the department. A refund may not be made for any unused portion of a registration period.

~~(b) If a vessel is an antique as defined in subsection (2), the application shall be accompanied by either a certificate of title, a bill of sale and a registration, or a bill of sale and an affidavit by the owner defending the title from all claims. The bill of sale must contain a complete vessel description to include the hull identification number and engine number, if appropriate; the year, make, and color of the vessel; the selling price; and the signatures of the seller and purchaser.~~

Section 72. Effective July 1, 2001, subsection (1) of section 328.76, Florida Statutes, is amended to read:

328.76 Marine Resources Conservation Trust Fund; vessel registration funds; appropriation and distribution.—

(1) Except as otherwise specified and less *$1.4 million for* any administrative costs *which shall be deposited in the Highway Safety Operating Trust Fund, in each fiscal year beginning on or after July 1, 2001*, all funds collected from the registration of vessels through the Department of Highway Safety and Motor Vehicles and the tax collectors of the state, except for those funds designated for the use of the counties pursuant to s. 328.72(1), shall be deposited in the Marine Resources Conservation Trust Fund for recreational channel marking;

public launching facilities; law enforcement and quality control programs; aquatic weed control; manatee protection, recovery, rescue, rehabilitation, and release; and marine mammal protection and recovery. The funds collected pursuant to s. 328.72(1) shall be transferred as follows:

(a) In each fiscal year, an amount equal to $1.50 for each vessel registered in this state shall be transferred to the Save the Manatee Trust Fund and shall be used only for the purposes specified in s. 370.12(4).

(b) Two dollars from each noncommercial vessel registration fee, except that for class A-1 vessels, shall be transferred to the Invasive Plant Control Trust Fund for aquatic weed research and control.

(c) Forty percent of the registration fees from commercial vessels shall be transferred to the Invasive Plant Control Trust Fund for aquatic plant research and control.

(d) Forty percent of the registration fees from commercial vessels shall be transferred by the Department of Highway Safety and Motor Vehicles, on a monthly basis, to the General Inspection Trust Fund of the Department of Agriculture and Consumer Services. These funds shall be used for shellfish and aquaculture law enforcement and quality control programs.

Section 73. Subsections (4) and (6) of section 713.78, Florida Statutes, are amended to read:

713.78 Liens for recovering, towing, or storing vehicles and ~~documented~~ vessels.—

(4)(a) Any person regularly engaged in the business of recovering, towing, or storing vehicles or vessels who comes into possession of a vehicle or vessel pursuant to subsection (2), and who claims a lien for recovery, towing, or storage services, shall give notice to the registered owner*, the insurance company insuring the vehicle notwithstanding the provisions of s. 627.736,* and to all persons claiming a lien thereon, as disclosed by the records in the Department of Highway Safety and Motor Vehicles or of a corresponding agency in any other state.

(b) Whenever any law enforcement agency authorizes the removal of a vehicle or whenever any towing service, garage, repair shop, or automotive service, storage, or parking place notifies the law enforcement agency of possession of a vehicle pursuant to s. 715.07(2)(a)2., the applicable law enforcement agency shall contact the Department of Highway Safety and Motor Vehicles, or the appropriate agency of the state of registration, if known, within 24 hours through the medium of electronic communications, giving the full description of the vehicle. Upon receipt of the full description of the vehicle, the department shall search its files to determine the owner's name, the insurance company insuring the vehicle, and whether any person has filed a lien upon the vehicle as provided in s. 319.27(2) and (3) and notify the applicable law enforcement agency within 72 hours. The person in charge of the towing service, garage, repair shop, or automotive service, storage, or parking place shall obtain such information from the applicable law enforcement agency within 5 days from the date of storage and shall give notice pursuant to paragraph (a). The department may release the insurance company information to the requestor notwithstanding the provisions of s. 627.736.

(c)~~(b)~~ Notice by certified mail, return receipt requested, shall be sent within 7 business days after the date of storage of the vehicle or vessel to the registered owner*, the insurance company insuring the vehicle notwithstanding the provisions of s. 627.736,* and ~~to~~ all persons of record claiming a lien against the vehicle or vessel. It shall state the fact of possession of the vehicle or vessel, that a lien as provided in subsection (2) is claimed, that charges have accrued and the amount thereof, that the lien is subject to enforcement pursuant to law, and that the owner or lienholder, if any, has the right to a hearing as set forth in subsection (5), and that any vehicle or vessel which remains unclaimed, or for which the charges for recovery, towing, or storage services remain unpaid, may be sold ~~after 35 days~~ free of all prior liens *after 35 days if the vehicle or vessel is more than 3 years of age and after 50 days if the vehicle or vessel is 3 years of age or less*.

(d)~~(c)~~ If attempts to locate the owner or lienholder prove unsuccessful, the towing-storage operator shall, after 7 working days, excluding Saturday and Sunday, of the initial tow or storage, notify the public agency of jurisdiction in writing by certified mail or acknowledged hand delivery that the towing-storage company has been unable to locate the owner or lienholder and a physical search of the vehicle or vessel has disclosed no ownership information and a good faith effort has been made. For purposes of this paragraph *and*~~,~~ subsection (9), ~~and s. 715.05,~~ "good faith effort" means that the following checks have been performed by the company to establish prior state of registration and for title:

1. Check of vehicle or vessel for any type of tag, tag record, temporary tag, or regular tag.

2. Check of law enforcement report for tag number or other information identifying the vehicle or vessel, if the vehicle or vessel was towed at the request of a law enforcement officer.

3. Check of trip sheet or tow ticket of tow truck operator to see if a tag was on vehicle at beginning of tow, if private tow.

4. If there is no address of the owner on the impound report, check of law enforcement report to see if an out-of-state address is indicated from driver license information.

5. Check of vehicle or vessel for inspection sticker or other stickers and decals that may indicate a state of possible registration.

6. Check of the interior of the vehicle or vessel for any papers that may be in the glove box, trunk, or other areas for a state of registration.

7. Check of vehicle for vehicle identification number.

8. Check of vessel for vessel registration number.

9. Check of vessel hull for a hull identification number which should be carved, burned, stamped, embossed, or otherwise permanently affixed to the outboard side of the transom or, if there is no transom, to the outmost seaboard side at the end of the hull that bears the rudder or other steering mechanism.

(6) Any vehicle or vessel which is stored pursuant to subsection (2) and which remains unclaimed, or for which reasonable charges for recovery, towing, or storing remain unpaid or for which a lot rental amount is due and owing to the mobile home park owner, as evidenced by a judgment for unpaid rent, and any contents not released pursuant to subsection (10), may be sold by the owner or operator of the storage space for such towing or storage charge or unpaid lot rental amount after 35 days from the time the vehicle or vessel is stored therein *if the vehicle or vessel is more than 3 years of age and after 50 days from the time the vehicle or vessel is stored therein if the vehicle or vessel is 3 years of age or less*. The sale shall be at public auction for cash. If the date of the sale was not included in the notice required in subsection (4), notice of the sale shall be given to the person in whose name the vehicle, vessel, or mobile home is registered, to the mobile home park owner, and to all persons claiming a lien on the vehicle or vessel as shown on the records of the Department of Highway Safety and Motor Vehicles or of the corresponding agency in any other state. Notice shall be sent by certified mail, return receipt requested, to the owner of the vehicle or vessel and the person having the recorded lien on the vehicle or vessel at the address shown on the records of the registering agency and shall be mailed not less than 15 days before the date of the sale. After diligent search and inquiry, if the name and address of the registered owner or the owner of the recorded lien cannot be ascertained, the requirements of notice by mail may be dispensed with. In addition to the notice by mail, public notice of the time and place of sale shall be made by publishing a notice thereof one time, at least 10 days prior to the date of the sale, in a newspaper of general circulation in the county in which the sale is to be held. The proceeds of the sale, after payment of reasonable towing and storage charges, costs of the sale, and the unpaid lot rental amount, in that order of priority, shall be deposited with the clerk of the circuit court for the county if the owner is absent, and the clerk shall hold such proceeds subject to the claim of the person legally entitled thereto. The clerk shall be entitled to receive 5 percent of such

proceeds for the care and disbursement thereof. The certificate of title issued under this law shall be discharged of all liens unless otherwise provided by court order.

Section 74. *Section 715.05, Florida Statutes, is repealed.*

Section 75. Subsection (1) of section 681.1096, Florida Statutes, is amended to read:

681.1096 Pilot RV Mediation and Arbitration Program; creation and qualifications.—

(1) This section and s. 681.1097 shall apply to disputes determined eligible under this chapter involving recreational vehicles acquired on or after October 1, 1997, and shall remain in effect until September 30, *2002* ~~2001~~, at which time recreational vehicle disputes shall be subject to the provisions of ss. 681.109 and 681.1095. The Attorney General shall report ~~annually~~ to the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of each house of the Legislature, and appropriate legislative committees regarding the *effectiveness* ~~efficiency and cost-effectiveness~~ of the pilot program.

Section 76. Subsections (5) and (7) of section 681.1097, Florida Statutes, are amended to read:

681.1097 Pilot RV Mediation and Arbitration Program; dispute eligibility and program function.—

(5) If the mediation ends in an impasse, or if a manufacturer fails to comply with the settlement entered into between the parties, the program administrator shall schedule the dispute for an arbitration hearing. Arbitration proceedings shall be open to the public on reasonable and nondiscriminatory terms.

(a) The arbitration hearing shall be conducted by a single arbitrator assigned by the program administrator. The arbitrator shall not be the same person as the mediator who conducted the prior mediation conference in the dispute. The parties may factually object to an arbitrator based on the arbitrator's past or present relationship with a party or a party's attorney, direct or indirect, whether financial, professional, social, or of any other kind. The program administrator shall consider any such objection, determine its validity, and notify the parties of any determination. If the objection is determined valid, the program administrator shall assign another arbitrator to the case.

(b) The arbitrator may issue subpoenas for the attendance of witnesses and for the production of records, documents, and other evidence. Subpoenas so issued shall be served and, upon application to the court by a party to the arbitration, enforced in the manner provided by law for the service and enforcement of subpoenas in civil actions. Fees for attendance as a witness shall be the same as for a witness in the circuit court.

(c) At all program arbitration proceedings, the parties may present oral and written testimony, present witnesses and evidence relevant to the dispute, cross-examine witnesses, and be represented by counsel. The arbitrator shall record the arbitration hearing and shall have the power to administer oaths. The arbitrator may inspect the vehicle if requested by a party or if the arbitrator considers such inspection appropriate.

(d) The program arbitrator may continue a hearing on his or her own motion or upon the request of a party for good cause shown. A request for continuance by the consumer constitutes a waiver of the time period set forth in s. 681.1096(3)(k) for completion of all proceedings under the program.

(e) Where the arbitration is the result of a manufacturer's failure to perform in accordance with a *settlement* ~~mediation~~ agreement, any relief to the consumer granted by the arbitration will be no less than the relief agreed to by the manufacturer in the settlement agreement.

(f) The arbitrator shall grant relief if a reasonable number of attempts have been undertaken to correct a nonconformity or nonconformities.

(g) The program arbitrator shall render a decision within 10 days of the closing of the hearing. The decision shall be in writing on a form prescribed or approved by the department. The program administrator shall send a copy of the decision to the consumer and each involved manufacturer by registered mail. The program administrator shall also send a copy of the decision to the department within 5 days of mailing to the parties.

(h) A manufacturer shall comply with an arbitration decision within 40 days of the date the manufacturer receives the written decision. Compliance occurs on the date the consumer receives delivery of an acceptable replacement motor vehicle or the refund specified in the arbitration award. If a manufacturer fails to comply within the time required, the consumer must notify the program administrator in writing within 10 days. The program administrator shall notify the department of a manufacturer's failure to comply. The department shall have the authority to enforce compliance with arbitration decisions under this section in the same manner as is provided for enforcement of compliance with board decisions under s. 681.1095(10). In any civil action arising under this chapter and relating to a dispute arbitrated pursuant to this section, the decision of the arbitrator is admissible in evidence.

(i) Either party may request that the program arbitrator make a technical correction to the decision by filing a written request with the program administrator within 10 days after receipt of the written decision. Technical corrections shall be limited to computational errors, correction of a party's name or information regarding the recreational vehicle, and typographical or spelling errors. Technical correction of a decision shall not toll the time for filing an appeal or for manufacturer compliance.

(7) *A decision of the arbitrator is binding unless appealed by either party by filing a petition with the circuit court within the time and in the manner prescribed by s. 681.1095(10) and (12). Section 681.1095(13) and (14) apply to appeals filed under this section.* ~~Either party may make application to the circuit court for the county in which one of the parties resides or has a place of business or, if neither party resides or has a place of business in this state, the county where the arbitration hearing was held, for an order confirming, vacating, modifying, or correcting any award, in accordance with the provisions of this section and ss. 682.12, 682.13, 682.14, 682.15, and 682.17. Such application must be filed within 30 days of the moving party's receipt of the written decision or the decision becomes final. Upon filing such application, the moving party shall mail a copy to the department and, upon entry of any judgment or decree, shall mail a copy of such judgment or decree to the department. A review of such application by the circuit court shall be confined to the record of the proceedings before the program arbitrator. The court shall conduct a de novo review of the questions of law raised in the application. In addition to the grounds set forth in ss. 682.13 and 682.14, the court shall consider questions of fact raised in the application. In reviewing questions of fact, the court shall uphold the award unless it determines that the factual findings of the arbitrator are not supported by substantial evidence in the record and that the substantial rights of the moving party have been prejudiced. If the arbitrator fails to state findings or reasons for the stated award, or the findings or reasons are inadequate, the court shall search the record to determine whether a basis exists to uphold the award. The court shall expedite consideration of any application filed under this section on the calendar.~~

~~(a)~~ If a decision of a program arbitrator in favor of a consumer is confirmed by the court, recovery by the consumer shall include the pecuniary value of the award, attorney's fees incurred in obtaining confirmation of the award, and all costs and continuing damages in the amount of $25 per day for each day beyond the 40-day period following a manufacturer's receipt of the arbitrator's decision. If a court determines the manufacturer acted in bad faith in bringing the appeal or brought the appeal solely for the purpose of harassment, or in complete absence of a justiciable issue of law or fact, the court shall double, and may triple, the amount of the total award.

~~(b) An appeal of a judgment or order by the court confirming, denying confirmation, modifying or correcting, or vacating the award~~

~~may be taken in the manner and to the same extent as from orders or judgments in a civil action.~~

Section 77. Section 681.115, Florida Statutes, is amended to read:

681.115 Certain agreements void.—Any agreement entered into by a consumer that waives, limits, or disclaims the rights set forth in this chapter*, or that requires a consumer not to disclose the terms of such agreement as a condition thereof,* is void as contrary to public policy. The rights set forth in this chapter shall extend to a subsequent transferee of such motor vehicle.

Section 78. Section 715.07, Florida Statutes, is amended to read:

715.07 Vehicles *and vessels* parked on private property; towing.—

(1) As used in this section, the *terms:*

(a) ~~term~~ "Vehicle" means any mobile item which normally uses wheels, whether motorized or not.

(b) "Vessel" means every description of watercraft, barge, and air boat used or capable of being used as a means of transportation on water, other than a seaplane or a documented vessel, as defined in s. 327.02(8).

(2) The owner or lessee of real property, or any person authorized by the owner or lessee, which person may be the designated representative of the condominium association if the real property is a condominium, may cause any vehicle *or vessel* parked on such property without her or his permission to be removed by a person regularly engaged in the business of towing vehicles *or vessels*, without liability for the costs of removal, transportation, or storage or damages caused by such removal, transportation, or storage, under any of the following circumstances:

(a) The towing or removal of any vehicle *or vessel* from private property without the consent of the registered owner or other legally authorized person in control of that vehicle *or vessel* is subject to strict compliance with the following conditions and restrictions:

1.a. Any towed or removed vehicle *or vessel* must be stored at a site within 10 miles of the point of removal in any county of 500,000 population or more, and within 15 miles of the point of removal in any county of less than 500,000 population. That site must be open for the purpose of redemption of vehicles *or vessels* on any day that the person or firm towing such vehicle *or vessel* is open for towing purposes, from 8:00 a.m. to 6:00 p.m., and, when closed, shall have prominently posted a sign indicating a telephone number where the operator of the site can be reached at all times. Upon receipt of a telephoned request to open the site to redeem a vehicle *or vessel*, the operator shall return to the site within 1 hour or she or he will be in violation of this section.

b. If no towing business providing such service is located within the area of towing limitations set forth in sub-subparagraph a., the following limitations apply: any towed or removed vehicle *or vessel* must be stored at a site within 20 miles of the point of removal in any county of 500,000 population or more, and within 30 miles of the point of removal in any county of less than 500,000 population.

2. The person or firm towing or removing the vehicle *or vessel* shall, within 30 minutes of completion of such towing or removal, notify the municipal police department or, in an unincorporated area, the sheriff of such towing or removal, the storage site, the time the vehicle *or vessel* was towed or removed, and the make, model, color, and license plate number of the vehicle *or the make, model, color, and registration number of the vessel* and shall obtain the name of the person at that department to whom such information was reported and note that name on the trip record.

3. If the registered owner or other legally authorized person in control of the vehicle *or vessel* arrives at the scene prior to removal or towing of the vehicle *or vessel*, the vehicle *or vessel* shall be disconnected from the towing or removal apparatus, and that person shall be allowed to remove the vehicle *or vessel* without interference upon the payment of a reasonable service fee of not more than one-half of the posted rate for such towing service as provided in subparagraph 6., for which a receipt shall be given, unless that person refuses to remove the vehicle *or vessel* which is otherwise unlawfully parked *or located*.

4. The rebate or payment of money or any other valuable consideration from the individual or firm towing or removing vehicles *or vessels* to the owners or operators of the premises from which the vehicles are towed or removed, for the privilege of removing or towing those vehicles *or vessels*, is prohibited.

5. Except for property appurtenant to and obviously a part of a single-family residence, and except for instances when notice is personally given to the owner or other legally authorized person in control of the vehicle *or vessel* that the area in which that vehicle *or vessel* is parked is reserved or otherwise unavailable for unauthorized vehicles *or vessels* and subject to being removed at the owner's or operator's expense, any property owner or lessee, or person authorized by the property owner or lessee, prior to towing or removing any vehicle *or vessel* from private property without the consent of the owner or other legally authorized person in control of that vehicle *or vessel*, must post a notice meeting the following requirements:

a. The notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property, within 5 feet from the public right-of-way line. If there are no curbs or access barriers, the signs must be posted not less than one sign for each 25 feet of lot frontage.

b. The notice must clearly indicate, in not less than 2-inch high, light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense. *Owners or lessees that remove vessels from their properties shall post notice, consistent with the requirements of this subparagraph, that unauthorized vehicles or vessels will be towed at the owner's expense.* The words "tow-away zone" must be included on the sign in not less than 4-inch high letters.

c. The notice must also provide the name and current telephone number of the person or firm towing or removing the vehicles *or vessels*, if the property owner, lessee, or person in control of the property has a written contract with the towing company.

d. The sign structure containing the required notices must be permanently installed with the words "tow-away zone" not less than 3 feet and not more than 6 feet above ground level and must be continuously maintained on the property for not less than 24 hours prior to the towing or removal of any vehicles *or vessels*.

e. The local government may require permitting and inspection of these signs prior to any towing or removal of vehicles *or vessels* being authorized.

f. A business with 20 or fewer parking spaces satisfies the notice requirements of this subparagraph by prominently displaying a sign stating "Reserved Parking for Customers Only Unauthorized Vehicles *or Vessels* Will be Towed Away At the Owner's Expense" in not less than 4-inch high, light-reflective letters on a contrasting background.

A business owner or lessee may authorize the removal of a vehicle *or vessel* by a towing company when the vehicle is parked in such a manner that restricts the normal operation of business; and if a vehicle *or vessel* parked on a public right-of-way obstructs access to a private driveway the owner, lessee, or agent may have the vehicle *or vessel* removed by a towing company upon signing an order that the vehicle *or vessel* be removed without a posted tow-away zone sign.

6. Any person or firm that tows or removes vehicles *or vessels* and proposes to require an owner, operator, or person in control of a vehicle *or vessel* to pay the costs of towing and storage prior to redemption of the vehicle *or vessel* must file and keep on record with the local law enforcement agency a complete copy of the current rates to be charged for such services and post at the storage site an identical rate schedule and any written contracts with property owners, lessees, or persons in control of property which authorize such person or firm to remove vehicles *or vessels* as provided in this section.

7. Any person or firm towing or removing any vehicles *or vessels* from private property without the consent of the owner or other legally authorized person in control of the vehicles *or vessels* shall, on any trucks, wreckers as defined in s. 713.78(1)(b), or other vehicles used in

the towing or removal, have the name, address, and telephone number of the company performing such service clearly printed in contrasting colors on the driver and passenger sides of the vehicle. The name shall be in at least 3-inch permanently affixed letters, and the address and telephone number shall be in at least 1-inch permanently affixed letters.

8. Vehicle entry for the purpose of removing the vehicle *or vessel* shall be allowed with reasonable care on the part of the person or firm towing the vehicle *or vessel*. Such person or firm shall be liable for any damage occasioned to the vehicle *or vessel* if such entry is not in accordance with the standard of reasonable care.

9. When a vehicle *or vessel* has been towed or removed pursuant to this section, it must be released to its owner or custodian within one hour after requested. Any vehicle *or vessel* owner, custodian, or agent shall have the right to inspect the vehicle *or vessel* before accepting its return, and no release or waiver of any kind which would release the person or firm towing the vehicle *or vessel* from liability for damages noted by the owner or other legally authorized person at the time of the redemption may be required from any vehicle *or vessel* owner, custodian, or agent as a condition of release of the vehicle *or vessel* to its owner. A detailed, signed receipt showing the legal name of the company or person towing or removing the vehicle *or vessel* must be given to the person paying towing or storage charges at the time of payment, whether requested or not.

(b) These requirements shall be the minimum standards and shall not preclude enactment of additional regulations by any municipality or county including the right to regulate rates when vehicles *or vessels* are towed from private property.

(3) This section does not apply to law enforcement, firefighting, rescue squad, ambulance, or other emergency vehicles *or vessels* which are marked as such or to property owned by any governmental entity.

(4) When a person improperly causes a vehicle *or vessel* to be removed, such person shall be liable to the owner or lessee of the vehicle *or vessel* for the cost of removal, transportation, and storage; any damages resulting from the removal, transportation, or storage of the vehicle; attorneys' fees; and court costs.

(5) Failure to make good faith best efforts to comply with the notice requirement of this section, as appropriate, shall preclude the imposition of any towing or storage charges against such vehicle or vessel.

(6)~~(5)~~(a) Any person who violates the provisions of subparagraph (2)(a)2. or subparagraph (2)(a)6. *commits* ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person who violates the provisions of subparagraph (2)(a)7. *commits* ~~is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 79. Subsection (3) is added to section 832.09, Florida Statutes, to read:

832.09 Suspension of driver license after warrant or capias is issued in worthless check case.—

(3) The Department of Highway Safety and Motor Vehicles shall create a standardized form to be distributed to the clerks of the court in each county for the purpose of notifying the department that a person has satisfied the requirements of the court. Notices of compliance with the court's requirements shall be on the standardized form provided by the department.

Section 80. Subsection (1) of section 322.056, Florida Statutes, is amended to read:

322.056 Mandatory revocation or suspension of, or delay of eligibility for, driver's license for persons under age 18 found guilty of certain alcohol, drug, or tobacco offenses; prohibition.—

(1) Notwithstanding the provisions of s. 322.055, if a person under 18 years of age is found guilty of or delinquent for a violation of s. 562.11(2), s. 562.111, or chapter 893, and:

(a) The person is eligible by reason of age for a driver's license or driving privilege, the court shall direct the department to revoke or to withhold issuance of his or her driver's license or driving privilege for a period of:

1. Not less than 6 months and not more than 1 year for the first violation.

2. Two years, for a subsequent violation.

(b) The person's driver's license or driving privilege is under suspension or revocation for any reason, the court shall direct the department to extend the period of suspension or revocation by an additional period of:

1. Not less than 6 months and not more than 1 year for the first violation.

2. Two years, for a subsequent violation.

(c) The person is ineligible by reason of age for a driver's license or driving privilege, the court shall direct the department to withhold issuance of his or her driver's license or driving privilege for a period of:

1. Not less than 6 months and not more than 1 year after the date on which he or she would otherwise have become eligible, for the first violation.

2. Two years after the date on which he or she would otherwise have become eligible, for a subsequent violation.

However, the court may, in its sound discretion, direct the department to issue a license for driving privileges restricted to business or employment purposes only, as defined in s. 322.271, if the person is otherwise qualified for such a license.

Section 81. Except as otherwise provided herein, this act shall take effect October 1, 2001.

And the title is amended as follows:

On page 1, line 5 through page 12, line 14,
remove from the title of the bill: remove all of said lines

and insert in lieu thereof: Florida educational license plate; amending s. 322.056, F.S.; authorizing the court to direct the Department of Highway Safety and Motor Vehicles to issue a driver's license restricted to business or employment purposes only to certain persons under age 18 found guilty of certain alcohol, drug, or tobacco offenses; amending s. 316.003, F.S.; providing that certain vehicles of the Department of Health are authorized emergency vehicles; providing that a motorized scooter is not a motor vehicle for traffic control purposes; creating a definition of the term motorized scooter; amending s. 316.006, F.S.; authorizing the installation of multiparty stop signs on certain roads; providing guidelines for the installation of such signage; amending s. 316.0741, F.S.; allowing certain energy-saving vehicles to travel in high-occupancy vehicle lanes, regardless of occupancy; amending s. 316.1951, F.S.; amending 316.1967, F.S.; allowing a fine designated by county ordinance; revising provisions related to parking vehicles to display for sale; amending s. 316.1975, F.S.; exempting operators of solid waste and recovered materials vehicles from provisions regarding unattended motor vehicles; amending s. 316.2065, F.S.; providing motorized scooter operating regulations; amending s. 316.228, F.S.; requiring strobe lights to be placed on the exterior of a commercial vehicle transporting unprocessed forest products extending more than 4 feet beyond the rear of the vehicle; providing an alternate method for placing strobe lights in certain instances; requiring the use of a red flag on the load; amending s. 316.2397, F.S.; authorizing the emergency response vehicles of the Department of Health to use red flashing lights; amending s. 316.520, F.S.; clarifying that a violation of a provision governing loads on vehicles is a moving rather than a nonmoving violation; exempting certain vehicles carrying agricultural products; amending s. 316.640, F.S.; revising the powers and duties of traffic crash investigation officers; authorizing university police officers to enforce state traffic laws violated on or adjacent to property under control of the university or its agents; amending s. 316.650, F.S.; requiring the issuance of a copy of the

traffic school reference guide with traffic citations under certain circumstances; amending s. 318.14, F.S.; deleting reference to a restriction on the number of elections a person may make to attend a basic driver improvement course; amending s. 318.1451, F.S.; providing traffic school reference guide requirements; amending s. 318.18, F.S.; allowing fine amount designated by county ordinance plus court costs; amending the date by which court clerks must electronically transmit to the department specified information; amending s. 322.0261, F.S.; deleting reference to a time period and increasing the amount of damage required with respect to a crash for the screening of certain crash reports; requiring the Department of Highway Safety and Motor Vehicles to approve and regulate certain courses for driver improvement schools; amending s. 322.161, F.S.; increasing the number of points that a driver under a specified age may accumulate before the department is required to issue that driver a restricted license; creating s. 322.02615, F.S.; providing for mandatory driver improvement courses for certain violations; amending s. 319.001, F.S.; providing definitions; amending s. 319.14, F.S.; authorizing the Department of Highway Safety and Motor Vehicles to place a decal on a rebuilt vehicle so as to clarify its identity; providing a penalty for the removal of the decal; amending s. 319.23, F.S.; conforming the requirements for the transfer of ownership on an antique vehicle to that of any other motor vehicle; amending s. 319.28, F.S.; deleting the requirement that a copy of a contract for processing an application for title based on a contractual default be provided; amending s. 319.30, F.S.; clarifying the major component parts of a motor vehicle; amending s. 320.01, F.S.; conforming the length limitation for a motor home to that established in ch. 316, F.S.; providing that a motorized scooter is not a motor vehicle for registration purposes; amending s. 320.02, F.S.; requiring application forms for motor vehicle registration and renewal of registration to include language permitting a voluntary contribution to certain organizations; amending s. 320.023, F.S.; requiring certain organizations receiving voluntary check-off contributions to notify the department under certain circumstances and to meet specified requirements; conforming the section to the Florida Single Audit Act; requiring organizations seeking authorization to establish a voluntary check-off contribution on a motor vehicle registration application to conform to the requirements of ch. 496, F.S.; conforming this section to the Florida Single Audit Act; amending s. 320.025, Florida Statutes, conforming the vessel registration law to the motor vehicle registration law; requiring a decal to be affixed to a vessel that is registered under a fictitious name and operated by any law enforcement agency; amending s. 320.05, F.S.; conforming the vessel registration law to the motor vehicle registration law; providing instructions for the release of information regarding a vessel to the public; amending s. 320.055, F.S.; correcting the registration period for nonapportioned vehicles; amending s. 320.06, F.S.; providing for the placement of only one decal rather than two on a license plate; amending s. 320.072, F.S.; reducing the timeframe a registrant can use a previous license plate for the initial registration fee exemption; amending s. 320.0805, F.S.; reducing the timeframe for a personalized license plate to remain out of circulation prior to reassignment; amending s. 320.08056, F.S.; requiring the department to count annual renewals when determining whether to discontinue a speciality license plate; requiring certain organizations to notify the department under certain circumstances; including two more colleges to the discontinuance exemptions provided for collegiate specialty license plates; amending s. 320.08052, F.S.; providing for a Florida Golf license plate; amending s. 320.08058, F.S.; requiring the department to develop the Florida Golf license plate; providing for distribution of proceeds of the annual use fees; requiring the Florida Sports Foundation to establish a youth golf program; providing for an advisory committee; amending s. 320.08062, F.S.; conforming this section to the Florida Single Audit Act; amending s. 320.083, F.S.; increasing the weight restriction for a private-use vehicle so as to be eligible to apply for the Amateur Radio Operator specialty license plate; amending s. 320.089, F.S.; providing for the issuance of Pearl Harbor Survivor and Purple Heart license plates without payment to a disabled veteran; increasing the weight restriction for a private-use vehicle so as to be eligible to apply for the EX-POW or Purple Heart specialty license plate; amending s. 320.18, F.S.; providing for cancellation of license plates and fuel use tax decals for failure to pay motor carrier weight and safety violation penalties; amending s. 320.27, F.S.; redefining the term "motor vehicle auction"; deleting the requirement for a licensee to have the certificate of title or ownership indicia in his or her possession at an auction; deleting a requirement for establishing a pattern of wrongdoing; revising requirements for denial, suspension, or revocation of a motor vehicle dealer license; amending s. 320.60, F.S.; revising definitions used in ss. 320.61-320.70, F.S.; amending s. 320.61, F.S.; amending procedures to be followed when a complaint of unfair cancellation of a dealer agreement has been made by a motor vehicle dealer against a licensee; defining the term "final decision"; amending s. 320.64, F.S.; providing penalties and remedies for violations; deleting subsections (13) and (16); amending subsection (18); creating subsections (22) through (32) and renumbering sections; amending s. 320.641, F.S.; providing procedures relating to discontinuations, cancellations, nonrenewals, modifications, and replacements of franchise agreements; amending s. 320.643, F.S.; amending provisions relating to the transfer, assignment, or sale of franchise agreements; amending s. 320.645, F.S.; amending provisions relating to restrictions upon a licensee's owning a dealership; providing for "dealer development arrangements"; providing exceptions; amending s. 320.699, F.S.; amending procedures for administrative hearings; creating s. 320.6991; providing for severability; amending s. 320.691 F.S.; creating the Automobile Dealers Industry Advisory Board; amending s. 322.01, F.S.; providing that a motorized scooter is not a motor vehicle for drivers' licensing purposes; amending s. 322.05, F.S.; correcting a statutory reference regarding the requirements for an individual under 18 years of age to apply for a driver's license; amending s. 322.081, F.S.; requiring certain organizations receiving voluntary check-off contributions to notify the department under certain circumstances and to meet specified requirements; conforming the section to the Florida Single Audit Act; requiring organizations seeking authorization to establish a voluntary contribution on a motor vehicle registration to register with the Department of Agriculture and Consumer Services; amending s. 322.095, F.S.; requiring the Department of Highway Safety and Motor Vehicles to approve and regulate certain courses for driver improvement schools; creating s. 322.222, F.S.; authorizing the Department of Highway Safety and Motor Vehicles to hold a hearing when an individual's driver's license has been suspended or revoked due to medical reasons; amending s. 322.25, F.S.; correcting a cross reference; amending s. 322.2615, F.S.; complying with the USDOT's drunk driving prevention incentive program; reducing the timeframe for a temporary permit that is allotted when an individual is charged with driving with an unlawful blood-alcohol level; amending s. 322.27, F.S.; clarifying the time period for a driver's license revocation of a habitual traffic offender; amending s. 322.28, F.S.; deleting obsolete language regarding the revocation of a driver's license; repealing s. 322.282, F.S., relating to the procedure when the court revokes or suspends license or driving privilege and orders reinstatement; amending s. 322.292, F.S.; adding the requirement that DUI programs must be governmental programs or not-for-profit corporations; amending s. 322.61, F.S.; complying with the Federal Motor Carrier Safety Regulations; adding two more violations for which a commercial motor vehicle may be disqualified of driving privileges; amending s. 322.64, F.S.; reducing the timeframe for a temporary permit allotted when an individual holding a commercial driver's license is charged with an unlawful blood-alcohol level; repealing s. 322.331, F.S., relating to the reinstatement of a license of a habitual traffic offender; creating the Driver Licensing Study Commission within the Department of Highway Safety and Motor Vehicles; providing for membership and appointment; providing for staff; providing for duties of the commission; providing for dissolution of the commission upon submission of a required report; providing an appropriation; amending s. 324.091, F.S.; providing for electronic access to vehicle insurance information; amending s. 328.01, F.S.; deleting the requirement for a copy of a contract upon which a claim of ownership of a vessel is made on a contractual default; amending s. 328.42, F.S.; authorizing the department to deny or cancel any vessel registration, license plate, or fuel use decal when given a dishonored check by the customer; amending s. 328.56, F.S.; deleting the terms "commercial" and "recreational" when referring to vessels operated on the waters of this state; amending s. 328.72, F.S.; deleting the requirements for the transfer of ownership of an antique vessel; amending s. 328.76, F.S.; providing for the appropriation allotted for fiscal year 2000-2001 to be deposited into the Highway Safety Operating Trust Fund; amending s.

713.78, F.S.; adding the insurance company to the list of individuals to be contacted when a vehicle has been towed; providing storage periods before the expiration of which certain salvaged vehicles may not be sold; repealing s. 715.05, F.S., relating to the reporting of unclaimed motor vehicles; amending ss. 681.1096 and 681.1097, F.S.; revising program requirements for the Pilot RV Mediation and Arbitration program; amending s. 681.115, F.S.; providing that a motor vehicle sales agreement which prohibits disclosure of its terms is void; amending s. 715.07, F.S.; conforming the vessel registration law to the motor vehicle registration law; defining the term "vessel"; authorizing the removal of an undocumented vessel parked on private property; amending s. 832.09, F.S.; authorizing the department to create a standardized form to be used for notification of satisfaction of a worthless check; amending s. 212.08, F.S.; providing additional requirements on vehicle tax assessments;

Rep. Gardiner moved the adoption of the amendment.

Representative(s) Gardiner offered the following:

(Amendment Bar Code: 323745)

Amendment 1 to Amendment 14 (with title amendment)—On page 5, lines 23-29
remove from the amendment: all of said lines

And the title is amended as follows:

On page 130, line 30 through page 131, line 1 of the amendment
remove: all of said lines

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

Representative(s) Gardiner offered the following:

(Amendment Bar Code: 612051)

Amendment 2 to Amendment 14—On page 66, line 5-9,
remove from the amendment: all of said lines

and insert in lieu thereof:

Section 42. Section 320.64, Florida Statutes, is amended to read:
and on page 66, between lines 24 & 25,

insert:

(1) The applicant or licensee is determined to be unable to carry out contractual obligations with its motor vehicle dealers.

(2) The applicant or licensee has knowingly made a material misstatement in its application for a license.

(3) The applicant or licensee willfully has failed to comply with significant provisions of ss. 320.60-320.70 or with any lawful rule or regulation adopted or promulgated by the department.

(4) The applicant or licensee has indulged in any illegal act relating to his or her business.

(5) The applicant or licensee has coerced or attempted to coerce any motor vehicle dealer into accepting delivery of any motor vehicle or vehicles or parts or accessories therefor or any other commodities which have not been ordered by the dealer.

(6) The applicant or licensee has coerced or attempted to coerce any motor vehicle dealer to enter into any agreement with the licensee.

(7) The applicant or licensee has threatened to discontinue, cancel, or not to renew a franchise agreement of a licensed motor vehicle dealer, where the threatened discontinuation, cancellation, or nonrenewal, if implemented, would be in violation of any of the provisions of s. 320.641.

(8) The applicant or licensee discontinued, canceled, or failed to renew, a franchise agreement of a licensed motor vehicle dealer in violation of any of the provisions of s. 320.641.

(9) The applicant or licensee has threatened to modify or replace, or has modified or replaced, a franchise agreement with a succeeding franchise agreement which would adversely alter the rights or obligations of a motor vehicle dealer under an existing franchise agreement or which substantially impairs the sales, service obligations, or investment of the motor vehicle dealer.

(10) The applicant or licensee has attempted to enter, or has entered, into a franchise agreement with a motor vehicle dealer who does not, at the time of the franchise agreement, have proper facilities to provide the services to his or her purchasers of new motor vehicles which are covered by the new motor vehicle warranty issued by the applicant or licensee.

(11) The applicant or licensee has coerced a motor vehicle dealer to provide installment financing for the motor vehicle dealer's purchasers with a specified financial institution.

(12) The applicant or licensee has advertised, printed, displayed, published, distributed, broadcast, or televised, or caused or permitted to be advertised, printed, displayed, published, distributed, broadcast, or televised, in any manner whatsoever, any statement or representation with regard to the sale or financing of motor vehicles which is false, deceptive, or misleading.

~~(13) The applicant or licensee has refused to deliver, in reasonable quantities and within a reasonable time, to any duly licensed motor vehicle dealer who has an agreement with such applicant or licensee for the retail sale of new motor vehicles and parts for motor vehicles sold or distributed by the applicant or licensee, any such motor vehicles or parts as are covered by such agreement specifically publicly advertised by such applicant or licensee to be available for immediate delivery. However, the failure to deliver any motor vehicle or part will not be considered a violation of this section if the failure is due to act of God, work stoppage, or delay due to a strike or labor difficulty, a freight embargo, product shortage, or other cause over which the applicant or licensee has no control. The failure to deliver parts or components for the current and 5 preceding years' models within 60 days from date of order shall be deemed prima facie unreasonable.~~

(13)~~(14)~~ The applicant or licensee has sold, exchanged, or rented a motorcycle which produces in excess of 5 brake horsepower, knowing the use thereof to be by, or intended for, the holder of a restricted Florida driver's license.

(14)~~(15)~~ The applicant or licensee has engaged in previous conduct which would have been a ground for revocation or suspension of a license if the applicant or licensee had been licensed.

~~(16) Notwithstanding the terms of any franchise agreement, and unless it can be shown that the licensee's franchised dealer is actively negligent, the applicant or licensee has failed to indemnify and hold harmless its franchised motor vehicle dealer against any judgment for damages or settlement agreed to in writing by the applicant or licensee, including, but not limited to, court costs and reasonable attorney's fees of the motor vehicle dealer, which judgment or settlement arose out of complaints, claims, or lawsuits based upon such grounds as strict liability; negligence; misrepresentation; warranty, express or implied; or rescission of the sale as described in s. 672.608, less any offset for use recovered by the licensee's franchised motor vehicle dealer, and only to the extent that the judgment or settlement relates to the alleged defective or negligent manufacture, assembly, or design of new motor vehicles, parts, or accessories or other functions of the manufacturer.~~

(15)~~(17)~~ The applicant or licensee, directly or indirectly, through the actions of any parent of the licensee, subsidiary of the licensee, or common entity causes a termination, cancellation, or nonrenewal of a franchise agreement by a present or previous distributor or importer unless, by the effective date of such action, the applicant or licensee offers the motor vehicle dealer whose franchise agreement is terminated, canceled, or not renewed a franchise agreement containing substantially the same provisions contained in the previous franchise agreement or files an affidavit with the department acknowledging its undertaking to assume and fulfill the rights, duties, and obligations of its predecessor distributor or importer under the terminated, canceled, or nonrenewed franchise agreement and the same is reinstated.

(16)~~(18)~~ Notwithstanding the terms of any franchise agreement, the applicant or licensee prevents or refuses to accept the succession to any interest in a franchise agreement by any legal heir or devisee under the will of a motor vehicle dealer or under the laws of descent and distribution of this state; provided, the applicant or licensee is not required to accept a succession where such heir or devisee does not meet licensee's written, reasonable, and uniformly applied minimal standard qualifications for dealer applicants or which, after notice and administrative hearing pursuant to chapter 120, is demonstrated to be detrimental to the public interest or to the representation of the applicant or licensee. Nothing contained herein, however, shall prevent a motor vehicle dealer, during his or her lifetime, from designating any person as his or her successor in interest by written instrument filed with and accepted by the applicant or licensee. A licensee who rejects the successor transferee under this subsection shall have the burden of establishing in any proceeding where such rejection is in issue that the rejection of the successor transferee complies with this subsection.

(17)~~(19)~~ The applicant or licensee has included in any franchise agreement with a motor vehicle dealer terms or provisions that are contrary to, prohibited by, or otherwise inconsistent with the provisions contained in ss. 320.60-320.70, or has failed to include in such franchise agreement a provision conforming to the requirements of s. 320.63(3).

and on page 67, between lines 5 & 6

insert:

(19)~~(21)~~ The applicant or licensee, without good and fair cause, has delayed, refused, or failed to provide a supply of motor vehicles by series in reasonable quantities, including the models publicly advertised by the applicant or licensee as being available, or has delayed, refused, or failed to deliver motor vehicle parts and accessories within a reasonable time after receipt of an order by a franchised dealer. However, this subsection is not violated if such failure is caused by acts or causes beyond the control of the applicant or licensee.

(20)~~(22)~~ The applicant or licensee has required, or threatened to require, a motor vehicle dealer to prospectively assent to a release, assignment, novation, waiver, or estoppel, which instrument or document operates, or is intended by the applicant or licensee to operate, to relieve any person from any liability or obligation under the provisions of ss. 320.60-320.70.

(21)~~(23)~~ The applicant or licensee has threatened or coerced a motor vehicle dealer toward conduct or action whereby the dealer would waive or forego its right to protest the establishment or relocation of a motor vehicle dealer in the community or territory serviced by the threatened or coerced dealer.

and on page 71, between lines 9 & 10

insert:

A motor vehicle dealer who can demonstrate that a violation of, or failure to comply with, any of the preceding provisions by an applicant or licensee will or can adversely and pecuniarily affect the complaining dealer, shall be entitled to pursue all of the remedies, procedures, and rights of recovery available under ss. 320.695 and 320.697.

and on page 71, line 11,
remove from the bill: and a new subsection (8) is added

and on page 74, line 30,
remove from the bill: *320.643.*~~,~~

and insert in lieu thereof: *320.643.*

and on page 75, line 19,
remove from the bill: all of said line

and insert in lieu thereof: *dismissed with prejudice as moot. This subsection applies*

On page 77, lines 4-7,
remove from the bill: all of said lines

and insert in lieu thereof: complaint within *30 days after receipt of the complaint, unless the parties agree in writing to an extension,* ~~such 60 day period~~ or if the department, after a hearing,

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

REPRESENTATIVE BALL IN THE CHAIR

On motion by Rep. Gardiner, further consideration of **CS/CS/HB 807**, with pending amendment, was temporarily postponed under Rule 11.10.

HB 953—A bill to be entitled An act relating to burglary; creating s. 810.015, F.S.; providing legislative findings and intent; providing for retroactive operation; amending s. 810.02, F.S.; revising the definition of burglary; reenacting s. 943.325(1)(a), F.S.; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 350

Yeas—116

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

Nays—None

So the bill passed and was immediately certified to the Senate.

CS/HB 973 was taken up. On motion by Rep. Davis, the rules were waived and—

CS for SB 1366—A bill to be entitled An act relating to tax exemption; amending s. 196.202, F.S.; defining the term "totally and permanently disabled person"; providing an effective date.

—was substituted for CS/HB 973 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Davis, the rules were waived and CS for SB 1366 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 351

Yeas—114

The Chair	Andrews	Arza	Atwater
Alexander	Argenziano	Attkisson	Ausley

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

Nays—2

Baxley	Jordan

Votes after roll call:
Yeas—Brummer
Nays to Yeas—Baxley, Jordan

So the bill passed and was immediately certified to the Senate.

CS/CS/HB 1053—A bill to be entitled An act relating to transportation; amending s. 333.03, F.S.; requiring an airport authority or other governing body operating a publicly owned public-use airport to utilize the most recently approved noise exposure map; amending s. 20.23, F.S.; revising language with respect to the organization of the department; deleting responsibilities assigned to the secretary; providing that the secretary or his or her designee shall submit a report on major actions at each meeting of the Florida Transportation Commission; s. 315.031, F.S.; authorizing certain entertainment expenditures for seaport; revising language with respect to assistant secretaries; creating the Office of Comptroller; deleting language with respect to the inspector general and comptroller; changing the Turnpike District into a turnpike enterprise; giving the Secretary of Transportation the authority to exempt the turnpike enterprise from department policies, procedures, and standards; giving the secretary authority to promulgate rules that will assist the turnpike enterprise in using best business practices; amending s. 110.205, F.S.; correcting cross references, to conform; amending s. 189.441, F.S.; removing an exemption to s. 287.055, F.S.; amending s. 206.46, F.S.; revising language with respect to the State Transportation Trust Fund; increasing the debt service cap; amending s. 255.20, F.S.; exempting certain transportation projects for certain competitive bidding requirements; amending s. 287.005, F.S.; increasing the amount defining a continuing contract; amending s. 311.07, F.S.; adding seaport security projects to the types of projects eligible for these funds; exempting seaport security projects from matching requirements; amending s. 311.09, F.S.; directing seaports to abide by the provisions of s. 287.055, F.S., related to competitive negotiation; amending s. 316.302, F.S.; revising a date concerning commercial motor vehicles to conform to federal regulations; amending s. 316.3025, F.S.; updating a cross reference to federal trucking regulations; amending s. 316.515, F.S.; deleting a requirement for a department permit with respect to the height of automobile transporters; amending s. 316.535, F.S.; adding weight requirements for certain commercial trucks; amending s. 316.545, F.S.; correcting a cross reference; amending s. 330.27, F.S.; revising definitions relating to aviation; providing definitions; amending s. 316.650, F.S.; requiring the issuance of a copy of the Traffic School Reference Guide with traffic citations; amending s. 318.14, F.S.; deleting reference to a restriction on the number of elections a person may make to attend a basic driver improvement course; amending s. 318.1451, F.S.; providing an assessment fee with respect to driver improvement courses for persons who are ordered by the court to attend and for certain other violations; amending s. 322.0261, F.S.; deleting reference to a time period and increasing the amount of damage required with respect to a crash for the screening of certain crash reports; creating s. 322.02615, F.S.; providing for mandatory driver improvement courses for certain violations; amending s. 322.05, F.S.; adding a condition for the issuance of a driver's license to certain persons; amending s. 330.29, F.S.; clarifying the department's rulemaking authority with respect to airports; amending s. 330.30, F.S.; eliminating airport license fees; revising language with respect to the department's site approval process; eliminating on-site inspections of private airports; creating a registration process for private airports; providing conditions; deleting obsolete language; providing exceptions; amending s. 330.35, F.S.; deleting obsolete language with respect to airport zoning; amending s. 330.36, F.S.; providing conditions under which municipalities may prohibit or otherwise regulate seaplanes; amending s. 332.004, F.S.; adding off-airport noise mitigation projects to the projects eligible for federal and state matching funds; amending s. 334.044, F.S.; authorizing the department to expend promotional money on scenic highway projects; authorizing the department to delegate its drainage permitting responsibilities to other governmental entities under certain circumstances; amending s. 334.193, F.S.; providing for employee bidding by department employees; amending s. 334.30, F.S.; clarifying existing program for public-private transportation projects; deleting requirement for legislative approval except for projects requiring more than $50 million from the State Transportation Trust Fund; specifying notice and selection requirements for projects under this section; allowing Internal Revenue Service Code chapter 63-20 corporations to participate in these public-private transportation projects; providing conditions for using loans from Toll Facilities Revolving Trust Fund; deleting obsolete language; creating s. 335.066, F.S.; creating the Safe Paths to Schools Program; directing the department to establish the program and to authorize establishment of a grant program for purposes of funding the program; authorizing the department to adopt rules to administer the program; amending s. 335.141, F.S.; eliminating the requirement that the department regulate all train speeds; amending s. 336.12, F.S.; creating process for homeowners' associations to be conveyed roads and rights-of-way abandoned by a county governing board for the purpose of converting a subdivision to a gated neighborhood; amending s. 336.41, F.S.; clarifying that a contract already qualified by the Department of Transportation is presumed qualified to bid on county road projects; amending s. 336.44, F.S.; replacing the term "competent" with "responsible bidder"; amending s. 337.107, F.S.; authorizing the department to enter into design-build contracts that include right-of-acquisition services; amending s. 337.11, F.S.; raising the cap on certain contracts into which the department can enter without first obtaining bids; adding enhancement projects to the types of projects that can be combined into a design-build contract; specifying that construction on design-build projects may not begin until certain conditions have been met; amending s. 337.14, F.S.; clarifying that contractors qualified by the Department of Transportation are presumed qualified to bid on projects for expressway authorities; amending s. 337.401, F.S.; providing that for projects on public roads or rail corridors under the department's jurisdiction, a utility relocation schedule and relocation agreement may be executed in lieu of a written permit; amending s. 339.08, F.S.; clarifying language with respect to the use of moneys in the State Transportation Trust Fund; amending s. 339.12, F.S.; providing that local governments which perform projects for the department are reimbursed promptly; specifying that certain counties that use revenues from a 1-cent local option sales tax for state transportation improvement projects not be penalized by receiving fewer state transportation funds; amending s. 339.135, F.S.; conforming language with respect to the tentative work program; conforming a reference to the turnpike district; amending s. 339.137, F.S.; revising definitions; amending criteria for program eligibility; directing the advisory council to develop methodology for ranking and prioritizing

project proposals; directing the Florida Transportation Commission to review the proposed project list before submittal to the Legislature; amending s. 341.051, F.S.; deleting obsolete language; amending s. 341.302, F.S.; deleting language requiring the department to perform certain railroad regulation tasks which are federal responsibilities; amending s. 348.0003, F.S.; giving a county governing body authority to set qualifications, terms of office, and obligations for the members of expressway authorities within their jurisdictions; amending ss. 348.0012, 348.754, 348.7543, 348.7544, 348.7545, 348.755, and 348.765, F.S.; giving the Orlando-Orange County Expressway Authority the ability to issue bonds, rather than issuance through the state Division of Bond Finance; amending s. 373.4137, F.S.; allowing transportation authorities created pursuant to chs. 348 and 349, F.S., to create environmental impact inventories and participate in a mitigation program to offset adverse impacts caused by their transportation projects; amending s. 373.414, F.S.; providing for legislative review of the uniform wetland mitigation assessment method rule; amending s. 475.011, F.S.; granting exemption from Florida licensing for certain firms or their employees under contract with the state or a local governmental entity to provide right-of-way acquisition services for property subject to condemnation; amending s. 479.15, F.S.; revising language with respect to harmony of regulations concerning lawfully erected signs; creating s. 479.25, F.S.; authorizing local governments to enter into agreements which allow outdoor signs to be erected above sound barriers; creating s. 70.20, F.S.; creating process for governmental entities and sign owners to enter into relocation and reconstruction agreements related to outdoor advertising signs; providing for just compensation to sign owners under certain conditions; amending s. 496.425, F.S.; redefining the term "facility"; creating s. 496.4256, F.S.; providing that a governmental entity or authority that owns or operates welcome centers, wayside parks, service plazas, or rest areas on the state highway system are not required to issue a permit to, or grant access to, any person for the purpose of soliciting funds; repealing s. 316.3027, F.S.; relating to identification requirements on certain commercial motor vehicles; amending s. 337.408, F.S.; revising language with respect to the regulation of benches, transit shelters, and waste disposal receptacles within rights-of-way; providing for regulation of street light poles; amending s. 380.0651, F.S.; excluding certain wholesaling facilities from development-of-regional-impact review; deleting provision which provides the development-of-regional-impact statewide guidelines and standards for airports; deleting provision which provides for certain residential developments located in one county to be treated as located in an adjacent less populated county; amending s. 768.28, F.S.; providing that certain operators of rail services and providers of security for rail services are agents of the state for certain purposes; providing for indemnification; repealing s. 316.610(3), F.S.; relating to certain inspections of certain commercial motor vehicles; amending s. 337.025, F.S.; eliminating cap on innovative highway projects for the turnpike enterprise; amending s. 337.11, F.S.; providing an exemption for a turnpike enterprise project; amending s. 338.22, F.S.; redesignating the Florida Turnpike Law as the Florida Turnpike Enterprise Law; amending s. 338.221, F.S.; redefining the term "economically feasible" as used with respect to turnpike projects; creating s. 338.2215, F.S.; providing legislative findings, policy, purpose, and intent for the Florida Turnpike Enterprise; creating s. 338.2216, F.S.; prescribing the power and authority of the turnpike enterprise; amending s. 338.223, F.S.; increasing the maximum loan amount for the turnpike enterprise; amending ss. 338.165 and 338.227, F.S.; conforming provisions; amending s. 338.2275, F.S.; authorizing the turnpike enterprise to advertise for bids for contracts prior to obtaining environmental permits; amending s. 338.234, F.S.; authorizing the turnpike enterprise to expand business opportunities; amending s. 338.235, F.S.; authorizing the consideration of goods instead of fees; amending s. 338.239, F.S.; providing that approved expenditure to the Florida Highway Patrol be paid by the turnpike enterprise; amending s. 338.241, F.S.; lowering the required cash reserve for the turnpike enterprise; amending s. 338.251, F.S.; conforming provisions; amending s. 553.80, F.S.; providing for self-regulation; amending s. 333.06, F.S.; requiring each licensed publicly owned and operated airport to prepare an airport master plan; providing notice to affected local governments with respect thereto; amending s. 380.06, F.S., relating to developments of regional impact; removing the rebuttable presumptions with respect to application of the statewide guidelines and standards; removing provisions which specify that certain changes in airport facilities or increases in the storage capacity for chemical or petroleum storage facilities constitute a substantial deviation and require further development-of-regional-impact review; exempting certain proposed facilities for the storage of any petroleum product from development-of-regional-impact requirements; amending ss. 163.3180 and 331.303, F.S.; correcting references; providing application with respect to airports and petroleum storage facilities which have received a development-of-regional-impact development order, or which have an application for development approval or notification of proposed change pending, on the effective date of the act; providing for severability; authorizing a board of county commissioners to require by ordinance that an additional amount be collected with each civil fine and used to fund traffic education and awareness programs; providing an effective date.

—was read the third time by title.

Representative(s) Russell offered the following:

(Amendment Bar Code: 742687)

Amendment 8 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Section 20.23, Florida Statutes, is amended to read:

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

(1)(a)~~1.~~ The head of the Department of Transportation is the Secretary of Transportation. The secretary shall be appointed by the Governor from among three persons nominated by the Florida Transportation Commission and shall be subject to confirmation by the Senate. The secretary shall serve at the pleasure of the Governor.

(b)~~2.~~ The secretary shall be a proven, effective administrator who by a combination of education and experience shall clearly possess a broad knowledge of the administrative, financial, and technical aspects of the development, operation, and regulation of transportation systems and facilities or comparable systems and facilities.

~~(b)1. The secretary shall employ all personnel of the department. He or she shall implement all laws, rules, policies, and procedures applicable to the operation of the department and may not by his or her actions disregard or act in a manner contrary to any such policy. The secretary shall represent the department in its dealings with other state agencies, local governments, special districts, and the Federal Government. He or she shall have authority to sign and execute all documents and papers necessary to carry out his or her duties and the operations of the department. At each meeting of the Florida Transportation Commission, the secretary shall submit a report of major actions taken by him or her as official representative of the department.~~

~~2. The secretary shall cause the annual department budget request, the Florida Transportation Plan, and the tentative work program to be prepared in accordance with all applicable laws and departmental policies and shall submit the budget, plan, and program to the Florida Transportation Commission. The commission shall perform an in-depth evaluation of the budget, plan, and program for compliance with all applicable laws and departmental policies. If the commission determines that the budget, plan, or program is not in compliance with all applicable laws and departmental policies, it shall report its findings and recommendations regarding such noncompliance to the Legislature and the Governor.~~

(c)~~3.~~ The secretary shall provide to the Florida Transportation Commission or its staff, such assistance, information, and documents as are requested by the commission or its staff to enable the commission to fulfill its duties and responsibilities.

(d)~~(c)~~ The secretary shall appoint *two* ~~three~~ assistant secretaries who shall be directly responsible to the secretary and who shall perform such duties as are specified in this section and such other duties as are assigned by the secretary. ~~The secretary may delegate to any assistant secretary the authority to act in the absence of the secretary. The department has the authority to adopt rules necessary for the delegation of authority beyond the assistant secretaries. The assistant secretaries shall serve at the pleasure of the secretary.~~

(e)~~(d)~~ Any secretary appointed after July 5, 1989, and the assistant secretaries shall be exempt from the provisions of part III of chapter 110 and shall receive compensation commensurate with their qualifications and competitive with compensation for comparable responsibility in the private sector. When the salary of any assistant secretary exceeds the limits established in part III of chapter 110, the Governor shall approve said salary.

(2)(a)1. The Florida Transportation Commission is hereby created and shall consist of nine members appointed by the Governor subject to confirmation by the Senate. Members of the commission shall serve terms of 4 years each.

2. Members shall be appointed in such a manner as to equitably represent all geographic areas of the state. Each member must be a registered voter and a citizen of the state. Each member of the commission must also possess business managerial experience in the private sector.

3. A member of the commission shall represent the transportation needs of the state as a whole and may not subordinate the needs of the state to those of any particular area of the state.

4. The commission is assigned to the Office of the Secretary of the Department of Transportation for administrative and fiscal accountability purposes, but it shall otherwise function independently of the control and direction of the department.

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

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

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

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

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

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

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

7. Recommend to the Governor and the Legislature improvements to the department's organization in order to streamline and optimize the efficiency of the department. In reviewing the department's organization, the commission shall determine if the current district organizational structure is responsive to Florida's changing economic and demographic development patterns. The initial report by the commission must be delivered to the Governor and Legislature by December 15, 2000, and each year thereafter, as appropriate. The commission may retain such experts as are reasonably necessary to effectuate this subparagraph, and the department shall pay the expenses of such experts.

(c) The commission or a member thereof may not enter into the day-to-day operation of the department and is specifically prohibited from taking part in:

1. The awarding of contracts.

2. The selection of a consultant or contractor or the prequalification of any individual consultant or contractor. However, the commission may recommend to the secretary standards and policies governing the procedure for selection and prequalification of consultants and contractors.

3. The selection of a route for a specific project.

4. The specific location of a transportation facility.

5. The acquisition of rights-of-way.

6. The employment, promotion, demotion, suspension, transfer, or discharge of any department personnel.

7. The granting, denial, suspension, or revocation of any license or permit issued by the department.

(d)1. The chair of the commission shall be selected by the commission members and shall serve a 1-year term.

2. The commission shall hold a minimum of 4 regular meetings annually, and other meetings may be called by the chair upon giving at least 1 week's notice to all members and the public pursuant to chapter 120. Other meetings may also be held upon the written request of at least four other members of the commission, with at least 1 week's notice of such meeting being given to all members and the public by the chair pursuant to chapter 120. Emergency meetings may be held without notice upon the request of all members of the commission. *At each meeting of the commission, the secretary or his or her designee shall submit a report of major actions taken by him or her as official representative of the department.*

3. A majority of the membership of the commission constitutes a quorum at any meeting of the commission. An action of the commission is not binding unless the action is taken pursuant to an affirmative vote of a majority of the members present, but not fewer than four members of the commission at a meeting held pursuant to subparagraph 2., and the vote is recorded in the minutes of that meeting.

4. The chair shall cause to be made a complete record of the proceedings of the commission, which record shall be open for public inspection.

(e) The meetings of the commission shall be held in the central office of the department in Tallahassee unless the chair determines that special circumstances warrant meeting at another location.

(f) Members of the commission are entitled to per diem and travel expenses pursuant to s. 112.061.

(g) A member of the commission may not have any interest, direct or indirect, in any contract, franchise, privilege, or other benefit granted or awarded by the department during the term of his or her appointment and for 2 years after the termination of such appointment.

(h) The commission shall appoint an executive director and assistant executive director, who shall serve under the direction, supervision, and control of the commission. The executive director, with the consent of the commission, shall employ such staff as are necessary to perform adequately the functions of the commission, within budgetary limitations. All employees of the commission are exempt from part II of chapter 110 and shall serve at the pleasure of the commission. The salaries and benefits of all employees of the commission shall be set in accordance with the Selected Exempt Service; provided, however,

that the commission shall have complete authority for fixing the salary of the executive director and assistant executive director.

(i) The commission shall develop a budget pursuant to chapter 216. The budget is not subject to change by the department, but such budget shall be submitted to the Governor along with the budget of the department.

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

~~(b) The resources necessary to ensure the efficiency, effectiveness, and quality of performance by the department of its statutory responsibilities shall be allocated to the central office.~~

(b)~~(c)~~ The secretary shall appoint an Assistant Secretary for Transportation Policy *and*~~,~~ an Assistant Secretary for Finance and Administration~~, and an Assistant Secretary for District Operations~~, each of whom shall serve at the pleasure of the secretary. ~~The positions are responsible for developing, monitoring, and enforcing policy and managing major technical programs. The responsibilities and duties of these positions include, but are not limited to, the following functional areas:~~

~~1. Assistant Secretary for Transportation Policy.—~~

~~a. Development of the Florida Transportation Plan and other policy planning;~~

~~b. Development of statewide modal systems plans, including public transportation systems;~~

~~c. Design of transportation facilities;~~

~~d. Construction of transportation facilities;~~

~~e. Acquisition and management of transportation rights-of-way; and~~

~~f. Administration of motor carrier compliance and safety.~~

~~2. Assistant Secretary for District Operations.—~~

~~a. Administration of the eight districts; and~~

~~b. Implementation of the decentralization of the department.~~

~~3. Assistant Secretary for Finance and Administration.—~~

~~a. Financial planning and management;~~

~~b. Information systems;~~

~~c. Accounting systems;~~

~~d. Administrative functions; and~~

~~e. Administration of toll operations.~~

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

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

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

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

~~d. Performing other activities of a statewide nature.~~

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

a. The Office of Administration;

b. The Office of Policy Planning;

c. The Office of Design;

d. The Office of Highway Operations;

e. The Office of Right-of-Way;

f. The Office of Toll Operations;

g. The Office of Information Systems; ~~and~~

h. The Office of Motor Carrier Compliance~~;~~*,*

i. The Office of Management and Budget; and

j. The Office of Comptroller.

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

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

~~(e) The Assistant Secretary for Finance and Administration must possess a broad knowledge of the administrative, financial, and technical aspects of a complete cost-accounting system, budget preparation and management, and management information systems. The Assistant Secretary for Finance and Administration must be a proven, effective manager with specialized skills in financial planning and management. The Assistant Secretary for Finance and Administration shall ensure that financial information is processed in a timely, accurate, and complete manner.~~

~~(f)1. Within the central office there is created an Office of Management and Budget. The head of the Office of Management and Budget is responsible to the Assistant Secretary for Finance and Administration and is exempt from part II of chapter 110.~~

~~2. The functions of the Office of Management and Budget include, but are not limited to:~~

~~a. Preparation of the work program;~~

~~b. Preparation of the departmental budget; and~~

~~c. Coordination of related policies and procedures.~~

~~3. The Office of Management and Budget shall also be responsible for developing uniform implementation and monitoring procedures for all activities performed at the district level involving the budget and the work program.~~

(c)~~(g)~~ The secretary *shall* ~~may~~ appoint an inspector general *pursuant to s. 20.055* who shall be directly responsible to the secretary and shall serve at the pleasure of the secretary.

~~(h)1. The secretary shall appoint an inspector general pursuant to s. 20.055. To comply with recommended professional auditing standards related to independence and objectivity, the inspector general shall be appointed to a position within the Career Service System and may be removed by the secretary with the concurrence of the Transportation Commission. In order to attract and retain an individual who has the proven technical and administrative skills necessary to comply with the requirements of this section, the agency head may appoint the inspector general to a classification level within the Career Service System that is equivalent to that provided for in part III of chapter 110. The inspector general may be organizationally located within another unit of the department for administrative purposes, but shall function independently and be directly responsible to the secretary pursuant to s. 20.055. The duties of the inspector general shall include, but are not restricted to, reviewing, evaluating, and reporting on the policies, plans, procedures, and accounting, financial, and other operations of the department and recommending changes for the improvement thereof, as well as performing audits of contracts and agreements between the department and private entities or other governmental entities. The inspector general shall give priority to reviewing major parts of the department's accounting system and central office monitoring function to determine whether such systems effectively ensure accountability and compliance with all laws, rules, policies, and procedures applicable to the operation of the department. The inspector general shall also give priority to assessing the department's management information systems as required by s. 282.318. The internal audit function shall use the necessary expertise, in particular, engineering, financial, and property appraising expertise, to independently evaluate the technical aspects of the department's operations. The inspector general shall have access at all times to any personnel, records, data, or other information of the department and shall determine the methods and procedures necessary to carry out his or her duties. The inspector general is responsible for audits of departmental operations and for audits of consultant contracts and agreements, and such audits shall be conducted in accordance with generally accepted governmental auditing standards. The inspector general shall annually perform a sufficient number of audits to determine the efficiency and effectiveness, as well as verify the accuracy of estimates and charges, of contracts executed by the department with private entities and other governmental entities. The inspector general has the sole responsibility for the contents of his or her reports, and a copy of each report containing his or her findings and recommendations shall be furnished directly to the secretary and the commission.~~

~~2. In addition to the authority and responsibilities herein provided, the inspector general is required to report to the:~~

~~a. Secretary whenever the inspector general makes a preliminary determination that particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the department have occurred. The secretary shall review and assess the correctness of the preliminary determination by the inspector general. If the preliminary determination is substantiated, the secretary shall submit such report to the appropriate committees of the Legislature within 7 calendar days, together with a report by the secretary containing any comments deemed appropriate. Nothing in this section shall be construed to authorize the public disclosure of information which is specifically prohibited from disclosure by any other provision of law.~~

~~b. Transportation Commission and the Legislature any actions by the secretary that prohibit the inspector general from initiating, carrying out, or completing any audit after the inspector general has decided to initiate, carry out, or complete such audit. The secretary shall, within 30 days after transmission of the report, set forth in a statement to the Transportation Commission and the Legislature the reasons for his or her actions.~~

~~(i)1. The secretary shall appoint a comptroller who is responsible to the Assistant Secretary for Finance and Administration. This position is exempt from part II of chapter 110.~~

~~2. The comptroller is the chief financial officer of the department and must be a proven, effective administrator who by a combination of education and experience clearly possesses a broad knowledge of the administrative, financial, and technical aspects of a complex cost-accounting system. The comptroller must also have a working knowledge of generally accepted accounting principles. At a minimum, the comptroller must hold an active license to practice public accounting in Florida pursuant to chapter 473 or an active license to practice public accounting in any other state. In addition to the requirements of the Florida Fiscal Accounting Management Information System Act, the comptroller is responsible for the development, maintenance, and modification of an accounting system that will in a timely manner accurately reflect the revenues and expenditures of the department and that includes a cost-accounting system to properly identify, segregate, allocate, and report department costs. The comptroller shall supervise and direct preparation of a detailed 36-month forecast of cash and expenditures and is responsible for managing cash and determining cash requirements. The comptroller shall review all comparative cost studies that examine the cost-effectiveness and feasibility of contracting for services and operations performed by the department. The review must state that the study was prepared in accordance with generally accepted cost-accounting standards applied in a consistent manner using valid and accurate cost data.~~

~~3. The department shall by rule or internal management memoranda as required by chapter 120 provide for the maintenance by the comptroller of financial records and accounts of the department as will afford a full and complete check against the improper payment of bills and provide a system for the prompt payment of the just obligations of the department, which records must at all times disclose:~~

~~a. The several appropriations available for the use of the department;~~

~~b. The specific amounts of each such appropriation budgeted by the department for each improvement or purpose;~~

~~c. The apportionment or division of all such appropriations among the several counties and districts, when such apportionment or division is made;~~

~~d. The amount or portion of each such apportionment against general contractual and other liabilities then created;~~

~~e. The amount expended and still to be expended in connection with each contractual and other obligation of the department;~~

~~f. The expense and operating costs of the various activities of the department;~~

~~g. The receipts accruing to the department and the distribution thereof;~~

~~h. The assets, investments, and liabilities of the department; and~~

~~i. The cash requirements of the department for a 36-month period.~~

~~4. The comptroller shall maintain a separate account for each fund administered by the department.~~

~~5. The comptroller shall perform such other related duties as designated by the department.~~

(d)~~(j)~~ The secretary shall appoint a general counsel who shall be ~~employed full time and shall be~~ directly responsible to the secretary *and shall serve at the pleasure of the secretary*. The general counsel is responsible for all legal matters of the department. The department may employ as many attorneys as it deems necessary to advise and represent the department in all transportation matters.

(e)~~(k)~~ The secretary shall appoint a state transportation planner ~~who shall report to the Assistant Secretary for Transportation Policy. The state transportation planner's responsibilities shall include, but are not limited to, policy planning, systems planning, and transportation statistics~~. This position shall be classified at a level equal to a deputy assistant secretary.

(f)~~(l)~~ The secretary shall appoint a state highway engineer ~~who shall report to the Assistant Secretary for Transportation Policy. The state~~

~~highway engineer's responsibilities shall include, but are not limited to, design, construction, and maintenance of highway facilities; acquisition and management of transportation rights-of-way; traffic engineering; and materials testing~~. This position shall be classified at a level equal to a deputy assistant secretary.

(g)~~(m)~~ The secretary shall appoint a state public transportation administrator ~~who shall report to the Assistant Secretary for Transportation Policy. The state public transportation administrator's responsibilities shall include, but are not limited to, the administration of statewide transit, rail, intermodal development, and aviation programs~~. This position shall be classified at a level equal to a deputy assistant secretary. ~~The department shall also assign to the public transportation administrator an organizational unit the primary function of which is to administer the high-speed rail program.~~

(4)(a) The operations of the department shall be organized into *seven* ~~eight~~ districts, ~~including a turnpike district,~~ each headed by a district secretary*, and a turnpike enterprise, headed by an executive director*. ~~The district secretaries shall report to the Assistant Secretary for District Operations.~~ The headquarters of the districts shall be located in Polk, Columbia, Washington, Broward, Volusia, Dade, *and* Hillsborough~~, and Leon~~ Counties. *The headquarters of the turnpike enterprise shall be located in Orange County.* ~~The turnpike district must be relocated to Orange County in the year 2000.~~ In order to provide for efficient operations and to expedite the decisionmaking process, the department shall provide for maximum decentralization to the districts. However, before making a decision to centralize or decentralize department operations ~~or relocate the turnpike district~~, the department must first determine if the decision would be cost-effective and in the public's best interest. The department shall periodically evaluate such decisions to ensure that they are appropriate.

(b) The primary responsibility for the implementation of the department's transportation programs shall be delegated by the secretary to the district secretaries, and sufficient authority shall be vested in each district to ensure adequate control of the resources commensurate with the delegated responsibility. Each district secretary shall also be accountable for ensuring their district's quality of performance and compliance with all laws, rules, policies, and procedures related to the operation of the department.

(c) Each district secretary may appoint a district director for planning and programming, a district director for production, and a district director for operations. These positions are exempt from part II of chapter 110.

(d) Within each district, offices shall be established for managing major functional responsibilities of the department. ~~The offices may include planning, design, construction, right-of-way, maintenance, and public transportation.~~ The heads of these offices shall be exempt from part II of chapter 110.

(e) The district director for the Fort Myers Urban Office of the Department of Transportation is responsible for developing the 5-year Transportation Plan for Charlotte, Collier, DeSoto, Glades, Hendry, and Lee Counties. The Fort Myers Urban Office also is responsible for providing policy, direction, local government coordination, and planning for those counties.

(f)1. The responsibility for the turnpike system shall be delegated by the secretary to the executive director of the turnpike enterprise, who shall serve at the pleasure of the secretary. The executive director shall report directly to the secretary, and the turnpike enterprise shall operate pursuant to ss. 338.22-338.241.

2. To facilitate the most efficient and effective management of the turnpike enterprise, including the use of best business practices employed by the private sector, the turnpike enterprise shall be exempt from departmental policies, procedures, and standards, subject to the Secretary having the authority to apply any such policies, procedures, and standards to the turnpike enterprise from time to time as deemed appropriate.

3. To enhance the ability of the turnpike enterprise to use best business practices employed by the private sector, the Secretary shall promulgate rules which exempt the turnpike enterprise from department rules and authorize the turnpike enterprise to employ procurement methods available to the private sector.

(5) Notwithstanding the provisions of s. 110.205, the Department of Management Services is authorized to exempt positions within the Department of Transportation which are comparable to positions within the Senior Management Service pursuant to s. 110.205(2)(i) or positions which are comparable to positions in the Selected Exempt Service under s. 110.205(2)(l).

~~(6) To facilitate the efficient and effective management of the department in a businesslike manner, the department shall develop a system for the submission of monthly management reports to the Florida Transportation Commission and secretary from the district secretaries. The commission and the secretary shall determine which reports are required to fulfill their respective responsibilities under this section. A copy of each such report shall be submitted monthly to the appropriations and transportation committees of the Senate and the House of Representatives. Recommendations made by the Auditor General in his or her audits of the department that relate to management practices, systems, or reports shall be implemented in a timely manner. However, if the department determines that one or more of the recommendations should be altered or should not be implemented, it shall provide a written explanation of such determination to the Legislative Auditing Committee within 6 months after the date the recommendations were published.~~

(6)~~(7)~~ The department is authorized to contract with local governmental entities and with the private sector if the department first determines that:

(a) Consultants can do the work at less cost than state employees;

(b) State employees can do the work at less cost, but sufficient positions have not been approved by the Legislature as requested in the department's most recent legislative budget request;

(c) The work requires specialized expertise, and it would not be economical for the state to acquire, and then maintain, the expertise after the work is done;

(d) The workload is at a peak level, and it would not be economical to acquire, and then keep, extra personnel after the workload decreases; or

(e) The use of such entities is clearly in the public's best interest.

Such contracts shall require compliance with applicable federal and state laws, and clearly specify the product or service to be provided.

Section 2. Paragraphs (i) and (l) of subsection (2) of section 110.205, Florida Statutes, are amended to read:

110.205 Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions which are not covered by this part include the following, provided that no position, except for positions established for a limited period of time pursuant to paragraph (h), shall be exempted if the position reports to a position in the career service:

(i) The appointed secretaries, assistant secretaries, deputy secretaries, and deputy assistant secretaries of all departments; the executive directors, assistant executive directors, deputy executive directors, and deputy assistant executive directors of all departments; and the directors of all divisions and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, program directors, assistant program directors, district administrators, deputy district administrators, the Director of Central Operations Services of the Department of Children and Family Services, and the State Transportation Planner, State Highway Engineer, State Public Transportation Administrator, district secretaries, district directors of

planning and programming, production, and operations, and the managers of the offices specified in s. 20.23(3)*(b)1.*~~(d)2.~~, of the Department of Transportation. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules of the Senior Management Service.

(l) All assistant division director, deputy division director, and bureau chief positions in any department, and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, positions in the Department of Health, the Department of Children and Family Services, and the Department of Corrections that are assigned primary duties of serving as the superintendent or assistant superintendent, or warden or assistant warden, of an institution; positions in the Department of Corrections that are assigned primary duties of serving as the circuit administrator or deputy circuit administrator; positions in the Department of Transportation that are assigned primary duties of serving as regional toll managers and managers of offices as defined in s. 20.23(3)*(b)2.*~~(d)3.~~ and (4)(d); positions in the Department of Environmental Protection that are assigned the duty of an Environmental Administrator or program administrator; those positions described in s. 20.171 as included in the Senior Management Service; and positions in the Department of Health that are assigned the duties of Environmental Administrator, Assistant County Health Department Director, and County Health Department Financial Administrator. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules established for the Selected Exempt Service.

Section 3. Paragraph (c) of subsection (2) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

(2)

(c) Consistent with the public welfare, and except as otherwise provided in this section, transportation facilities *designated as part of the Florida Intrastate Highway System needed to serve new development shall be in place or under actual construction no more than 5 years after issuance by the local government of a certificate of occupancy or its functional equivalent. Other transportation facilities* needed to serve new development shall be in place or under actual construction no more than 3 years after issuance by the local government of a certificate of occupancy or its functional equivalent.

Section 4. Section 189.441, Florida Statutes, is amended to read:

189.441 Contracts.—Contracts for the construction of projects and for any other purpose of the authority may be awarded by the authority in a manner that will best promote free and open competition, including advertisement for competitive bids; however, if the authority determines that the purposes of this act will be more effectively served thereby, the authority may award or cause to be awarded contracts for the construction of any project, including design-build contracts, or any part thereof, or for any other purpose of the authority upon a negotiated basis as determined by the authority. Each contractor doing business with the authority and required to be licensed by the state or local general-purpose governments must maintain the license during the term of the contract with the authority. The authority may prescribe bid security requirements and other procedures in connection with the award of contracts which protect the public interest. ~~Section 287.055 does not apply to the selection of professional architectural, engineering, landscape architectural, or land surveying services by the authority or to the procurement of design-build contracts.~~ The authority may, and in the case of a new professional sports franchise must, by written contract engage the services of the operator, lessee, sublessee, or purchaser, or prospective operator, lessee, sublessee, or purchaser, of any project in the construction of the project and may, and in the case of a new professional sports franchise must, provide in the contract that the lessee, sublessee, purchaser, or prospective lessee, sublessee, or purchaser, may act as an agent of, or an independent contractor for, the authority for the performance of the functions described therein, subject to the conditions and requirements prescribed in the contract, including functions such as the acquisition of the site and other real property for the project; the preparation of plans, specifications, financing, and contract documents; the award of construction and other contracts upon a competitive or negotiated basis; the construction of the project, or any part thereof, directly by the lessee, purchaser, or prospective lessee or purchaser; the inspection and supervision of construction; the employment of engineers, architects, builders, and other contractors; and the provision of money to pay the cost thereof pending reimbursement by the authority. Any such contract may, and in the case of a new professional sports franchise must, allow the authority to make advances to or reimburse the lessee, sublessee, or purchaser, or prospective lessee, sublessee, or purchaser for its costs incurred in the performance of those functions, and must set forth the supporting documents required to be submitted to the authority and the reviews, examinations, and audits that are required in connection therewith to assure compliance with the contract.

Section 5. Subsection (2) of section 206.46, Florida Statutes, is amended to read:

206.46 State Transportation Trust Fund.—

(2) Notwithstanding any other provisions of law, from the revenues deposited into the State Transportation Trust Fund a maximum of 7 percent in each fiscal year shall be transferred into the Right-of-Way Acquisition and Bridge Construction Trust Fund created in s. 215.605, as needed to meet the requirements of the documents authorizing the bonds issued or proposed to be issued under ss. 215.605 and 337.276 or at a minimum amount sufficient to pay for the debt service coverage requirements of outstanding bonds. Notwithstanding the 7 percent annual transfer authorized in this subsection, the annual amount transferred under this subsection shall not exceed an amount necessary to provide the required debt service coverage levels for a maximum debt service not to exceed *$200* ~~$135~~ million. Such transfer shall be payable primarily from the motor and diesel fuel taxes transferred to the State Transportation Trust Fund from the Fuel Tax Collection Trust Fund.

Section 6. Paragraph (a) of subsection (1) of section 255.20, Florida Statutes, is amended to read:

255.20 Local bids and contracts for public construction works; specification of state-produced lumber.—

(1) A county, municipality, special district as defined in chapter 189, or other political subdivision of the state seeking to construct or improve a public building, structure, or other public construction works must competitively award to an appropriately licensed contractor each project that is estimated in accordance with generally accepted cost-accounting principles to have total construction project costs of more than $200,000. For electrical work, local government must competitively award to an appropriately licensed contractor each project that is estimated in accordance with generally accepted cost-accounting principles to have a cost of more than $50,000. As used in this section, the term "competitively award" means to award contracts based on the submission of sealed bids, proposals submitted in response to a request for proposal, proposals submitted in response to a request for qualifications, or proposals submitted for competitive negotiation. This subsection expressly allows contracts for construction management services, design/build contracts, continuation contracts based on unit prices, and any other contract arrangement with a private sector contractor permitted by any applicable municipal or county ordinance, by district resolution, or by state law. For purposes of this section, construction costs include the cost of all labor, except inmate labor, and include the cost of equipment and materials to be used in the construction of the project. Subject to the provisions of subsection (3), the county, municipality, special district, or other political subdivision may establish, by municipal or county ordinance or special district resolution, procedures for conducting the bidding process.

(a) The provisions of this subsection do not apply:

1. When the project is undertaken to replace, reconstruct, or repair an existing facility damaged or destroyed by a sudden unexpected turn of events, such as an act of God, riot, fire, flood, accident, or other urgent circumstances, and such damage or destruction creates:

a. An immediate danger to the public health or safety;

b. Other loss to public or private property which requires emergency government action; or

c. An interruption of an essential governmental service.

2. When, after notice by publication in accordance with the applicable ordinance or resolution, the governmental entity does not receive any responsive bids or responses.

3. To construction, remodeling, repair, or improvement to a public electric or gas utility system when such work on the public utility system is performed by personnel of the system.

4. To construction, remodeling, repair, or improvement by a utility commission whose major contracts are to construct and operate a public electric utility system.

5. When the project is undertaken as repair or maintenance of an existing public facility.

6. When the project is undertaken exclusively as part of a public educational program.

7. When the funding source of the project will be diminished or lost because the time required to competitively award the project after the funds become available exceeds the time within which the funding source must be spent.

8. When the local government has competitively awarded a project to a private sector contractor and the contractor has abandoned the project before completion or the local government has terminated the contract.

9. When the governing board of the local government, after public notice, conducts a public meeting under s. 286.011 and finds by a majority vote of the governing board that it is in the public's best interest to perform the project using its own services, employees, and equipment. The public notice must be published at least 14 days prior to the date of the public meeting at which the governing board takes final action to apply this subparagraph. The notice must identify the project, the estimated cost of the project, and specify that the purpose for the public meeting is to consider whether it is in the public's best interest to perform the project using the local government's own services, employees, and equipment. In deciding whether it is in the public's best interest for local government to perform a project using its own services, employees, and equipment, the governing board may consider the cost of the project, whether the project requires an increase in the number of government employees, an increase in capital expenditures for public facilities, equipment or other capital assets, the impact on local economic development, the impact on small and minority business owners, the impact on state and local tax revenues, whether the private sector contractors provide health insurance and other benefits equivalent to those provided by the local government, and any other factor relevant to what is in the public's best interest.

10. When the governing board of the local government determines upon consideration of specific substantive criteria and administrative procedures that it is in the best interest of the local government to award the project to an appropriately licensed private sector contractor according to procedures established by and expressly set forth in a charter, ordinance, or resolution of the local government adopted prior to July 1, 1994. The criteria and procedures must be set out in the charter, ordinance, or resolution and must be applied uniformly by the local government to avoid award of any project in an arbitrary or capricious manner. This exception shall apply when all of the following occur:

a. When the governing board of the local government, after public notice, conducts a public meeting under s. 286.011 and finds by a two-thirds vote of the governing board that it is in the public's best interest to award the project according to the criteria and procedures established by charter, ordinance, or resolution. The public notice must be published at least 14 days prior to the date of the public meeting at which the governing board takes final action to apply this subparagraph. The notice must identify the project, the estimated cost of the project, and specify that the purpose for the public meeting is to consider whether it is in the public's best interest to award the project using the criteria and procedures permitted by the preexisting ordinance.

b. In the event the project is to be awarded by any method other than a competitive selection process, the governing board must find evidence that:

(I) There is one appropriately licensed contractor who is uniquely qualified to undertake the project because that contractor is currently under contract to perform work that is affiliated with the project; or

(II) The time to competitively award the project will jeopardize the funding for the project, or will materially increase the cost of the project or will create an undue hardship on the public health, safety, or welfare.

c. In the event the project is to be awarded by any method other than a competitive selection process, the published notice must clearly specify the ordinance or resolution by which the private sector contractor will be selected and the criteria to be considered.

d. In the event the project is to be awarded by a method other than a competitive selection process, the architect or engineer of record has provided a written recommendation that the project be awarded to the private sector contractor without competitive selection; and the consideration by, and the justification of, the government body are documented, in writing, in the project file and are presented to the governing board prior to the approval required in this paragraph.

11. To projects subject to chapter 336.

Section 7. Paragraph (g) of subsection (2) of section 287.055, Florida Statutes, is amended to read:

287.055 Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties.—

(2) DEFINITIONS.—For purposes of this section:

(g) A "continuing contract" is a contract for professional services entered into in accordance with all the procedures of this act between an agency and a firm whereby the firm provides professional services to the agency for projects in which construction costs do not exceed *$1 million* ~~$500,000~~, for study activity when the fee for such professional service does not exceed *$50,000* ~~$25,000~~, or for work of a specified nature as outlined in the contract required by the agency, with no time limitation except that the contract must provide a termination clause.

Section 8. Subsection (1) of Section 315.031, Florida Statutes is amended to read:

315.031 Promoting and advertising port facilities.—

(1) Each unit is authorized and empowered:

(a) To publicize, advertise and promote the activities and port facilities herein authorized;

(b) To make known the advantages, facilities, resources, products, attractions and attributes of the activities and port facilities herein authorized;

(c) To create a favorable climate of opinion concerning the activities and port facilities herein authorized;

(d) To cooperate with other agencies, public and private, in accomplishing these purposes;

(e) To enter into agreements with the purchaser or purchasers of port facilities bonds issued under the provisions of this law to establish a special fund to be set aside from the proceeds of the revenues collected under the provisions of s. 315.03(13), during any fiscal year, for the promotional activities authorized herein.

(f) To authorize expenditures for promotional activities authorized by this section, including meals, hospitality, and entertainment of persons

in the interest of promoting and engendering goodwill toward its port facilities.

~~Nothing herein shall be construed to authorize any unit to expend funds for meals, hospitality, amusement or any other purpose of an entertainment nature.~~

Section 9. Subsection (12) of section 311.09, Florida Statutes, is amended to read:

311.09 Florida Seaport Transportation and Economic Development Council.—

(12) Members of the council shall serve without compensation but are entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061. The council may elect to provide an administrative staff to provide services to the council on matters relating to the Florida Seaport Transportation and Economic Development Program and the council. The cost for such administrative services shall be paid by all ports that receive funding from the Florida Seaport Transportation and Economic Development Program, based upon a pro rata formula measured by each recipient's share of the funds as compared to the total funds disbursed to all recipients during the year. The share of costs for administrative services shall be paid in its total amount by the recipient port upon execution by the port and the Department of Transportation of a joint participation agreement for each council-approved project, and such payment is in addition to the matching funds required to be paid by the recipient port. Except as otherwise exempted by law, all moneys derived from the Florida Seaport Transportation and Economic Development Program shall be expended in accordance with the provisions of s. 287.057. Seaports subject to competitive negotiation requirements of a local governing body shall *abide by the provisions of s. 287.055* ~~be exempt from this requirement~~.

Section 10. Paragraph (b) of subsection (1) of section 316.302, Florida Statutes, is amended to read:

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

(1)

(b) Except as otherwise provided in this section, all owners or drivers of commercial motor vehicles that are engaged in intrastate commerce are subject to the rules and regulations contained in 49 C.F.R. parts 382, 385, and 390-397, with the exception of 49 C.F.R. s. 390.5 as it relates to the definition of bus, as such rules and regulations existed on *October 1, 2000* ~~March 1, 1999~~.

Section 11. Paragraph (a) of subsection (3) of section 316.3025, Florida Statutes, is amended to read:

316.3025 Penalties.—

(3)(a) A civil penalty of $50 may be assessed for a violation of *49 C.F.R. s. 390.21* ~~s. 316.3027~~.

Section 12. Subsection (2) of section 316.515, Florida Statutes, is amended to read:

316.515 Maximum width, height, length.—

(2) HEIGHT LIMITATION.—No vehicle may exceed a height of 13 feet 6 inches, inclusive of load carried thereon. However, an automobile transporter may~~, with a permit from the Department of Transportation,~~ measure a height not to exceed 14 feet, inclusive of the load carried thereon.

Section 13. Subsection (6) of section 316.535, Florida Statutes, is renumbered as subsection (7), present subsection (7) is renumbered as subsection (8) and amended, and a new subsection (6) is added to said section to read:

316.535 Maximum weights.—

(6) Dump trucks, concrete mixing trucks, trucks engaged in waste collection and disposal, and fuel oil and gasoline trucks designed and constructed for special type work or use, when operated as a single unit, shall be subject to all safety and operational requirements of law, except that any such vehicle need not conform to the axle spacing requirements of this section provided that such vehicle shall be limited to a total gross load, including the weight of the vehicle, of 20,000 pounds per axle plus scale tolerances and shall not exceed 550 pounds per inch width tire surface plus scale tolerances. No vehicle operating pursuant to this section shall exceed a gross weight, including the weight of the vehicle and scale tolerances, of 70,000 pounds. Any vehicle violating the weight provisions of this section shall be penalized as provided in s. 316.545.

(7)~~(6)~~ The Department of Transportation shall adopt rules to implement this section, shall enforce this section and the rules adopted hereunder, and shall publish and distribute tables and other publications as deemed necessary to inform the public.

(8)~~(7)~~ Except as hereinafter provided, no vehicle or combination of vehicles exceeding the gross weights specified in subsections (3), (4), ~~and~~ (5)*, and (6)* shall be permitted to travel on the public highways within the state.

Section 14. Paragraph (a) of subsection (2) of section 316.545, Florida Statutes, is amended to read:

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

(2)(a) Whenever an officer, upon weighing a vehicle or combination of vehicles with load, determines that the axle weight or gross weight is unlawful, the officer may require the driver to stop the vehicle in a suitable place and remain standing until a determination can be made as to the amount of weight thereon and, if overloaded, the amount of penalty to be assessed as provided herein. However, any gross weight over and beyond 6,000 pounds beyond the maximum herein set shall be unloaded and all material so unloaded shall be cared for by the owner or operator of the vehicle at the risk of such owner or operator. Except as otherwise provided in this chapter, to facilitate compliance with and enforcement of the weight limits established in s. 316.535, weight tables published pursuant to s. 316.535*(7)* ~~(6)~~ shall include a 10-percent scale tolerance and shall thereby reflect the maximum scaled weights allowed any vehicle or combination of vehicles. As used in this section, scale tolerance means the allowable deviation from legal weights established in s. 316.535. Notwithstanding any other provision of the weight law, if a vehicle or combination of vehicles does not exceed the gross, external bridge, or internal bridge weight limits imposed in s. 316.535 and the driver of such vehicle or combination of vehicles can comply with the requirements of this chapter by shifting or equalizing the load on all wheels or axles and does so when requested by the proper authority, the driver shall not be held to be operating in violation of said weight limits.

Section 15. Section 330.27, Florida Statutes, is amended to read:

330.27 Definitions, when used in ss. 330.29-330.36, 330.38, 330.39.—

(1) "Aircraft" means *a powered or unpowered machine or device capable of atmosphere flight* ~~any motor vehicle or contrivance now known, or hereafter invented, which is used or designed for navigation of or flight in the air~~, except a parachute or other *such device* ~~contrivance designed for such navigation but~~ used primarily as safety equipment.

(2) "Airport" means *an* ~~any~~ area of land or water~~, or any manmade object or facility located thereon, which is~~ used *for*, or intended *to be used* for*,* ~~use, for the~~ landing and takeoff of aircraft, *including* ~~and any~~ appurtenant areas*,* ~~which are used, or intended for use, for airport~~ buildings*,* ~~or other airport~~ facilities*,* or rights-of-way *necessary to facilitate such use or intended use*~~, together with all airport buildings and facilities located thereon~~.

~~(3) "Airport hazard" means any structure, object of natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or which is otherwise hazardous to such landing or taking off.~~

~~(4) "Aviation" means the science and art of flight and includes, but is not limited to, transportation by aircraft; the operation, construction,~~

~~repair, or maintenance of aircraft, aircraft power plants, and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports or other air navigation facilities; and instruction in flying or ground subjects pertaining thereto.~~

(3)~~(5)~~ "Department" means the Department of Transportation.

(4)~~(6)~~ "Limited airport" means *any* ~~an~~ airport~~, publicly or privately owned,~~ limited exclusively to the specific conditions stated on the site approval order or license.

~~(7) "Operation of aircraft" or "operate aircraft" means the use, navigation, or piloting of aircraft in the airspace over this state or upon any airport within this state.~~

~~(8) "Political subdivision" means any county, municipality, district, port or aviation commission or authority, or similar entity authorized to establish or operate an airport in this state.~~

(5)~~(9)~~ "Private airport" means an airport, publicly or privately owned, which is *not open or available for use by the public. A private airport is registered with the department for use of the person or persons registering the facility* ~~used primarily by the licensee~~ but *may be made* ~~which is~~ available *to others* ~~for use~~ by invitation of the *registrant* ~~licensee~~. ~~Services may be provided if authorized by the department.~~

(6)~~(10)~~ "Public airport" means an airport, publicly or privately owned, which ~~meets minimum safety and service standards and~~ is open for use by the public *as listed in the current United States Government Flight Information Publication, Airport Facility Directory. A public airport is licensed by the department as meeting minimum safety standards*.

(7)~~(11)~~ "Temporary airport" means *any* ~~an~~ airport~~, publicly or privately owned,~~ that will be used for a period of less than *30* ~~90~~ days with no more than 10 operations per day.

(8)~~(12)~~ "Ultralight aircraft" means any ~~heavier-than-air, motorized~~ aircraft *meeting* ~~which meets~~ the criteria ~~for maximum weight, fuel capacity, and airspeed~~ established ~~for such aircraft~~ by the Federal Aviation *Regulation* ~~Administration under~~ Part 103 ~~of the Federal Aviation Regulations~~.

Section 16. Section 330.29, Florida Statutes, is amended to read:

330.29 Administration and enforcement; rules; standards for airport sites and airports.—It is the duty of the department to:

(1) Administer and enforce the provisions of this chapter.

(2) Establish minimum standards for airport sites and airports under its licensing *and registration* jurisdiction.

(3) Establish and maintain a state aviation data system to facilitate licensing and registration of all airports.

(4)~~(3)~~ Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter.

Section 17. Section 330.30, Florida Statutes, is amended to read:

330.30 Approval of airport sites and licensing of airports~~; fees~~.—

(1) SITE APPROVALS; REQUIREMENTS, ~~FEES,~~ EFFECTIVE PERIOD, REVOCATION.—

(a) Except as provided in subsection (3), the owner or lessee of any proposed airport shall, prior to *site* ~~the~~ acquisition ~~of the site~~ or ~~prior to the~~ construction or establishment of the proposed airport, obtain approval of the airport site from the department. Applications for approval of a site ~~and for an original license~~ shall be ~~jointly~~ made on a form prescribed by the department ~~and shall be accompanied by a site approval fee of $100~~. The department~~, after inspection of the airport site,~~ shall grant the site approval if it is satisfied:

1. That the site is *suitable* ~~adequate~~ for the *airport as* proposed ~~airport~~;

2. That the *airport as* proposed ~~airport, if constructed or established,~~ will conform to minimum standards ~~of safety~~ and will comply with *the* applicable *local government land development regulation or* ~~county or municipal~~ zoning requirements;

3. That all nearby airports, *local governments* ~~municipalities~~, and property owners have been notified and any comments submitted by them have been given adequate consideration; and

4. That safe air-traffic patterns can be *established* ~~worked out~~ for the proposed airport *with* ~~and for~~ all existing airports and approved airport sites in its vicinity.

(b) Site approval shall be granted for public airports only after a favorable department inspection of the proposed site.

(c) Site approval shall be granted for private airports only after receipt of documentation the department deems necessary to satisfy the conditions in paragraph (a).

(d)~~(b)~~ Site approval may be granted subject to any reasonable conditions ~~which~~ the department *deems* ~~may deem~~ necessary to protect the public health, safety, or welfare.

(e) ~~Such~~ Approval shall remain *valid* ~~in effect~~ for ~~a period of~~ 2 years after the date of *issue* ~~issuance of the site approval order~~, unless ~~sooner~~ revoked by the department or ~~unless, prior to the expiration of the 2-year period,~~ a *public airport* license *is issued or private airport registration granted* ~~for an airport located on the approved site has been issued~~ pursuant to subsection (2) *prior to the expiration date*.

(f) The department may extend a site approval ~~may be extended~~ for *up to* ~~a maximum of~~ 2 years *for* ~~upon~~ good cause ~~shown by the owner or lessee of the airport site~~.

(g)~~(c)~~ The department may revoke *a site* ~~such~~ approval if it determines:

1. That ~~there has been an abandonment of~~ the site *has been abandoned* as an airport ~~site~~;

2. That ~~there has been a failure within a reasonable time to develop~~ the site *has not been developed* as an airport *within a reasonable time period* or *development does not* ~~to~~ comply with the conditions of the *site* approval;

3. That *except as required for in-flight emergencies* ~~the operation of~~ aircraft *have operated* ~~of a nonemergency nature has occurred~~ on the site; or

4. That~~, because of changed physical or legal conditions or circumstances,~~ the site is no longer usable for ~~the~~ aviation purposes *due to physical or legal changes in conditions that were the subject of* ~~for which the~~ approval ~~was granted~~.

(2) LICENSES *AND REGISTRATIONS*; REQUIREMENTS, ~~FEES,~~ RENEWAL, REVOCATION.—

(a) Except as provided in subsection (3), the owner or lessee of *any* ~~an~~ airport in this state must *have either a public airport* ~~obtain a~~ license *or private airport registration* prior to the operation of aircraft *to or from the facility* ~~on the airport~~. ~~An~~ Application for *a* ~~such~~ license *or registration* shall be made on a form prescribed by the department ~~and shall be accomplished jointly with an application for site approval~~. Upon granting site approval~~, making a favorable final airport inspection report indicating compliance with all license requirements, and receiving the appropriate license fee, the department shall issue a license to the applicant, subject to any reasonable conditions that the department may deem necessary to protect the public health, safety, or welfare.~~

1. For a public airport, the department shall issue a license after a final airport inspection finds the facility to be in compliance with all requirements for the license. The license may be subject to any reasonable conditions that the department may deem necessary to protect the public health, safety, or welfare.

2. For a private airport, the department shall provide controlled electronic access to the state aviation facility data system to permit the applicant to complete the registration process. Registration shall be completed upon self-certification by the registrant of operational and configuration data deemed necessary by the department.

(b) The department is authorized to license *a public* ~~an~~ airport that does not meet all of the minimum standards only if it determines that such exception is justified by unusual circumstances or is in the interest of public convenience and does not endanger the public health, safety, or welfare. Such a license shall bear the designation "special" and shall state the conditions subject to which the license is granted.

(c) The department may authorize a site *to be used* as a temporary airport if it finds, after inspection of the site, that the airport will not endanger the public health, safety, or welfare. *A temporary airport will not require a license or registration.* ~~Such~~ Authorization *to use a site for a temporary airport will be valid for* ~~shall expire~~ not *more* ~~later~~ than *30* ~~90~~ days ~~after issuance~~ and is not renewable.

~~(d) The license fees for the four categories of airport licenses are:~~

~~1. Public airport: $100.~~

~~2. Private airport: $70.~~

~~3. Limited airport: $50.~~

~~4. Temporary airport: $25.~~

~~Airports owned or operated by the state, a county, or a municipality and emergency helistops operated by licensed hospitals are required to be licensed but are exempt from the payment of site approval fees and annual license fees.~~

(d)~~(e)~~1. Each public airport license will expire no later than 1 year after the effective date of the license, except that the expiration date of a license may be adjusted to provide a maximum license period of 18 months to facilitate airport inspections, recognize seasonal airport operations, or improve administrative efficiency. ~~If the expiration date for a public airport is adjusted, the appropriate license fee shall be determined by prorating the annual fee based on the length of the adjusted license period.~~

2. *Registration* ~~The license period~~ for *private* ~~all~~ airports ~~other than public airports~~ will *remain valid provided specific elements of airport data, established by the department, are periodically recertified by the airport registrant. The ability to recertify private airport registration data shall be available at all times by electronic submittal. Recertification shall be required each 12 months. A private airport registration that has not been recertified in the 12-month period following the last certification shall expire. The expiration date of the current registration period will be clearly identifiable from the state aviation facility data system.* ~~be set by the department, but shall not exceed a period of 5 years. In determining the license period for such airports, the department shall consider the number of based aircraft, the airport location relative to adjacent land uses and other airports, and any other factors deemed by the department to be critical to airport operation and safety.~~

3. The effective date and expiration date shall be *shown on public airport licenses* ~~stated on the face of the license~~. Upon receiving an application for renewal of a *public airport* license on a form prescribed by the department *and*~~,~~ making a favorable inspection report indicating compliance with all applicable requirements and conditions~~, and receiving the appropriate annual license fee~~, the department shall renew the license, subject to any conditions deemed necessary to protect the public health, safety, or welfare.

4. The department may require *a new* site approval for *any* ~~an~~ airport if the license *or registration* ~~of the airport~~ has *expired* ~~not been renewed by the expiration date~~.

5. If the renewal application *for a public airport license has* ~~and fees have~~ not been received by the department *or no private airport registration recertification has been accomplished* within 15 days after the date of expiration ~~of the license~~, the department may close the airport.

(e)~~(f)~~ The department may revoke any *airport registration,* license*,* or *license* renewal ~~thereof~~, or refuse to *allow registration or* issue a *registration or license* renewal, if it determines:

1. That *the site* ~~there~~ has been *abandoned as an* ~~an abandonment of the~~ airport ~~as such~~;

2. That *the airport does not* ~~there has been a failure to~~ comply with the *registration, license, license renewal, or site* conditions ~~of the license or renewal thereof~~; or

3. That~~, because of changed physical or legal conditions or circumstances,~~ the airport has become either unsafe or unusable for *flight operation due to physical or legal changes in conditions that were the subject of approval* ~~the aeronautical purposes for which the license or renewal was issued~~.

(3) EXEMPTIONS.—The provisions of this section do not apply to:

(a) An airport owned or operated by the United States.

(b) An ultralight aircraft landing area~~; except that any public ultralight airport~~ located *more than* ~~within~~ 5 nautical miles *from a* ~~of another~~ public ~~airport~~ or military airport*, except* ~~or~~ any ultralight landing area with more than 10 ultralight aircraft operating from the site ~~is subject to the provisions of this section~~.

(c) A helistop used solely in conjunction with a construction project undertaken pursuant to the performance of a state contract if the purpose of the helicopter operations at the site is to expedite construction.

~~(d) An airport under the jurisdiction or control of a county or municipal aviation authority or a county or municipal port authority or the Spaceport Florida Authority; however, the department shall license any such airport if such authority does not elect to exercise its exemption under this subsection.~~

(d)~~(e)~~ A helistop used by mosquito control or emergency services, not to include areas where permanent facilities are installed, such as hospital landing sites.

(e)~~(f)~~ An airport which meets the criteria of s. 330.27(11) used exclusively for aerial application or spraying of crops on a seasonal basis, not to include any licensed airport where permanent crop aerial application or spraying facilities are installed, if the period of operation does not exceed 30 days per calendar year. Such proposed airports, which will be located within 3 miles of existing airports or approved airport sites, shall work out safe air-traffic patterns with such existing airports or approved airport sites, by memorandums of understanding, or by letters of agreement between the parties representing the airports or sites.

(4) EXCEPTIONS.—Private airports with ten or more based aircraft may request to be inspected and licensed by the department. Private airports licensed according to this subsection shall be considered private airports as defined in s. 330.27(5) in all other respects.

Section 18. Subsection (2) of section 330.35, Florida Statutes, is amended to read:

330.35 Airport zoning, ~~approach zone~~ protection.—

(2) Airports licensed for ~~general~~ public use under the provisions of s. 330.30 are eligible for *airport zoning* ~~approach zone~~ protection, ~~and the procedure shall be the same~~ as ~~is~~ prescribed in chapter 333.

Section 19. Subsection (2) of section 330.36, Florida Statutes, is amended to read:

330.36 Prohibition against county or municipal licensing of airports; regulation of seaplane landings.—

(2) A municipality may prohibit or otherwise regulate, for specified public health and safety purposes, the landing of seaplanes in and upon

any public waters of the state which are located within the limits or jurisdiction of, or bordering on, the municipality *upon adoption of zoning requirements in compliance with the provisions of subsection (1).*

Section 20. Subsection (4) of section 332.004, Florida Statutes, is amended to read:

332.004 Definitions of terms used in ss. 332.003-332.007.—As used in ss. 332.003-332.007, the term:

(4) "Airport or aviation development project" or "development project" means any activity associated with the design, construction, purchase, improvement, or repair of a public-use airport or portion thereof, including, but not limited to: the purchase of equipment; the acquisition of land, including land required as a condition of a federal, state, or local permit or agreement for environmental mitigation; *off-airport noise mitigation projects;* the removal, lowering, relocation, marking, and lighting of airport hazards; the installation of navigation aids used by aircraft in landing at or taking off from a public airport; the installation of safety equipment required by rule or regulation for certification of the airport under s. 612 of the Federal Aviation Act of 1958, and amendments thereto; and the improvement of access to the airport by road or rail system which is on airport property and which is consistent, to the maximum extent feasible, with the approved local government comprehensive plan of the units of local government in which the airport is located.

Section 21. Subsection (4) is added to section 333.06, Florida Statutes, to read:

333.06 Airport zoning requirements.—

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

Section 22. Subsection (5) and paragraph (b) of subsection (15) of section 334.044, Florida Statutes, are amended to read:

334.044 Department; powers and duties.—The department shall have the following general powers and duties:

(5) To purchase, lease, or otherwise acquire property and materials, including the purchase of promotional items as part of public information and education campaigns for the promotion of *scenic highways,* traffic and train safety awareness, alternatives to single-occupant vehicle travel, and commercial motor vehicle safety; to purchase, lease, or otherwise acquire equipment and supplies; and to sell, exchange, or otherwise dispose of any property that is no longer needed by the department.

(15) To regulate and prescribe conditions for the transfer of stormwater to the state right-of-way as a result of manmade changes to adjacent properties.

(b) The department is specifically authorized to adopt rules which set forth the purpose; necessary definitions; permit exceptions; permit and assurance requirements; permit application procedures; permit forms; general conditions for a drainage permit; provisions for suspension or revocation of a permit; and provisions for department recovery of fines, penalties, and costs incurred due to permittee actions. In order to avoid duplication and overlap with other units of government, the department shall accept a surface water management permit issued by a water management district, the Department of Environmental Protection, a surface water management permit issued by a delegated local government, or a permit issued pursuant to an approved Stormwater Management Plan or Master Drainage Plan; provided issuance is based on requirements equal to or more stringent than those of the department. *The department may enter into a permit delegation agreement with a governmental entity provided issuance is based on requirements that the department determines will ensure the safety and integrity of the Department of Transportation facilities.*

Section 23. Section 334.193, Florida Statutes, is amended to read:

334.193 Unlawful for certain persons to be financially interested in purchases, sales, and certain contracts; penalties.—

(1) It is unlawful for a state officer, or an employee or agent of the department, or for any company, corporation, or firm in which a state officer, or an employee or agent of the department has a financial interest, to bid on, enter into, or be personally interested in:

(a) The purchase or the furnishing of any materials or supplies to be used in the work of the state.

(b) A contract for the construction of any state road, the sale of any property, or the performance of any other work for which the department is responsible.

(2) *Notwithstanding the provisions of subsection (1):*

(a) The department may consider competitive bids or proposals by employees or employee work groups who have a financial interest in matters referenced in paragraphs (1)(a) and (b) when the subject matter of a request for bids or proposals by the department includes functions performed by the employees or employee work groups of the department before the request for bids or proposals. However, if the employees, employee work groups, or entity in which an employee of the department has an interest is the successful bidder or proposer, such employee or employees must resign from department employment upon executing an agreement to perform the matter bid upon.

(b) The department may consider competitive bids or proposals of employees or employee work groups submitted on behalf of the department to perform the subject matter of requests for bids or proposals. The department may select such bid or proposal for performance of the work by the department.

The department may update existing rules or adopt new rules pertaining to employee usage of department equipment, facilities, and supplies during business hours for nondepartment activities in order to implement this subsection.

(3) Any person who is convicted of a violation of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and shall be removed from his or her office or employment.

Section 24. Section 334.30, Florida Statutes, is amended to read:

334.30 *Public-private* ~~Private~~ transportation facilities.—The Legislature hereby finds and declares that there is a public need for rapid construction of safe and efficient transportation facilities for the purpose of travel within the state, and that it is in the public's interest to provide for *public-private partnership agreements to effectuate* the construction of additional safe, convenient, and economical transportation facilities.

(1) The department may receive or solicit proposals and~~, with legislative approval by a separate bill for each facility,~~ enter into agreements with private entities, or consortia thereof, for the building, operation, ownership, or financing of transportation facilities. The department *is authorized to adopt rules to implement this section and* shall by rule establish an application fee for the submission of proposals under this section. The fee must be sufficient to pay the costs of evaluating the proposals. The department may engage the services of private consultants to assist in the evaluation. Before ~~seeking legislative~~ approval, the department must determine that the proposed project:

(a) Is in the public's best interest.~~;~~

(b) Would not require state funds to be used unless there is an overriding state interest. *However, the department may use state resources for a transportation facility project that is on the State Highway System or that provides for increased mobility on the state's transportation system.*~~; and~~

(c) Would have adequate safeguards in place to ensure that no additional costs or service disruptions would be realized by the traveling public and citizens of the state in the event of default or cancellation of the agreement by the department.

The department shall ensure that all reasonable costs to the state and substantially affected local governments and utilities, related to the private transportation facility, are borne by the private entity.

(2) The use of funds from the State Transportation Trust Fund is limited to advancing projects already programmed in the adopted 5-year work program or to no more than a statewide total of $50 million in capital costs for all projects not programmed in the adopted 5-year work program.

(3) The department may request proposals for public-private transportation proposals or, if the department receives a proposal, shall publish a notice in the Florida Administrative Weekly and a newspaper of general circulation at least once a week for 2 weeks, stating that the department has received the proposal and will accept, for 60 days after the initial date of publication, other proposals for the same project purpose. A copy of the notice must be mailed to each local government in the affected area.

(4) The department shall not commit funds in excess of the limitation in subsection (2) without specific project approval by the legislature.

(5)~~(2)~~ Agreements entered into pursuant to this section may authorize the private entity to impose tolls or fares for the use of the facility. However, the amount and use of toll or fare revenues may be regulated by the department to avoid unreasonable costs to users of the facility.

(6)~~(3)~~ Each ~~private~~ transportation facility constructed pursuant to this section shall comply with all requirements of federal, state, and local laws; state, regional, and local comprehensive plans; department rules, policies, procedures, and standards for transportation facilities; and any other conditions which the department determines to be in the public's best interest.

(7)~~(4)~~ The department may exercise any power possessed by it, including eminent domain, with respect to the development and construction of state transportation projects to facilitate the development and construction of transportation projects pursuant to this section. *For public-private facilities located on the State Highway System, the department may pay all or part of the cost of operating and maintaining the facility. For facilities not located on the State Highway System,* the department may provide services to the private entity *and*~~.~~ agreements for maintenance, law enforcement, and other services ~~entered into pursuant to this section~~ shall provide for full reimbursement for services rendered.

(8)~~(5)~~ Except as herein provided, the provisions of this section are not intended to amend existing laws by granting additional powers to, or further restricting, local governmental entities from regulating and entering into cooperative arrangements with the private sector for the planning, construction, and operation of transportation facilities.

(9) The department shall have the authority to create, or assist in the creation of, tax-exempt, public-purpose chapter 63-20 corporations as provided for under the Internal Revenue Code, for the purpose of shielding the state from possible financing risks for projects under this section. Chapter 63-20 corporations may receive State Transportation Trust Fund grants from the department. The department shall be empowered to enter into public-private partnership agreements with chapter 63-20 corporations for projects under this section.

(10) The department may lend funds from the Toll Facilities Revolving Trust Fund, as outlined in s. 338.251, to chapter 63-20 corporations that propose projects containing toll facilities. To be eligible, the chapter 63-20 corporation must meet the provisions of s. 338.251 and must also provide credit support, such as a letter of credit or other means acceptable to the department, to ensure the loans will be repaid as required by law.

(11)~~(6)~~ Notwithstanding s. 341.327, a fixed-guideway transportation system authorized by the department to be wholly or partially within the department's right-of-way pursuant to a lease granted under s. 337.251 may operate at any safe speed.

Section 25. Section 335.066, Florida Statutes, is created to read:

335.066 Safe Paths to Schools Program.—

(1) There is hereby established within the Department of Transportation the Safe Paths to Schools Program to consider the planning and construction of bicycle and pedestrian ways to provide safe transportation for children from neighborhoods to schools, parks, and the state's greenways and trails system.

(2) As part of the Safe Paths to Schools Program, the department may establish a grant program to fund local, regional, and state bicycle and pedestrian projects that support the program.

(3) The department may adopt appropriate rules for the administration of the Safe Paths to Schools Program.

Section 26. Subsections (3), (4), and (5) of section 335.141, Florida Statutes, are amended to read:

335.141 Regulation of public railroad-highway grade crossings; reduction of hazards.—

(3) ~~The department is authorized to regulate the speed limits of railroad traffic on a municipal, county, regional, or statewide basis. Such speed limits shall be established by order of the department, which order is subject to the provisions of chapter 120. The department shall have the authority to adopt reasonable rules to carry out the provisions of this subsection. Such rules shall, at a minimum, provide for public input prior to the issuance of any such order.~~

~~(4) Jurisdiction to enforce such orders shall be as provided in s. 316.640, and any penalty for violation thereof shall be imposed upon the railroad company guilty of such violation.~~ Nothing herein shall prevent a local governmental entity from enacting ordinances relating to the blocking of streets by railroad engines and cars.

(4)~~(5)~~ Any local governmental entity or other public or private agency planning a public event, such as a parade or race, that involves the crossing of a railroad track shall notify the railroad as far in advance of the event as possible and in no case less than 72 hours in advance of the event so that the coordination of the crossing may be arranged by the agency and railroad to assure the safety of the railroad trains and the participants in the event.

Section 27. Subsection (4) is added to section 336.41, Florida Statutes, to read:

336.41 Counties; employing labor and providing road equipment; definitions.—

(4)(a) For contracts in excess of $250,000, any county may require that persons interested in performing work under the contract first be certified or qualified to do the work. Any contractor prequalified and considered eligible to bid by the department to perform the type of work described under the contract shall be presumed to be qualified to perform the work so described. Any contractor may be considered ineligible to bid by the county if the contractor is behind an approved progress schedule by 10 percent or more on another project for that county at the time of the advertisement of the work. The county may provide an appeal process to overcome such consideration with de novo review based on the record below to the circuit court.

(b) The county shall publish prequalification criteria and procedures prior to advertisement or notice of solicitation. Such publications shall include notice of a public hearing for comment on such criteria and procedures prior to adoption. The procedures shall provide for an appeal process within the county for objections to the prequalification process with de novo review based on the record below to the circuit court.

(c) The county shall also publish for comment, prior to adoption, the selection criteria and procedures to be used by the county if such procedures would allow selection of other than the lowest responsible bidder. The selection criteria shall include an appeal process within the county with de novo review based on the record below to the circuit court.

Section 28. Subsection (2) of section 336.44, Florida Statutes, is amended to read:

336.44 Counties; contracts for construction of roads; procedure; contractor's bond.—

(2) Such contracts shall be let to the lowest *responsible* ~~competent~~ bidder, after publication of notice for bids containing specifications furnished by the commissioners in a newspaper published in the county where such contract is made, at least once each week for 2 consecutive weeks prior to the making of such contract.

Section 29. Section 337.107, Florida Statutes, is amended to read:

337.107 Contracts for right-of-way services.—The department may enter into contracts pursuant to s. 287.055 *or s. 337.025* for right-of-way services on transportation corridors and transportation facilities *or the department may include right-of-way services as part of design-build contracts awarded pursuant to s. 337.11.* Right-of-way services include negotiation and acquisition services, appraisal services, demolition and removal of improvements, and asbestos-abatement services.

Section 30. Paragraph (c) of subsection (6) and paragraph (a) of subsection (7) of section 337.11, Florida Statutes, are amended to read:

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

(6)

(c) When the department determines that it is in the best interest of the public for reasons of public concern, economy, improved operations or safety, and only when circumstances dictate rapid completion of the work, the department may, up to the ~~threshold~~ amount *of $120,000* ~~provided in s. 287.017 for CATEGORY FOUR~~, enter into contracts for construction and maintenance without advertising and receiving competitive bids. ~~However, if legislation is enacted by the Legislature which changes the category thresholds, the threshold amount shall remain at $60,000.~~ The department may enter into such contracts only upon a determination that the work is necessary for one of the following reasons:

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

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

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

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

(7)(a) If the head of the department determines that it is in the best interests of the public, the department may combine the design and construction phases of a building, a major bridge, *an enhancement project,* or a rail corridor project into a single contract. Such contract is referred to as a design-build contract. *Design-build contracts may be advertised and awarded notwithstanding the requirements of paragraph (c) of subsection (3). However, construction activities may not begin on any portion of such projects until title to the necessary rights-of-way and easements for the construction of such portion of the project has vested in the state or a local governmental entity and all railroad crossing and utility agreements have been executed. Title to rights-of-way vests in the state when the title has been dedicated to the public or acquired by prescription.*

Section 31. Subsection (4) of section 337.14, Florida Statutes, is amended, and subsection (9) is added to said section, to read:

337.14 Application for qualification; certificate of qualification; restrictions; request for hearing.—

(4) If the applicant is found to possess the prescribed qualifications, the department shall issue to him or her a certificate of qualification *that* ~~which~~, unless thereafter revoked by the department for good cause, will be valid for a period of *18* ~~16~~ months *after* ~~from~~ the date of the applicant's financial statement or such shorter period as the department *prescribes* ~~may prescribe~~. *If* ~~In the event~~ the department finds that an application is incomplete or contains inadequate information or information *that* ~~which~~ cannot be verified, the department may request in writing that the applicant provide the necessary information to complete the application or provide the source from which any information in the application may be verified. If the applicant fails to comply with the initial written request within a reasonable period of time as specified therein, the department shall request the information a second time. If the applicant fails to comply with the second request within a reasonable period of time as specified therein, the application shall be denied.

(9)(a) Notwithstanding any other law to the contrary, for contracts in excess of $250,000, an authority created pursuant to chapter 348 or chapter 349 may require that persons interested in performing work under contract first be certified or qualified to do the work. Any contractor may be considered ineligible to bid by the governmental entity or authority if the contractor is behind an approved progress schedule for the governmental entity or authority by 10 percent or more at the time of advertisement of the work. Any contractor prequalified and considered eligible by the department to bid to perform the type of work described under the contract shall be presumed to be qualified to perform the work so described. The governmental entity or authority may provide an appeal process to overcome that presumption with de novo review based on the record below to the circuit court.

(b) With respect to contractors not prequalified with the department, the authority shall publish prequalification criteria and procedures prior to advertisement or notice of solicitation. Such publications shall include notice of a public hearing for comment on such criteria and procedures prior to adoption. The procedures shall provide for an appeal process within the authority for objections to the prequalification process with de novo review based on the record below to the circuit court within 30 days.

(c) An authority may establish criteria and procedures whereunder contractor selection may occur on a basis other than the lowest responsible bidder. Prior to adoption, the authority shall publish for comment the proposed criteria and procedures. Review of the adopted criteria and procedures shall be to the circuit court, within 30 days after adoption, with de novo review based on the record below.

Section 32. Subsection (2) of section 337.401, Florida Statutes, is amended to read:

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

(2) The authority may grant to any person who is a resident of this state, or to any corporation which is organized under the laws of this state or licensed to do business within this state, the use of a right-of-way for the utility in accordance with such rules or regulations as the authority may adopt. No utility shall be installed, located, or relocated

unless authorized by a written permit issued by the authority. *However, for public roads or publicly owned rail corridors under the jurisdiction of the department, a utility relocation schedule and relocation agreement may be executed in lieu of a written permit.* The permit shall require the permitholder to be responsible for any damage resulting from the issuance of such permit. The authority may initiate injunctive proceedings as provided in s. 120.69 to enforce provisions of this subsection or any rule or order issued or entered into pursuant thereto.

Section 33. Subsections (1) and (2) of section 339.08, Florida Statutes, are amended to read:

339.08 Use of moneys in State Transportation Trust Fund.—

(1) The department shall *expend* ~~by rule provide for the expenditure of the~~ moneys in the State Transportation Trust Fund accruing to the department, in accordance with its annual budget.

(2) ~~These rules must restrict~~ The use of such moneys *shall be restricted* to the following purposes:

(a) To pay administrative expenses of the department, including administrative expenses incurred by the several state transportation districts, but excluding administrative expenses of commuter rail authorities that do not operate rail service.

(b) To pay the cost of construction of the State Highway System.

(c) To pay the cost of maintaining the State Highway System.

(d) To pay the cost of public transportation projects in accordance with chapter 341 and ss. 332.003-332.007.

(e) To reimburse counties or municipalities for expenditures made on projects in the State Highway System as authorized by s. 339.12(4) upon legislative approval.

(f) To pay the cost of economic development transportation projects in accordance with s. 288.063.

(g) To lend or pay a portion of the operating, maintenance, and capital costs of a revenue-producing transportation project that is located on the State Highway System or that is demonstrated to relieve traffic congestion on the State Highway System.

(h) To match any federal-aid funds allocated for any other transportation purpose, including funds allocated to projects not located in the State Highway System.

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

(j) To pay the cost of county or municipal road projects selected in accordance with the County Incentive Grant Program created in s. 339.2817 and the Small County Outreach Program created in s. 339.2818.

(k) To provide loans and credit enhancements for use in constructing and improving highway transportation facilities selected in accordance with the state-funded infrastructure bank created in s. 339.55.

(l) To fund the Transportation Outreach Program created in s. 339.137.

(m) To pay other lawful expenditures of the department.

Section 34. Paragraph (c) of subsection (4) and subsection (5) of section 339.12, Florida Statutes, are amended, to read:

339.12 Aid and contributions by governmental entities for department projects; federal aid.—

(4)

(c) The department may enter into agreements under this subsection for a project or project phase not included in the adopted work program. As used in this paragraph, the term "project phase" means acquisition of rights-of-way, construction, construction inspection, and related support phases. The project or project phase must be a high priority of the governmental entity. Reimbursement for a project or project phase must be made from funds appropriated by the Legislature pursuant to s. 339.135(5). All other provisions of this subsection apply to agreements entered into under this paragraph. The total amount of project agreements for projects or project phases not included in the adopted work program may not at any time exceed *$150* ~~$100~~ million.

(5) The department and the governing body of a governmental entity may enter into an agreement by which the governmental entity agrees to perform a highway project or project phase in the department's adopted work program that is not revenue producing or any public transportation project in the adopted work program. By specific provision in the written agreement between the department and the governing body of the governmental entity, the department may agree to *compensate* ~~reimburse~~ the governmental entity the actual cost *of* ~~for~~ the project or project phase contained in the adopted work program. *Compensation* ~~Reimbursement~~ to the governmental entity for such project or project phases must be made from funds appropriated by the Legislature, and *compensation* ~~reimbursement~~ for the cost of the project or project phase is to begin in the year the project or project phase is scheduled in the work program as of the date of the agreement.

Section 35. Paragraphs (a), (b), (f), and (g) of subsection (4) of section 339.135, Florida Statutes, are amended to read:

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

(4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.—

(a)1. To assure that no district or county is penalized for local efforts to improve the State Highway System, the department shall, for the purpose of developing a tentative work program, allocate funds for new construction to the districts, except for the turnpike *enterprise* ~~district~~, based on equal parts of population and motor fuel tax collections. Funds for resurfacing, bridge repair and rehabilitation, bridge fender system construction or repair, public transit projects except public transit block grants as provided in s. 341.052, and other programs with quantitative needs assessments shall be allocated based on the results of these assessments. The department may not transfer any funds allocated to a district under this paragraph to any other district except as provided in subsection (7). Funds for public transit block grants shall be allocated to the districts pursuant to s. 341.052.

2. Notwithstanding the provisions of subparagraph 1., the department shall allocate at least 50 percent of any new discretionary highway capacity funds to the Florida Intrastate Highway System established pursuant to s. 338.001. Any remaining new discretionary highway capacity funds shall be allocated to the districts for new construction as provided in subparagraph 1. For the purposes of this subparagraph, the term "new discretionary highway capacity funds" means any funds available to the department above the prior year funding level for capacity improvements, which the department has the discretion to allocate to highway projects.

(b)1. A tentative work program, including the ensuing fiscal year and the successive 4 fiscal years, shall be prepared for the State Transportation Trust Fund and other funds managed by the department, unless otherwise provided by law. The tentative work program shall be based on the district work programs and shall set forth all projects by phase to be undertaken during the ensuing fiscal year and planned for the successive 4 fiscal years. The total amount of the liabilities accruing in each fiscal year of the tentative work program may not exceed the revenues available for expenditure during the respective fiscal year based on the cash forecast for that respective fiscal year.

2. The tentative work program shall be developed in accordance with the Florida Transportation Plan required in s. 339.155 and must comply with the program funding levels contained in the program and resource plan.

3. The department may include in the tentative work program proposed changes to the programs contained in the previous work

program adopted pursuant to subsection (5); however, the department shall minimize changes and adjustments that affect the scheduling of project phases in the 4 common fiscal years contained in the previous adopted work program and the tentative work program. The department, in the development of the tentative work program, shall advance by 1 fiscal year all projects included in the second year of the previous year's adopted work program, unless the secretary specifically determines that it is necessary, for specific reasons, to reschedule or delete one or more projects from that year. Such changes and adjustments shall be clearly identified, and the effect on the 4 common fiscal years contained in the previous adopted work program and the tentative work program shall be shown. It is the intent of the Legislature that the first *5 years of the adopted work program for facilities designated as part of the Florida Intrastate Highway System and the first* 3 years of the adopted work program stand as the commitment of the state to undertake transportation projects that local governments may rely on for planning purposes and in the development and amendment of the capital improvements elements of their local government comprehensive plans. (f) The central office shall submit a preliminary copy of the tentative work program to the Executive Office of the Governor, the legislative appropriations committees, the Florida Transportation Commission, and the Department of Community Affairs at least 14 days prior to the convening of the regular legislative session. Prior to the statewide public hearing required by paragraph (g), the Department of Community Affairs shall transmit to the Florida Transportation Commission a list of those projects and project phases contained in the tentative work program which are identified as being inconsistent with approved local government comprehensive plans. For urbanized areas of metropolitan planning organizations, the list may not contain any project or project phase that is scheduled in a transportation improvement program unless such inconsistency has been previously reported to the affected metropolitan planning organization. ~~The commission shall consider the list as part of its evaluation of the tentative work program conducted pursuant to s. 20.23.~~

(g) The Florida Transportation Commission shall conduct a statewide public hearing on the tentative work program and shall advertise the time, place, and purpose of the hearing in the Florida Administrative Weekly at least 7 days prior to the hearing. As part of the statewide public hearing, the commission shall, at a minimum:

1. Conduct an in-depth evaluation of the tentative work program ~~as required in s. 20.23~~ for compliance with applicable laws and departmental policies; and

2. Hear all questions, suggestions, or other comments offered by the public.

By no later than 14 days after the regular legislative session begins, the commission shall submit to the Executive Office of the Governor and the legislative appropriations committees a report that evaluates the tentative work program for:

a. Financial soundness;

b. Stability;

c. Production capacity;

d. Accomplishments, including compliance with program objectives in s. 334.046;

e. Compliance with approved local government comprehensive plans;

f. Objections and requests by metropolitan planning organizations;

g. Policy changes and effects thereof;

h. Identification of statewide or regional projects; and

i. Compliance with all other applicable laws.

Section 36. Section 339.137, Florida Statutes, is amended to read:

339.137 Transportation Outreach Program (TOP) supporting economic development; administration; definitions; eligible projects; Transportation Outreach Program (TOP) advisory council created; limitations; funding.—

(1) There is created within the Department of Transportation, a Transportation Outreach Program (TOP) dedicated to funding transportation projects of a high priority based on the ~~prevailing~~ principles of ~~preserving the existing transportation infrastructure;~~ enhancing Florida's economic growth and competitiveness *in national and international markets; promoting intermodal transportation linkages for passengers and freight*; and improving travel choices to ensure *efficient and cost-competitive* mobility *for Florida citizens, visitors, services, and goods*.

(2) For purposes of this section, words and phrases shall have the following meanings:

(a) ~~Preservation. Protecting the state's transportation infrastructure investment. Preservation includes:~~

~~1. Ensuring that 80 percent of the pavement on the State Highway System meets department standards;~~

~~2. Ensuring that 90 percent of department-maintained bridges meet department standards; and~~

~~3. Ensuring that the department achieves 100 percent of acceptable maintenance standards on the State Highway System.~~

~~(b)~~ Economic growth and competitiveness.—Ensuring that state transportation investments promote economic activities which result in development or retention of income generative industries which increase per capita earned income in the state, and that such investments improve the state's economic competitiveness.

(b)~~(c)~~ Mobility.—Ensuring a cost-effective, statewide, interconnected transportation system.

(c)~~(d) The term~~ "Regionally significant transportation project.— ~~of critical concern" means~~ A transportation facility improvement project located in one *or more counties* ~~county~~ which provides significant enhancement of economic development opportunities in *that region* ~~an adjoining county or counties and which provides improvements to a hurricane evacuation route~~.

(3) Transportation Outreach Program projects may be proposed by any local government, regional organization, economic development board, public or private partnership, metropolitan planning organization, state agency, or other entity engaged in economic development activities.

(4)~~(3)~~ *Proposed* ~~Eligible~~ projects *that meet the minimum eligibility threshold* include those for planning, designing, acquiring rights-of-way for, or constructing the following:

(a) Major highway improvements *to:*~~.~~

1. *The* Florida Intrastate Highway System.

2. *Major roads and* feeder roads which provide linkages to *the Florida Intrastate Highway System* ~~major highways~~.

3. Bridges of statewide or regional significance.

4. Trade and economic development corridors.

5. Access projects for freight and passengers.

~~6. Hurricane evacuation routes.~~

(b) Major public transportation projects:~~.~~

1. Seaport projects which improve cargo and passenger movements *or connect the seaports to other modes of transportation*.

2. Aviation projects which increase passenger enplanements and cargo activity *or connect the airports to other modes of transportation*.

3. Transit projects which improve mobility on interstate highways, ~~or which~~ improve regional or localized travel*, or connect to other modes of transportation*.

4. Rail projects that facilitate the movement of passengers and cargo*,* including ancillary pedestrian facilities*, or connect rail facilities to other modes of transportation*.

5. Spaceport Florida Authority projects which improve space transportation capacity and facilities consistent with the provisions of s. 331.360.

~~6. Bicycle and pedestrian facilities that add to or enhance a statewide system of public trails.~~

(c) Highway and bridge projects that facilitate retention and expansion of military installations, or that facilitate reuse and development of any military base designated for closure by the Federal Government.

Each proposed project must be able to document that it promotes economic growth and competitiveness, as defined in paragraph (2)(a).

(5) In addition to the above minimum eligibility requirements, each proposed project must comply with the following eligibility criteria:

(a) The project or project phase selected can be made production-ready within a 5-year period following the end of the current fiscal year.

(b) The project is consistent with a current transportation system plan such as the Florida Intrastate Highway System, aviation, intermodal/rail, seaport, spaceport, or transit system plans.

(c) The project is not inconsistent with an approved local comprehensive plan of any local government within whose boundaries the project is located in whole or in part, or, if inconsistent, is accompanied by an explanation of why the project should be undertaken.

(d) The project involves two or more modes of transportation or can document that it will have a significant economic benefit in two or more counties.

One or more of the minimum criteria listed in paragraphs (a)-(d) may be waived for a regionally significant transportation project.

~~(4) Transportation Outreach projects may be proposed by any local government, regional organization, economic development board, public or private partnership, metropolitan planning organization, state agency, or other entity engaged in economic development activities.~~

(6)~~(5)~~ *The following criteria shall be used* ~~Transportation funding under this section shall use the following mechanisms~~ to prioritize *the eligible* ~~proposed~~ projects:

(a) *The project must promote economic growth and competitiveness.* ~~Economic development-related transportation projects may compete for funding under the program. Projects funded under this program should provide for increased mobility on the state's transportation system. Projects which have local or private matching funds may be given priority over other projects.~~

(b) *The project must promote intermodal transportation linkages for passengers and freight.* ~~Establishment of a funding allocation under this program reserved to quickly respond to transportation needs of emergent economic competitiveness development projects that may be outside of the routine project selection process. This funding may be used to match local or private contributions for transportation projects which meet the definition of economic competitiveness contained in this section.~~

(c) *The project must broaden transportation choices for Florida residents, visitors, and commercial interests in order to ensure efficient and cost-competitive mobility of people, services, and goods.* ~~Establish innovative financing methods to enable the state to respond in a timely manner to major or emergent economic development-related transportation needs that require timely commitments. These innovative financing methods include, but are not limited to, the state infrastructure bank, state bonds for right-of-way acquisition and bridge construction, state bonds for fixed guideway transportation systems, state bonds for federal aid highway construction, funds previously programmed by the department for high-speed rail development, and any other local, state, or federal funds made available to the department.~~

(d) Projects that have local, federal, or private matching funds shall be given priority over projects that meet all other criteria.

(7) Eligible projects shall also utilize innovative financing methods that enable the state to respond in a timely manner to major or emergent transportation needs related to economic development that require timely commitments. These innovative financing methods include, but are not limited to, private investment strategies, use of the state infrastructure bank, state bonds for right-of-way acquisition and bridge construction, state bonds for fixed guideway transportation systems, state bonds for federal aid highway construction, funds previously programmed by the department for high-speed rail development, and any other local, state, or federal funds made available to the department.

~~(6) In addition to complying with the prevailing principles provided in subsection (1), to be eligible for funding under the program, projects must also meet the following minimum criteria:~~

~~(a) The project or project phase selected can be made production-ready within a 5-year period following the end of the current fiscal year.~~

~~(b) The project is listed in an outer year of the 5-year work program and can be made production-ready and advanced to an earlier year of the 5-year work program.~~

~~(c) The project is consistent with a current transportation system plan including, but not limited to, the Florida Intrastate Highway System, aviation, intermodal/rail, seaport, spaceport, or transit system plans.~~

~~(d) The project is not inconsistent with an approved local comprehensive plan of any local government within whose boundaries the project is located in whole or in part or, if inconsistent, is accompanied by an explanation of why the project should be undertaken.~~

~~(e) One or more of the minimum criteria listed in paragraphs (a)-(d) may be waived for a statewide or regionally significant transportation project of critical concern.~~

(8)~~(7)~~ The Transportation Outreach Program (TOP) advisory council is created to annually make recommendations to the Legislature on prioritization and selection of economic growth projects as provided in this section.

(a) The council shall consist of:

1. Two representatives of private interests*, chosen by the Speaker of the House of Representatives,* who are directly involved in or affected by any mode of transportation or tourism ~~chosen by the Speaker of the House of Representatives~~.

2. Two representatives of private interests*, chosen by the President of the Senate,* who are directly involved in or affected by any mode of transportation or tourism ~~chosen by the President of the Senate~~.

3. Three representatives of private or governmental interests*, chosen by the Governor,* who are directly involved in or affected by any mode of transportation or tourism ~~chosen by the Governor~~.

(b) Terms for council members shall be 2 years, and each member shall be allowed one vote. *Every 2 years, the council shall select from among its membership a chair and vice chair.*

(c) ~~Initial appointments must be made no later than 60 days after this act takes effect.~~ Vacancies in the council shall be filled in the same manner as the initial appointments.

(d) ~~The council shall hold its initial meeting no later than 30 days after the members have been appointed in order to organize and select~~

~~a chair and vice chair from the council membership.~~ Meetings shall be held at the call of the chair, but not less frequently than quarterly.

(e) The members of the council shall serve without compensation, but shall be reimbursed for per diem and travel expenses as provided in s. 112.061.

(f) The department shall provide administrative staff support, *ensuring that council meetings are electronically recorded. Such recordings and all documents received, prepared for, or used by the council in conducting its business shall be preserved pursuant to chapters 119 and 257. In addition, the department shall provide for* travel and per diem expenses for the council *in its annual budget*.

(g) The council shall develop a methodology for scoring and ranking project proposals based on the prioritization criteria in subsection (6). The council may change a project's ranking based on other factors as determined by the council. However, such other factors must be fully documented in writing by the council.

(h) The council is encouraged to seek input from transportation or economic development entities and to consider the reports and recommendations of task forces, study commissions, or similar entities charged with reviewing issues relevant to the council's mission.

(9)~~(8)~~ Because transportation investment plays a key role in economic development, the council and the department shall actively participate in state and local economic development programs, including:

(a) Working in partnership with other state and local agencies in business recruitment, expansion, and retention activities to ensure early transportation input into these activities.

(b) Providing expertise and rapid response in analyzing the transportation needs of emergent economic development projects.

(c) *Developing* ~~The council and department must develop~~ a macroeconomic analysis of the linkages between transportation investment and economic performance, as well as a method to quantifiably measure the economic benefits of the investments.

(d) Identifying long-term strategic transportation projects that will promote the principles listed in subsection (1).

(10)~~(9)~~ The council shall review and prioritize projects submitted for funding under the program ~~with priority given to projects which comply with the prevailing principles provided in subsection (1),~~ and shall recommend to the Legislature a transportation outreach program. The department shall provide technical expertise and support as requested by the council, and shall develop financial plans, cash forecast plans, and program and resource plans necessary to implement this program. These supporting documents shall be submitted with the Transportation Outreach Program.

(11)(a)~~(10)~~ Projects recommended for funding under the Transportation Outreach Program shall be submitted to the *Florida Transportation Commission at least 30 days before the start of the regular legislative session. The Florida Transportation Commission shall review the projects to determine whether they are in compliance with this section and prepare a report detailing its findings.*

(b) The council shall submit its list of recommended projects to the Governor and the Legislature as a separate *budget request submitted at the same time as* ~~section of~~ the department's *preliminary* tentative work program*, which is 14 days before the start of the regular session. The Florida Transportation Commission shall submit its written report at the same time to the Governor and the Legislature*. Final approval of the Transportation Outreach Program *project list* shall be made by the Legislature through the General Appropriations Act. Program projects approved by the Legislature must be included in the department's adopted work program.

(12)~~(11)~~ For purposes of funding projects under the *Transportation Outreach* Program, the department shall allocate from the State Transportation Trust Fund in its program and resource plan a minimum of $60 million each year beginning in fiscal *year* 2001-2002 ~~for a transportation outreach program~~. This funding is to be reserved for projects to be funded *pursuant to this section* ~~under the Transportation Outreach Program~~. This allocation of funds is in addition to any funding provided to this program by any other provision of law.

(13)~~(12)~~ Notwithstanding any other law to the contrary the requirements of ss. 206.46(3), 206.606(2), 339.135, 339.155, and 339.175 shall not apply to the Transportation Outreach Program.

(14)~~(13)~~ The department is authorized to adopt rules to implement the Transportation Outreach Program supporting economic development.

Section 37. Subsection (5) of section 341.051, Florida Statutes, is amended to read:

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

(5) FUND PARTICIPATION; CAPITAL ASSISTANCE.—

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

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

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

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

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

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

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

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

(e)~~(f)~~ The department is authorized to fund up to 50 percent of the capital and net operating costs of transit service development projects that are local in scope and that will improve system efficiencies,

ridership, or revenues. All such projects shall be identified in the appropriation request of the department through a specific program of projects, as provided for in s. 341.041, that is selectively applied in the following functional areas and is subject to the specified times of duration:

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

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

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

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

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

Section 38. Subsection (10) of section 341.302, Florida Statutes, is amended to read:

341.302 Rail program, duties and responsibilities of the department.—The department, in conjunction with other governmental units and the private sector, shall develop and implement a rail program of statewide application designed to ensure the proper maintenance, safety, revitalization, and expansion of the rail system to assure its continued and increased availability to respond to statewide mobility needs. Within the resources provided pursuant to chapter 216, and as authorized under Title 49 C.F.R. part 212, the department shall:

(10) Administer rail operating and construction programs, which programs shall include ~~the regulation of maximum train operating speeds,~~ the opening and closing of public grade crossings, the construction and rehabilitation of public grade crossings, and the installation of traffic control devices at public grade crossings, ~~the administering of the programs by the department~~ including participation in the cost of the programs.

Section 39. Paragraph (d) of subsection (2) of section 348.0003, Florida Statutes, is amended to read:

348.0003 Expressway authority; formation; membership.—

(2) The governing body of an authority shall consist of not fewer than five nor more than nine voting members. The district secretary of the affected department district shall serve as a nonvoting member of the governing body of each authority located within the district. Each member of the governing body must at all times during his or her term of office be a permanent resident of the county which he or she is appointed to represent.

(d) Notwithstanding any provision to the contrary in this subsection, in any county as defined in s. 125.011(1), the governing body of an authority shall consist of up to 13 members, and the following provisions of this paragraph shall apply specifically to such authority. Except for the district secretary of the department, the members must be residents of the county. Seven voting members shall be appointed by the governing body of the county. At the discretion of the governing body of the county, up to two of the members appointed by the governing body of the county may be elected officials residing in the county. Five voting members of the authority shall be appointed by the Governor. One member shall be the district secretary of the department serving in the district that contains such county. This member shall be an ex officio voting member of the authority. If the governing board of an authority includes any member originally appointed by the governing body of the county as a nonvoting member, when the term of such member expires, that member shall be replaced by a member appointed by the Governor until the governing body of the authority is composed of seven members appointed by the governing body of the county and five members appointed by the Governor. *The qualifications, the terms of office, and the obligations and rights of members of the authority shall be determined by resolution or ordinance of the governing body of the county in a manner that is consistent with subsections (3) and (4).*

Section 40. Section 348.0012, Florida Statutes, is amended to read:

348.0012 Exemptions from applicability.—The Florida Expressway Authority Act does not apply:

(1) *To* ~~In a county in which~~ an expressway authority *which* has been created pursuant to parts II-IX of this chapter; or

(2) To a transportation authority created pursuant to chapter 349.

Section 41. Section 348.565, Florida Statutes, is amended to read:

348.565 Revenue bonds for specified projects.—The existing facilities that constitute the Tampa-Hillsborough County Expressway System are hereby approved to be refinanced by the issuance of revenue bonds by the Division of Bond Finance of the State Board of Administration pursuant to s. 11(f), Art. VII of the State Constitution. In addition, the following projects of the Tampa-Hillsborough County Expressway Authority are approved to be financed or refinanced by the issuance of revenue bonds pursuant to s. 11(f), Art. VII of the State Constitution:

(1) Brandon area feeder roads;

(2) Capital improvements to the expressway system, including safety and operational improvements and toll collection equipment; ~~and~~

(3) Lee Roy Selmon Crosstown Expressway System widening*; and*~~.~~

(4) The connector highway linking the Lee Roy Selmon Crosstown Expressway to Interstate 4.

Section 42. Paragraph (b) of subsection (1) of section 348.754, Florida Statutes, is amended to read:

348.754 Purposes and powers.—

(1)

(b) It is the express intention of this part that said authority, in the construction of said Orlando-Orange County Expressway System, shall be authorized to *acquire, finance,* construct*, and equip* any extensions, additions*,* or improvements to said system*,* or appurtenant facilities, including all necessary approaches, roads, bridges*,* and avenues of access *as the authority shall deem desirable and proper*, *together* with such changes, modifications*,* or revisions *to* ~~of~~ said *system or appurtenant facilities* ~~project~~ as *the authority* shall *deem* ~~be deemed~~ desirable and proper.

Section 43. Section 348.7543, Florida Statutes, is amended to read:

348.7543 Improvements, bond financing authority for.—Pursuant to s. 11(e), Art. VII of the State Constitution, the Legislature hereby approves for bond financing by the Orlando-Orange County Expressway Authority *the cost of acquiring, constructing, equipping, improving, or refurbishing any expressway system, including* ~~improvements to~~ toll collection facilities, interchanges*, future extensions and additions, necessary approaches, roads, bridges, and avenues of access* ~~to the legislatively approved expressway system~~, and any other facility appurtenant, necessary, or incidental to the ~~approved~~ system*, all as deemed desirable and proper by the authority pursuant to s. 348.754(1)(b)*. Subject to terms and conditions of applicable revenue bond resolutions and covenants, such *costs* ~~financing~~ may be *financed* in whole or in part by revenue bonds *issued pursuant to s. 348.755(1)(a) or (b) whether* currently issued, issued in the future, or by a combination of such bonds.

Section 44. Section 348.7544, Florida Statutes, is amended to read:

348.7544 Northwest Beltway Part A, construction authorized; financing.—Notwithstanding s. 338.2275, the Orlando-Orange County Expressway Authority is hereby authorized to construct, finance, operate, own, and maintain that portion of the Western Beltway known as the Northwest Beltway Part A, extending from Florida's Turnpike near Ocoee north to U.S. 441 near Apopka, as part of the authority's 20-year capital projects plan. This project may be financed with any funds available to the authority for such purpose or revenue bonds issued by the Division of Bond Finance of the State Board of Administration on behalf of the authority pursuant to s. 11, Art. VII of the State Constitution and the State Bond Act, ss. 215.57-215.83. *This project may be refinanced with bonds issued by the authority pursuant to s. 348.755(1)(d).*

Section 45. Section 348.7545, Florida Statutes, is amended to read:

348.7545 Western Beltway Part C, construction authorized; financing.—Notwithstanding s. 338.2275, the Orlando-Orange County Expressway Authority is authorized to exercise its condemnation powers, construct, finance, operate, own, and maintain that portion of the Western Beltway known as the Western Beltway Part C, extending from Florida's Turnpike near Ocoee in Orange County southerly through Orange and Osceola Counties to an interchange with I-4 near the Osceola-Polk County line, as part of the authority's 20-year capital projects plan. This project may be financed with any funds available to the authority for such purpose or revenue bonds issued by the Division of Bond Finance of the State Board of Administration on behalf of the authority pursuant to s. 11, Art. VII of the State Constitution and the State Bond Act, ss. 215.57-215.83. *This project may be refinanced with bonds issued by the authority pursuant to s. 348.755(1)(d).*

Section 46. Subsection (1) of section 348.755, Florida Statutes, is amended to read:

348.755 Bonds of the authority.—

(1)(a) *Bonds may be issued on behalf of the authority pursuant to the State Bond Act.*

(b) Alternatively, the authority may issue its own bonds pursuant to the provisions of this part at such times and in such principal amount as, in the opinion of the authority, is necessary to provide sufficient moneys for achieving its purposes; however, such bonds shall not pledge the full faith and credit of the state. Bonds issued by the authority pursuant to paragraphs (a) or (b) ~~The bonds of the authority issued pursuant to the provisions of this part~~, whether on original issuance or on refunding, shall be authorized by resolution of the members thereof and may be either term or serial bonds, shall bear such date or dates, mature at such time or times, not exceeding 40 years from their respective dates, bear interest at such rate or rates, payable semiannually, be in such denominations, be in such form, either coupon or fully registered, shall carry such registration, exchangeability and interchangeability privileges, be payable in such medium of payment and at such place or places, be subject to such terms of redemption and be entitled to such priorities on the revenues, rates, fees, rentals or other charges or receipts of the authority including the Orange County gasoline tax funds received by the authority pursuant to the terms of any lease-purchase agreement between the authority and the department, as such resolution or any resolution subsequent thereto may provide. The bonds shall be executed either by manual or facsimile signature by such officers as the authority shall determine, provided that such bonds shall bear at least one signature which is manually executed thereon, and the coupons attached to such bonds shall bear the facsimile signature or signatures of such officer or officers as shall be designated by the authority and shall have the seal of the authority affixed, imprinted, reproduced or lithographed thereon, all as may be prescribed in such resolution or resolutions.

(c)~~(b) Said~~ Bonds *issued pursuant to paragraphs (a) and (b)* shall be sold at public sale in the *same* manner provided by the State Bond Act. However, if the authority shall, by official action at a public meeting, determine that a negotiated sale of *such* ~~the~~ bonds is in the best interest of the authority, the authority may negotiate for sale of the bonds with the underwriter or underwriters designated by the authority and the Division of Bond Finance of the State Board of Administration *with respect to bonds issued pursuant to paragraph (b). The authority's determination to negotiate the sale of such bonds may be based in part upon the written advice of its financial advisor*. Pending the preparation of definitive bonds, interim certificates may be issued to the purchaser or purchasers of such bonds and may contain such terms and conditions as the authority may determine.

(d) The authority may issue bonds pursuant to paragraph (b) to refund any bonds previously issued regardless of whether the bonds being refunded were issued by the authority pursuant to this chapter or on behalf of the authority pursuant to the State Bond Act.

Section 47. Section 348.765, Florida Statutes, is amended to read:

348.765 This part complete and additional authority.—

(1) The powers conferred by this part shall be in addition and supplemental to the existing powers of said board and the department, and this part shall not be construed as repealing any of the provisions, of any other law, general, special or local, but to supersede such other laws in the exercise of the powers provided in this part, and to provide a complete method for the exercise of the powers granted in this part. The extension and improvement of said Orlando-Orange County Expressway System, and the issuance of bonds hereunder to finance all or part of the cost thereof, may be accomplished upon compliance with the provisions of this part without regard to or necessity for compliance with the provisions, limitations, or restrictions contained in any other general, special or local law, *including, but not limited to, s. 215.821,* and no approval of any bonds issued under this part by the qualified electors or qualified electors who are freeholders in the state or in said County of Orange, or in said City of Orlando, or in any other political subdivision of the state, shall be required for the issuance of such bonds pursuant to this part.

(2) This part shall not be deemed to repeal, rescind, or modify any other law or laws relating to said State Board of Administration, said Department of Transportation, or the Division of Bond Finance of the State Board of Administration, but shall be deemed to and shall supersede such other law or laws as are inconsistent with the provisions of this part*, including, but not limited to, s. 215.821*.

Section 48. Subsections (1) through (6) and subsection (8) of section 373.4137, Florida Statutes, are amended, and subsection (9) is added to said section, to read:

373.4137 Mitigation requirements.—

(1) The Legislature finds that environmental mitigation for the impact of transportation projects proposed by the Department of Transportation *or a transportation authority established pursuant to chapter 348 or chapter 349* can be more effectively achieved by regional, long-range mitigation planning rather than on a project-by-project basis. It is the intent of the Legislature that mitigation to offset the adverse effects of these transportation projects be funded by the Department of Transportation and be carried out by the Department of Environmental Protection and the water management districts, including the use of mitigation banks established pursuant to this part.

(2) Environmental impact inventories for transportation projects proposed by the Department of Transportation *or a transportation authority established pursuant to chapter 348 or chapter 349* shall be developed as follows:

(a) By May 1 of each year, the Department of Transportation *or a transportation authority established pursuant to chapter 348 or chapter 349* shall submit to the Department of Environmental Protection and the water management districts a copy of its adopted work program and an inventory of habitats addressed in the rules tentatively, pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, which may be impacted by its plan of construction for transportation projects in the next 3 years of the tentative work program. The Department of Transportation *or a transportation authority established pursuant to*

chapter 348 or chapter 349 may also include in its inventory the habitat impacts of any future transportation project identified in the tentative work program.

(b) The environmental impact inventory shall include a description of these habitat impacts, including their location, acreage, and type; state water quality classification of impacted wetlands and other surface waters; any other state or regional designations for these habitats; and a survey of threatened species, endangered species, and species of special concern affected by the proposed project.

(3)*(a)* To fund the mitigation plan for the projected impacts identified in the inventory described in subsection (2), the Department of Transportation shall identify funds quarterly in an escrow account within the State Transportation Trust Fund for the environmental mitigation phase of projects budgeted by the Department of Transportation for the current fiscal year. The escrow account will be maintained by the Department of Transportation for the benefit of the Department of Environmental Protection and the water management districts. Any interest earnings from the escrow account shall remain with the Department of Transportation.

(b) Each transportation authority established pursuant to chapter 348 or chapter 349 that chooses to participate in this program shall create an escrow account within its financial structure and deposit funds in the account to pay for the environmental mitigation phase of projects budgeted for the current fiscal year. The escrow account will be maintained by the authority for the benefit of the Department of Environmental Protection and the water management districts. Any interest earnings from the escrow account shall remain with the authority.

(c) The Department of Environmental Protection or water management districts may request a transfer of funds from *an* ~~the~~ escrow account no sooner than 30 days prior to the date the funds are needed to pay for activities associated with development or implementation of the approved mitigation plan described in subsection (4) for the current fiscal year, including, but not limited to, design, engineering, production, and staff support. Actual conceptual plan preparation costs incurred before plan approval may be submitted to the Department of Transportation *or the appropriate transportation authority* and the Department of Environmental Protection by November 1 of each year with the plan. The conceptual plan preparation costs of each water management district will be paid based on the amount approved on the mitigation plan and allocated to the current fiscal year projects identified by the water management district. The amount transferred to the escrow *accounts* ~~account~~ each year by the Department of Transportation *and participating transportation authorities established pursuant to chapter 348 or chapter 349* shall correspond to a cost per acre of $75,000 multiplied by the projected acres of impact identified in the inventory described in subsection (2). However, the $75,000 cost per acre does not constitute an admission against interest by the state or its subdivisions nor is the cost admissible as evidence of full compensation for any property acquired by eminent domain or through inverse condemnation. Each July 1, the cost per acre shall be adjusted by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30, compared to the base year average, which is the average for the 12-month period ending September 30, 1996. At the end of each year, the projected acreage of impact shall be reconciled with the acreage of impact of projects as permitted, including permit modifications, pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344. The subject year's transfer of funds shall be adjusted accordingly to reflect the overtransfer or undertransfer of funds from the preceding year. The Department of Transportation *and participating transportation authorities established pursuant to chapter 348 or chapter 349 are* ~~is~~ authorized to transfer such funds from the escrow *accounts* ~~account~~ to the Department of Environmental Protection and the water management districts to carry out the mitigation programs.

(4) Prior to December 1 of each year, each water management district, in consultation with the Department of Environmental Protection, the United States Army Corps of Engineers, the Department of Transportation, *transportation authorities established pursuant to chapter 348 or chapter 349,* and other appropriate federal, state, and local governments, and other interested parties, including entities operating mitigation banks, shall develop a plan for the primary purpose of complying with the mitigation requirements adopted pursuant to this part and 33 U.S.C. s. 1344. This plan shall also address significant invasive plant problems within wetlands and other surface waters. In developing such plans, the districts shall utilize sound ecosystem management practices to address significant water resource needs and shall focus on activities of the Department of Environmental Protection and the water management districts, such as surface water improvement and management (SWIM) waterbodies and lands identified for potential acquisition for preservation, restoration, and enhancement, to the extent that such activities comply with the mitigation requirements adopted under this part and 33 U.S.C. s. 1344. In determining the activities to be included in such plans, the districts shall also consider the purchase of credits from public or private mitigation banks permitted under s. 373.4136 and associated federal authorization and shall include such purchase as a part of the mitigation plan when such purchase would offset the impact of the transportation project, provide equal benefits to the water resources than other mitigation options being considered, and provide the most cost-effective mitigation option. The mitigation plan shall be preliminarily approved by the water management district governing board and shall be submitted to the secretary of the Department of Environmental Protection for review and final approval. The preliminary approval by the water management district governing board does not constitute a decision that affects substantial interests as provided by s. 120.569. At least 30 days prior to preliminary approval, the water management district shall provide a copy of the draft mitigation plan to any person who has requested a copy.

(a) For each transportation project with a funding request for the next fiscal year, the mitigation plan must include a brief explanation of why a mitigation bank was or was not chosen as a mitigation option, including an estimation of identifiable costs of the mitigation bank and nonbank options to the extent practicable.

(b) Specific projects may be excluded from the mitigation plan and shall not be subject to this section upon the agreement of the Department of Transportation, *a transportation authority if applicable,* the Department of Environmental Protection, and the appropriate water management district that the inclusion of such projects would hamper the efficiency or timeliness of the mitigation planning and permitting process, or the Department of Environmental Protection and the water management district are unable to identify mitigation that would offset the impacts of the project.

(c) Surface water improvement and management or invasive plant control projects undertaken using the $12 million advance transferred from the Department of Transportation to the Department of Environmental Protection in fiscal year 1996-1997 which meet the requirements for mitigation under this part and 33 U.S.C. s. 1344 shall remain available for mitigation until the $12 million is fully credited up to and including fiscal year 2004-2005. When these projects are used as mitigation, the $12 million advance shall be reduced by $75,000 per acre of impact mitigated. For any fiscal year through and including fiscal year 2004-2005, to the extent the cost of developing and implementing the mitigation plans is less than the amount transferred pursuant to subsection (3), the difference shall be credited towards the $12 million advance. Except as provided in this paragraph, any funds not directed to implement the mitigation plan should, to the greatest extent possible, be directed to fund invasive plant control within wetlands and other surface waters.

(5) The water management district shall be responsible for ensuring that mitigation requirements pursuant to 33 U.S.C. s. 1344 are met for the impacts identified in the inventory described in subsection (2), by implementation of the approved plan described in subsection (4) to the extent funding is provided by the Department of Transportation*, or a transportation authority established pursuant to chapter 348 or chapter 349 if applicable*. During the federal permitting process, the water

management district may deviate from the approved mitigation plan in order to comply with federal permitting requirements.

(6) The mitigation *plans* ~~plan~~ shall be updated annually to reflect the most current Department of Transportation work program *and project list of a transportation authority established pursuant to chapter 348 or chapter 349 if applicable* and may be amended throughout the year to anticipate schedule changes or additional projects which may arise. Each update and amendment of the mitigation plan shall be submitted to the secretary of the Department of Environmental Protection for approval. However, such approval shall not be applicable to a deviation as described in subsection (5).

(8) This section shall not be construed to eliminate the need for the Department of Transportation *or a transportation authority established pursuant to chapter 348 or chapter 349* to comply with the requirement to implement practicable design modifications, including realignment of transportation projects, to reduce or eliminate the impacts of its transportation projects on wetlands and other surface waters as required by rules adopted pursuant to this part, or to diminish the authority under this part to regulate other impacts, including water quantity or water quality impacts, or impacts regulated under this part that are not identified in the inventory described in subsection (2).

(9) The process for environmental mitigation for the impact of transportation projects under this section shall be available to an expressway, bridge, or transportation authority established under chapters 348 and 349. Use of this process may be initiated by an authority depositing the requisite funds into an escrow account set up by the authority and filing an environmental impact inventory with the appropriate water management district. An authority that initiates the environmental mitigation process established by this section shall comply with subsection (6) by timely providing the appropriate water management district and the Department of Environmental Protection with the requisite work program information. A water management district may draw down funds from the escrow account in the manner and on the basis provided in subsection (5).

Section 49. paragraphs (b) and (e) of subsection (19) of section 380.06, Florida Statutes, are amended, and paragraphs (i) and (j) are added to subsection (24) of said section, to read:

380.06 Developments of regional impact.—

(19) SUBSTANTIAL DEVIATIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The substantial deviation numerical standards in subparagraphs *3.*~~4.~~, *5.*~~6.~~, *8.*~~10.~~, *12.*~~14.~~, excluding residential uses, and *13.*~~15.~~, are increased by 100 percent for a project certified under s. 403.973 which creates jobs and meets criteria established by the Office of Tourism, Trade, and Economic Development as to its impact on an area's economy, employment, and prevailing wage and skill levels. The substantial deviation numerical standards in subparagraphs *3.*~~4.~~, *5.*~~6.~~, *7.*~~9.~~, *8.*~~10.~~, *9.*~~11.~~, and *12.*~~14.~~ are increased by 50 percent for a project located wholly within an urban infill and redevelopment area designated on the applicable adopted local comprehensive plan future land use map and not located within the coastal high hazard area.

(e)1. A proposed change which, either individually or, if there were previous changes, cumulatively with those changes, is equal to or exceeds 40 percent of any numerical criterion in subparagraphs (b)*1.-13.*~~1.-15.~~, but which does not exceed such criterion, shall be presumed not to create a substantial deviation subject to further development-of-regional-impact review. The presumption may be rebutted by clear and convincing evidence at the public hearing held by the local government pursuant to subparagraph (f)5.

2. Except for a development order rendered pursuant to subsection (22) or subsection (25), a proposed change to a development order that individually or cumulatively with any previous change is less than 40 percent of any numerical criterion contained in subparagraphs (b)*1.-13.*~~1.-15.~~ and does not exceed any other criterion, or that involves an extension of the buildout date of a development, or any phase thereof, of less than 5 years is not subject to the public hearing requirements of subparagraph (f)3., and is not subject to a determination pursuant to subparagraph (f)5. Notice of the proposed change shall be made to the regional planning council and the state land planning agency. Such notice shall include a description of previous individual changes made to the development, including changes previously approved by the local government, and shall include appropriate amendments to the development order. The following changes, individually or cumulatively with any previous changes, are not substantial deviations:

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

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

c. Changes to minimum lot sizes.

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

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

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

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

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

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

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

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

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

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

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

b. Except for the types of uses listed in subparagraph (b)*14.*~~16.~~, any change which would result in the development of any area which was specifically set aside in the application for development approval or in the development order for preservation, buffers, or special protection, including habitat for plant and animal species, archaeological and historical sites, dunes, and other special areas.

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

(24) STATUTORY EXEMPTIONS.—

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

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

Section 50. Subsection (3) of section 380.0651, Florida Statutes, is amended to read:

380.0651 Statewide guidelines and standards.—

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

~~(a) Airports.—~~

~~1. Any of the following airport construction projects shall be a development of regional impact:~~

~~a. A new commercial service or general aviation airport with paved runways.~~

~~b. A new commercial service or general aviation paved runway.~~

~~c. A new passenger terminal facility.~~

~~2. Lengthening of an existing runway by 25 percent or an increase in the number of gates by 25 percent or three gates, whichever is greater, on a commercial service airport or a general aviation airport with regularly scheduled flights is a development of regional impact. However, expansion of existing terminal facilities at a nonhub or small hub commercial service airport shall not be a development of regional impact.~~

~~3. Any airport development project which is proposed for safety, repair, or maintenance reasons alone and would not have the potential to increase or change existing types of aircraft activity is not a development of regional impact. Notwithstanding subparagraphs 1. and 2., renovation, modernization, or replacement of airport airside or terminal facilities that may include increases in square footage of such facilities but does not increase the number of gates or change the existing types of aircraft activity is not a development of regional impact.~~

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

1. For single performance facilities:

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

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

2. For serial performance facilities:

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

b. Provides more than 4,000 permanent seats for spectators.

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

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

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

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

(b)~~(c)~~ Industrial plants, industrial parks, and distribution, warehousing or wholesaling facilities.—Any proposed industrial, manufacturing, or processing plant, or distribution, warehousing, or wholesaling facility, excluding wholesaling developments which deal primarily with the general public onsite, under common ownership, or any proposed industrial, manufacturing, or processing activity or distribution, warehousing, or wholesaling activity, excluding wholesaling activities which deal primarily with the general public onsite, which:

1. Provides parking for more than 2,500 motor vehicles*, excluding those vehicles which may be included in wholesaling facilities' inventory*; or

2. Occupies a site greater than 320 acres*, or for motor vehicle wholesaling facilities that conduct wholesaling sales activity no more frequently than an average each year of 3 days per week, occupies a site greater than 500 acres*.

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

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

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

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

(d)~~(e)~~ Port facilities.—The proposed construction of any waterport or marina is required to undergo development-of-regional-impact review, except one designed for:

1.a. The wet storage or mooring of fewer than 150 watercraft used exclusively for sport, pleasure, or commercial fishing, or

b. The dry storage of fewer than 200 watercraft used exclusively for sport, pleasure, or commercial fishing, or

c. The wet or dry storage or mooring of fewer than 150 watercraft on or adjacent to an inland freshwater lake except Lake Okeechobee or any lake which has been designated an Outstanding Florida Water, or

d. The wet or dry storage or mooring of fewer than 50 watercraft of 40 feet in length or less of any type or purpose. The exceptions to this paragraph's requirements for development-of-regional-impact review shall not apply to any waterport or marina facility located within or which serves physical development located within a coastal barrier resource unit on an unbridged barrier island designated pursuant to 16 U.S.C. s. 3501.

In addition to the foregoing, for projects for which no environmental resource permit or sovereign submerged land lease is required, the Department of Environmental Protection must determine in writing that a proposed marina in excess of 10 slips or storage spaces or a combination of the two is located so that it will not adversely impact Outstanding Florida Waters or Class II waters and will not contribute boat traffic in a manner that will have an adverse impact on an area known to be, or likely to be, frequented by manatees. If the Department of Environmental Protection fails to issue its determination within 45 days of receipt of a formal written request, it has waived its authority to make such determination. The Department of Environmental Protection determination shall constitute final agency action pursuant to chapter 120.

2. The dry storage of fewer than 300 watercraft used exclusively for sport, pleasure, or commercial fishing at a marina constructed and in operation prior to July 1, 1985.

3. Any proposed marina development with both wet and dry mooring or storage used exclusively for sport, pleasure, or commercial fishing, where the sum of percentages of the applicable wet and dry mooring or storage thresholds equals 100 percent. This threshold is in addition to, and does not preclude, a development from being required to undergo development-of-regional-impact review under sub-subparagraphs 1.a. and b. and subparagraph 2.

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

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

2. Occupies more than 40 acres of land; or

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

(f)~~(g)~~ Hotel or motel development.—

1. Any proposed hotel or motel development that is planned to create or accommodate 350 or more units; or

2. Any proposed hotel or motel development that is planned to create or accommodate 750 or more units, in a county with a population greater than 500,000, and only in a geographic area specifically designated as highly suitable for increased threshold intensity in the approved local comprehensive plan and in the strategic regional policy plan.

(g)~~(h)~~ Recreational vehicle development.—Any proposed recreational vehicle development planned to create or accommodate 500 or more spaces.

(h)~~(i)~~ Multiuse development.—Any proposed development with two or more land uses where the sum of the percentages of the appropriate thresholds identified in chapter 28-24, Florida Administrative Code, or this section for each land use in the development is equal to or greater than 145 percent. Any proposed development with three or more land uses, one of which is residential and contains at least 100 dwelling units or 15 percent of the applicable residential threshold, whichever is greater, where the sum of the percentages of the appropriate thresholds identified in chapter 28-24, Florida Administrative Code, or this section for each land use in the development is equal to or greater than 160 percent. This threshold is in addition to, and does not preclude, a development from being required to undergo development-of-regional-impact review under any other threshold.

(i) ~~(j)~~ Residential development.—No rule may be adopted concerning residential developments which treats a residential development in one county as being located in a less populated adjacent county unless more than 25 percent of the development is located within 2 or less miles of the less populated adjacent county.

(j)~~(k)~~ Schools.—

1. The proposed construction of any public, private, or proprietary postsecondary educational campus which provides for a design population of more than 5,000 full-time equivalent students, or the proposed physical expansion of any public, private, or proprietary postsecondary educational campus having such a design population that would increase the population by at least 20 percent of the design population.

2. As used in this paragraph, "full-time equivalent student" means enrollment for 15 or more quarter hours during a single academic semester. In area vocational schools or other institutions which do not employ semester hours or quarter hours in accounting for student participation, enrollment for 18 contact hours shall be considered equivalent to one quarter hour, and enrollment for 27 contact hours shall be considered equivalent to one semester hour.

3. This paragraph does not apply to institutions which are the subject of a campus master plan adopted by the Board of Regents pursuant to s. 240.155.

Section 51. Paragraph (a) of subsection (12) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

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

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

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

Section 52. Subsection (20) of section 331.303, Florida Statutes, is amended to read:

331.303 Definitions.—

(20) "Spaceport launch facilities" shall be defined as industrial facilities in accordance with s. 380.0651(3)*(b)*~~(c)~~ and include any launch pad, launch control center, and fixed launch-support equipment.

Section 53. Section 331.308, Florida Statutes, is amended to read:

331.308 Board of supervisors.—

(1) There is created within the Spaceport Florida Authority a board of supervisors consisting of

(a) The Lieutenant Governor, serving as the chair;

(b) Six ~~seven~~ regular members~~, who shall be~~ appointed by the Governor;~~, and~~

(c) Two ex officio nonvoting members *who are members of the Legislature*, ~~one of whom shall be~~ a state senator selected by the President of the Senate and ~~one of whom shall be~~ a state representative selected by the Speaker of the House of Representatives*; and*

(d) The director of the Office of Tourism, Trade, and Economic Development as an ex officio nonvoting member.

Regular members are~~, all of whom shall be~~ subject to confirmation by the Senate at the next regular session of the Legislature*, and*~~:~~ each of *them* ~~the regular board members~~ must be a resident of the state and must have experience in the aerospace or commercial space industry or in finance or have other significant relevant experience. One regular member shall represent organized labor interests and one regular member shall represent minority interests.

(2) Each *regular* member shall serve a term of 4 years or until a successor is appointed and qualified. The term of each such member shall be construed to commence on the date of appointment and to terminate on June 30 of the year of the end of the term. Appointment to the board shall not preclude any such member from holding any other private or public position.

(3) The ex officio nonvoting *legislative* members shall serve on the board for 2-year terms.

(4) Any vacancy on the board shall be filled for the balance of the unexpired term.

(5) *The Lieutenant Governor is the state's space policy leader. The Lieutenant Governor may designate a regular member to serve as vice-chair and preside over board meetings in the absence of the chair and may assign proxy voting power to the director of the Office of Tourism, Trade, and Economic Development.* ~~Initial appointments shall be made no later than 60 days after this act takes effect.~~

(6) ~~The board shall hold its initial meeting no later than 20 days after the members have been appointed. At its initial meeting, or as soon thereafter as is practicable,~~ The board shall appoint an executive director. Meetings shall be held quarterly or more frequently at the call of the chair. A majority of the regular members of the board shall constitute a quorum, and a majority vote of such members present is necessary for any action taken by the board.

(7) The Governor *may* ~~has the authority to~~ remove from the board any regular member in the manner and for cause as defined by the laws of this state and applicable to situations *that* ~~which may~~ arise before the board. Unless excused by the chair of the board, a regular member's absence from two or more consecutive board meetings creates a vacancy in the office to which the member was appointed.

Section 54. *(1) Nothing contained in this act abridges or modifies any vested or other right or any duty or obligation pursuant to any development order or agreement which is applicable to a development of regional impact on the effective date of this act. An airport or petroleum storage facility which has received a development-of-regional-impact development order pursuant to s. 380.06, Florida Statutes 2000, but is no longer required to undergo development-of-regional-impact review by operation of this act, shall be governed by the following procedures:*

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

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

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

Section 55. *If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.*

Section 56. Subsection (13) is added to section 475.011, Florida Statutes, to read:

475.011 Exemptions.—This part does not apply to:

(13) Any firm that is under contract with a state or local governmental entity to provide right-of-way acquisition services for property subject to condemnation, or any employee of such a firm, if the compensation for such services is not based upon the value of the property acquired. No firm nor any employee of such a firm may engage in the practice of real estate, except those activities pursuant to a contract with a state or local governmental entity and pursuant to the exception provided in this paragraph, without meeting the licensure and qualifications requirements of chapter 475.

Section 57. Subsection (2) of section 479.15, Florida Statutes, is amended to read:

479.15 Harmony of regulations.—

(2) A municipality, county, local zoning authority, or other local governmental entity may not remove, or cause to be removed, any lawfully erected sign along any portion of the interstate or federal-aid primary highway system without first paying just compensation for such removal. A local governmental entity may not cause in any way the alteration of any lawfully erected sign located along any portion of the interstate or federal-aid primary highway system without payment of just compensation if such alteration constitutes a taking under state law. The municipality, county, local zoning authority, or other local government entity promulgating requirements for such alteration must be responsible for payment of just compensation to the sign owner if such alteration constitutes a taking under state law. This subsection applies only to a lawfully erected sign the subject matter of which relates to premises other than the premises on which it is located or to merchandise, services, activities, or entertainment not sold, produced, manufactured, or furnished on the premises on which the sign is located. *For the purposes of this subsection, the term "federal-aid primary highway system" means the federal-aid primary highway system in existence on June 1, 1991, and any highway which was not on such system but which is, or hereafter becomes, a part of the National Highway System.* This subsection shall not be interpreted as explicit or implicit legislative recognition that alterations do or do not constitute a taking under state law.

Section 58. Section 479.25, Florida Statutes, is created to read:

479.25 Application of chapter.—Nothing in this chapter shall prevent a governmental entity from entering into an agreement allowing the height above ground level of a lawfully erected sign to be increased at its permitted location if a noise attenuation barrier, visibility screen, or other highway improvement has been erected in such a way as to screen or block visibility of such a sign; provided, however, that for nonconforming signs located on the federal-aid primary highway system, as such system existed on June 1, 1991, and any highway which was not on such system but which is, or hereinafter becomes, a part of the National Highway System, such agreement must be approved by the Federal Highway Administration. Any increase in height permitted under this provision shall only be that which is required to achieve the same degree of visibility from the right-of-way that the sign had prior to the construction of the noise attenuation barrier, visibility screen, or other highway improvement.

Section 59. Section 70.20, Florida Statutes, is created to read:

70.20 Balancing of interests.—It is a policy of this state to encourage municipalities, counties, and other governmental entities and sign owners to enter into relocation and reconstruction agreements that allow governmental entities to undertake public projects and accomplish public goals without the expenditure of public funds, while allowing the continued maintenance of private investment in signage as a medium of commercial and noncommercial communication.

(1) Municipalities, counties, and all other governmental entities are specifically empowered to enter into relocation and reconstruction agreements on whatever terms are agreeable to the sign owner and the municipality, county, or other governmental entity involved and to provide for relocation and reconstruction of signs by agreement, ordinance, or resolution. As used in this section, a "relocation and reconstruction agreement" means a consensual, contractual agreement between a sign owner and municipality, county, or other governmental entity for either the reconstruction of an existing sign or removal of a sign and the construction of a new sign to substitute for the sign removed.

(2) Except as otherwise provided in this section, no municipality, county, or other governmental entity may remove, or cause to be removed, any lawfully erected sign along any portion of the interstate, federal-aid primary or other highway system, or any other road, without first paying just compensation for such removal as determined by agreement between the parties or through eminent domain proceedings. Except as otherwise provided in this section, no municipality, county, or other governmental entity may cause in any way the alteration of any lawfully erected sign located along any portion of the interstate, federal-aid primary or other highway system, or any other road, without first paying just compensation for such alteration as determined by agreement between the parties or through eminent domain proceedings. The provisions of this act shall not apply to any ordinance, the validity, constitutionality, and enforceability of which the owner has by written agreement waived all right to challenge.

(3) In the event that a municipality, county, or other governmental entity shall undertake a public project or public goal requiring alteration or removal of any lawfully erected sign, the municipality, county, or other governmental entity shall notify the owner of the affected sign in writing of the public project or goal and of the intention of the municipality, county, or other governmental entity to seek such removal. Within 30 days after receipt of the notice, the owner of the sign and the municipality, county, or other governmental entity shall attempt to meet for purposes of negotiating and executing a relocation and reconstruction agreement provided for in subsection (1).

(4) If the parties fail to enter into a relocation and reconstruction agreement within 120 days after the initial notification by the municipality, county, or other governmental entity, either party may request mandatory nonbinding arbitration to resolve the disagreements among the parties. Each party shall select an arbitrator, and the individuals so selected shall choose a third arbitrator. The three arbitrators shall constitute the panel that shall arbitrate the dispute between the parties and at the conclusion of the proceedings shall present to the parties a proposed relocation and reconstruction agreement that the panel believes equitably balances the rights, interests, obligations, and reasonable expectations of the parties. If the municipality, county, or other governmental entity and the sign owner accept the proposed relocation and reconstruction agreement, the municipality, county, or other governmental entity and sign owner shall each pay its respective costs of arbitration and shall pay one-half of the costs of the arbitration panel, unless the parties otherwise agree.

(5) If the parties do not enter into a relocation and reconstruction agreement, the municipality, county, or other governmental entity may proceed with the public project or purpose and the alteration or removal of the sign only after first paying just compensation for such alteration or removal as determined by agreement between the parties or through eminent domain proceedings.

(6) The requirement by a municipality, county, or other governmental entity that a lawfully erected sign be removed or altered as a condition precedent to the issuance or continued effectiveness of a development order constitutes a compelled removal that is prohibited without prior payment of just compensation under subsection (2). This subsection does not apply when the owner of the land on which the sign is located is seeking to have the property redesignated on the future land use map of the applicable comprehensive plan for exclusively single-family residential use.

(7) The requirement by a municipality, county, or other governmental entity that a lawfully erected sign be altered or removed from the premises upon which it is located incident to the voluntary acquisition of such property by a municipality, county, or other governmental entity

constitutes a compelled removal which is prohibited without payment of just compensation under subsection (2).

(8) Nothing in this section shall prevent a municipality, county, or other governmental entity from acquiring a lawfully erected sign through eminent domain or from prospectively regulating the placement, size, height, or other aspects of new signs within such entity's jurisdiction, including the prohibition of new signs, unless otherwise authorized pursuant to this section. Nothing in this section shall impair any ordinance or provision of any ordinance not inconsistent with this section, nor shall this section create any new rights for any party other than the owner of a sign, the owner of the land upon which it is located, or a municipality, county, or other governmental entity as expressed in this section.

(9) This section applies only to a lawfully erected sign the subject matter of which relates to premises other than the premises on which it is located or to merchandise, services, activities, or entertainment not sold, produced, manufactured, or furnished on the premises on which the sign is located.

(10) This section does not apply to any actions taken by the Florida Department of Transportation which relate to the operation, maintenance, or expansion of transportation facilities, and this section does not affect existing law regarding eminent domain relating to the Florida Department of Transportation.

(11) Nothing in this act shall impair or affect any written agreement existing prior to the effective date of this act, including, but not limited to, any settlement agreements reliant upon the legality or enforceability of local ordinances. The provisions of this act shall not apply to any signs that are required to be removed by a date certain in areas designated by local ordinance as view corridors if the local ordinance creating the view corridors was enacted in part to effectuate a consensual agreement between the local government and two or more sign owners prior to the effective date of this act, nor shall the provisions of this act apply to any signs that are the subject of an ordinance providing an amortization period, which period has expired, and which ordinance is the subject of judicial proceedings which were commenced on or before January 1, 2001.

(12) Subsection (6) hereof does not apply when the development order permits construction of a replacement sign that cannot be erected without the removal of the lawfully erected sign being replaced. Effective upon this section becoming a law, the Office of Program Analysis and Governmental Accountability, in consultation with the property appraisers and the private sector affected parties, shall conduct a study of the value of offsite signs in relation to, and in comparison with, the valuation of other commercial properties for ad valorem tax purposes, including a comparison of tax valuations from other states. OPPAGA shall complete the study by December 31, 2001, and shall report the results of the study to the Legislature.

Section 60. Paragraph (b) of subsection (1) of section 496.425, Florida Statutes, is amended to read:

496.425 Solicitation of funds within public transportation facilities.—

(1) As used in this section:

(b) "Facility" means any public transportation facility, including, but not limited to, railroad stations, bus stations, ship ports, ferry terminals, *or* ~~roadside welcome stations, highway service plazas,~~ airports served by scheduled passenger service~~, or highway rest stations~~.

Section 61. Section 496.4256, Florida Statutes, is created to read:

496.4256 Public transportation facilities not required to grant permit or access.—A governmental entity or authority that owns or operates welcome centers, wayside parks, service plazas, or rest areas on the state highway system as defined in chapter 335 may not be required to issue a permit or grant any person access to such public transportation facilities for the purpose of soliciting funds.

Section 62. Section 337.408, Florida Statutes, is amended to read:

337.408 Regulation of benches, transit shelters, *street light poles,* and waste disposal receptacles within rights-of-way.—

(1) Benches or transit shelters, including advertising displayed on benches or transit shelters, may be installed within the right-of-way limits of any municipal, county, or state road, except a limited access highway; provided that such benches or transit shelters are for the comfort or convenience of the general public, or at designated stops on official bus routes; and, provided further, that written authorization has been given to a qualified private supplier of such service by the municipal government within whose incorporated limits such benches or transit shelters are installed, or by the county government within whose unincorporated limits such benches or transit shelters are installed. A municipality or county may authorize the installation, *with or* without public bid, of benches and transit shelters together with advertising displayed thereon, within the right-of-way limits of such roads. Any contract for the installation of benches or transit shelters or advertising on benches or transit shelters which was entered into before April 8, 1992, without public bidding, is ratified and affirmed. Such benches or transit shelters may not interfere with right-of-way preservation and maintenance. Any bench or transit shelter located on a sidewalk within the right-of-way limits of any road on the State Highway System or the county road system shall be located so as to leave at least 36 inches clearance for pedestrians and persons in wheelchairs. Such clearance shall be measured in a direction perpendicular to the centerline of the road.

(2) Waste disposal receptacles *the interior collection container volume* of *which is* less than 110 gallons in capacity, including advertising displayed on such waste disposal receptacles, may be installed within the right-of-way limits of any municipal, county, or state road, except a limited access highway; provided that written authorization has been given to a qualified private supplier of such service by the appropriate municipal or county government. A municipality or county may authorize the installation, *with or* without public bid, of waste disposal receptacles together with advertising displayed thereon within the right-of-way limits of such roads. Such waste disposal receptacles may not interfere with right-of-way preservation and maintenance.

(3) The department has the authority to direct the immediate relocation or removal of any bench, transit shelter, or waste disposal receptacle which endangers life or property, except that transit bus benches which have been placed in service prior to April 1, 1992, do not have to comply with bench size and advertising display size requirements which have been established by the department prior to March 1, 1992. Any transit bus bench that was in service prior to April 1, 1992, may be replaced with a bus bench ~~of the same size or smaller~~, if the bench is damaged or destroyed or otherwise becomes unusable. *As of July 1, 2001, the department, municipality, or county may direct the removal of any bench, transit shelter, or waste disposal receptacle, or advertisement thereon, if the department, municipality, or county determines that the bench, transit shelter, or waste disposal receptacle is structurally unsound or in visible disrepair.*

(4) No bench, transit shelter, or waste disposal receptacle, or advertising thereon, shall be erected or so placed on the right-of-way of any road which conflicts with the requirements of federal law, regulations, or safety standards, thereby causing the state or any political subdivision the loss of federal funds. Competition among persons seeking to provide bench, transit shelter, or waste disposal receptacle services or advertising on such benches, shelters, or receptacles may be regulated, restricted, or denied by the appropriate local government entity consistent with the provisions of this section.

(5) Street light poles, including attached public service messages and advertisements, may be located within the right-of-way limits of municipal and county roads in the same manner as benches, transit shelters, and waste receptacles, as provided in this section and in accordance with municipal and county ordinances. Public service messages and advertising may be installed on street light poles on roads on the State Highway System in accordance with height, size, setback,

spacing distance, duration of display, safety, traffic control, and permitting requirements established by administrative rule of the Department of Transportation. Public service messages and advertisements shall be subject to bilateral agreements, where applicable, to be negotiated with the owner of the street light poles which shall consider, among other things, power source rates, design, safety, operational and maintenance concerns and other matters of public importance. For the purposes of this section, "street light poles" does not include electric transmission or distribution poles. The department shall have authority to establish administrative rules to implement this subsection. No advertising on light poles shall be permitted on the Interstate Highway System. No permanent structures carrying advertisements attached to light poles shall be permitted on the National Highway System.

(6)~~(5)~~ Wherever the provisions of this section are inconsistent with other provisions of this chapter or with the provisions of chapter 125, chapter 335, chapter 336, or chapter 479, the provisions of this section shall prevail.

Section 63. Subsection (10) of section 768.28, Florida Statutes, is amended to read:

768.28 Waiver of sovereign immunity in tort actions; recovery limits; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.—

(10)(a) Health care providers or vendors, or any of their employees or agents, that have contractually agreed to act as agents of the Department of Corrections to provide health care services to inmates of the state correctional system shall be considered agents of the State of Florida, Department of Corrections, for the purposes of this section, while acting within the scope of and pursuant to guidelines established in said contract or by rule. The contracts shall provide for the indemnification of the state by the agent for any liabilities incurred up to the limits set out in this chapter.

(b) This subsection shall not be construed as designating persons providing contracted health care services to inmates as employees or agents of the state for the purposes of chapter 440.

(c) For purposes of this section, regional poison control centers created in accordance with s. 395.1027 and coordinated and supervised under the Division of Children's Medical Services Prevention and Intervention of the Department of Health, or any of their employees or agents, shall be considered agents of the State of Florida, Department of Health. Any contracts with poison control centers must provide, to the extent permitted by law, for the indemnification of the state by the agency for any liabilities incurred up to the limits set out in this chapter.

(d) For the purposes of this section, operators of rail services and providers of security for rail services, or any of their employees or agents, that have contractually agreed to act as agents of the Tri-County Commuter Rail Authority to operate rail services or provide security for rail services, shall be considered agents of the State of Florida while acting within the scope of and pursuant to guidelines established in said contract or by rule. The contract shall provide for the indemnification of the state by the agent for any liability incurred up to the limits set out in this chapter.

Section 64. Section 337.025, Florida Statutes, is amended to read:

337.025 Innovative highway projects; department to establish program.—The department is authorized to establish a program for highway projects demonstrating innovative techniques of highway construction, maintenance, and finance which have the intended effect of controlling time and cost increases on construction projects. Such techniques may include, but are not limited to, state-of-the-art technology for pavement, safety, and other aspects of highway construction and maintenance; innovative bidding and financing techniques; accelerated construction procedures; and those techniques that have the potential to reduce project life cycle costs. To the maximum extent practical, the department must use the existing process to award and administer construction and maintenance contracts. When specific innovative techniques are to be used, the department is not required to adhere to those provisions of law that would prevent, preclude, or in any way prohibit the department from using the innovative technique. However, prior to using an innovative technique that is inconsistent with another provision of law, the department must document in writing the need for the exception and identify what benefits the traveling public and the affected community are anticipated to receive. The department may enter into no more than $120 million in contracts annually for the purposes authorized by this section. *However, the annual cap on contracts provided in this section shall not apply to turnpike enterprise projects nor shall turnpike enterprise projects be counted toward the department's annual cap.*

Section 65. Paragraph (c) of subsection (3) of section 337.11, Florida Statutes, is amended to read:

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

(3)

(c) No advertisement for bids shall be published and no bid solicitation notice shall be provided until title to all necessary rights-of-way and easements for the construction of the project covered by such advertisement or notice has vested in the state or a local governmental entity, and all railroad crossing and utility agreements have been executed. *The turnpike enterprise is exempt from this paragraph for a turnpike enterprise project.* Title to all necessary rights-of-way shall be deemed to have been vested in the State of Florida when such title has been dedicated to the public or acquired by prescription.

Section 66. Subsection (7) of section 338.165, Florida Statutes, is amended to read:

338.165 Continuation of tolls.—

(7) This section does not apply to the turnpike system as defined under the Florida Turnpike *Enterprise* Law.

Section 67. Section 338.22, Florida Statutes, is amended to read:

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

Section 68. Section 338.221, Florida Statutes, is amended to read:

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

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

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

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

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

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

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

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

(8) "Economically feasible" *for a proposed turnpike project* means *that the revenues of the project in combination with those of the existing turnpike system are sufficient to service the debt of the outstanding turnpike bonds to safeguard investors.* ~~:~~

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

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

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

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

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

Section 69. Section 338.2215, Florida Statutes, is created to read:

338.2215 Florida Turnpike Enterprise; legislative findings, policy, purpose, and intent.—It is the intent of the Legislature that the turnpike enterprise be provided additional powers and authority in order to maximize the advantages obtainable through fully leveraging the Florida Turnpike System asset. The additional powers and authority will provide the turnpike enterprise with the autonomy and flexibility to enable it to more easily pursue innovations as well as best practices found in the private sector in management, finance, organization, and operations. The additional powers and authority are intended to improve cost-effectiveness and timeliness of project delivery, increase revenues, expand the turnpike system's capital program capability, and improve the quality of service to its patrons, while continuing to protect the turnpike system's bondholders and further preserve, expand, and improve the Florida Turnpike System.

Section 70. Section 338.2216, Florida Statutes, is created to read:

338.2216 Florida Turnpike Enterprise; powers and authority.—

(1)(a) In addition to the powers granted to the department, the Florida Turnpike Enterprise has full authority to exercise all powers granted to it under this chapter. Powers shall include, but are not limited to, the ability to plan, construct, maintain, repair, and operate the Florida Turnpike System.

(b) It is the express intention of this part that the Florida Turnpike Enterprise be authorized to plan, develop, own, purchase, lease, or otherwise acquire, demolish, construct, improve, relocate, equip, repair, maintain, operate, and manage the Florida Turnpike System; to expend funds to publicize, advertise, and promote the advantages of using the turnpike system and its facilities; and to cooperate, coordinate, partner, and contract with other entities, public and private, to accomplish these purposes.

(c) The executive director of the turnpike enterprise shall appoint a staff, which shall be exempt from part II of chapter 110. The fiscal functions of the turnpike enterprise, including those arising under chapters 216, 334, and 339, shall be managed by the turnpike enterprise chief financial officer, who shall possess qualifications similar to those of the department comptroller.

(2)(a) The department shall have the authority to employ procurement methods available to the Department of Management Services under chapters 255 and 287 and under any rule adopted under such chapters solely for the benefit of the turnpike enterprise. In order to enhance the effective and efficient operation of the turnpike enterprise, the department may adopt rules for procurement procedures alternative to chapters 255, 287, and 337.

(3)(a) The turnpike enterprise shall be a single budget entity and shall develop a budget pursuant to chapter 216. The turnpike enterprise's budget shall be submitted to the Legislature along with the department's budget.

(b) Notwithstanding the provisions of s. 216.301 to the contrary and in accordance with s. 216.351, the Executive Office of the Governor shall, on July 1 of each year, certify forward all unexpended funds appropriated or provided pursuant to this section for the turnpike enterprise. Of the unexpended funds certified forward, any unencumbered amounts shall be carried forward. Such funds carried forward shall not exceed 5 percent of the total operating budget of the turnpike enterprise. Funds carried forward pursuant to this section may be used for any lawful purpose, including, but not limited to, promotional and market activities, technology, and training. Any certified forward funds remaining undisbursed on December 31 of each year shall be carried forward.

(4) The powers conferred upon the turnpike enterprise under ss. 338.22-338.241 shall be in addition and supplemental to the existing powers of the department and the turnpike enterprise, and these powers shall not be construed as repealing any provision of any other law, general or local, but shall supersede such other laws that are inconsistent with the exercise of the powers provided under ss. 338.22-338.241 and provide a complete method for the exercise of such powers granted.

Section 71. Subsection (4) of section 338.223, Florida Statutes, is amended to read:

338.223 Proposed turnpike projects.—

(4) The department is authorized, with the approval of the Legislature, to use federal and state transportation funds to lend or pay a portion of the operating, maintenance, and capital costs of turnpike projects. ~~Federal and state transportation funds included in an adopted work program, or the General Appropriations Act, for a turnpike project do not have to be reimbursed to the State Transportation Trust Fund, or used in determining the economic feasibility of the proposed project.~~ For operating and maintenance loans, the maximum net loan amount in any fiscal year shall not exceed *1.5* ~~0.5~~ percent of state transportation tax revenues for that fiscal year.

Section 72. Subsection (2) of section 338.227, Florida Statutes, is amended to read:

338.227 Turnpike revenue bonds.—

(2) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the turnpike projects for which such bonds shall have been issued, except as provided in the State Bond Act. Such proceeds shall be disbursed and used as provided by ss. 338.22-338.241 and in such manner and under such restrictions, if any, as the Division of Bond Finance may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. All revenues and bond proceeds from the turnpike system received by the department pursuant to ss. 338.22-338.241, the Florida Turnpike *Enterprise* Law, shall be used only for the cost of turnpike projects and turnpike improvements and for the administration, operation, maintenance, and financing of the turnpike system. No revenues or bond proceeds from the turnpike system shall be spent for the operation, maintenance, construction, or financing of any project which is not part of the turnpike system.

Section 73. Subsection (2) of section 338.2275, Florida Statutes, is amended to read:

338.2275 Approved turnpike projects.—

(2) The department is authorized to use turnpike revenues, the State Transportation Trust Fund moneys allocated for turnpike projects pursuant to s. 338.001, federal funds, and bond proceeds, and shall use the most cost-efficient combination of such funds, in developing a financial plan for funding turnpike projects. The department must submit a report of the estimated cost for each ongoing turnpike project and for each planned project to the Legislature 14 days before the convening of the regular legislative session. Verification of economic feasibility and statements of environmental feasibility for individual turnpike projects must be based on the entire project as approved. Statements of environmental feasibility are not required for those projects listed in s. 12, chapter 90-136, Laws of Florida, for which the Project Development and Environmental Reports were completed by July 1, 1990. ~~All required environmental permits must be obtained before~~ The department may advertise for bids for contracts for the construction of any turnpike project *prior to obtaining required environmental permits*.

Section 74. Section 338.234, Florida Statutes, is amended to read:

338.234 Granting concessions or selling along the turnpike system.—

~~(1)~~ The department may *enter into contracts or licenses with any person for the sale of* ~~grant concessions or sell~~ services or products *or business opportunities on* ~~along~~ the turnpike system*, or the turnpike enterprise may sell services, products, or business opportunities on the turnpike system,* which benefit the traveling public *or provide additional revenue to the turnpike system*. Services*, business opportunities,* and products authorized *to be sold* include, but are not limited to, ~~the sale of~~ motor fuel, *vehicle* towing*,* and *vehicle* maintenance services; ~~the sale of~~ food with attendant nonalcoholic beverages; *lodging, meeting rooms, and other business services opportunities; advertising and other promotional opportunities, which advertising and promotions must be consistent with the dignity and integrity of the state;* ~~the sale of~~ state lottery tickets *sold* by authorized retailers; *games and amusements that* ~~the granting of concessions for amusement devices which~~ operate by the application of skill, not including games of chance as defined in s. 849.16 or other illegal gambling games; ~~the sale of~~ Florida citrus, goods promoting the state*,* or handmade goods produced within the state; *and* ~~the granting of concessions for equipment which provides~~ travel information*,* ~~or~~ tickets, reservations, or other related services~~; and the granting of concessions which provide banking and other business services. The department may also provide information centers on the plazas for the benefit of the public~~.

~~(2) The department may provide an opportunity for governmental agencies to hold public events at turnpike plazas which educate the traveling public as to safety, travel, and tourism.~~

Section 75. Subsection (3) of section 338.235, Florida Statutes, is amended to read:

338.235 Contracts with department for provision of services on the turnpike system.—

(3) The department may enter into contracts or agreements, with or without competitive bidding or procurement, to make available, on a fair, reasonable, nonexclusive, and nondiscriminatory basis, turnpike property and other turnpike structures, for the placement of wireless facilities by any wireless provider of mobile services as defined in 47 U.S.C. s. 153(n) or s. 332(d), and any telecommunications company as defined in s. 364.02 when it is determined to be practical and feasible to make such property or structures available. The department may, without adopting a rule, charge a just, reasonable, and nondiscriminatory fee for placement of the facilities, payable annually, based on the fair market value of space used by comparable communications facilities in the state. The department and a wireless provider may negotiate the reduction or elimination of a fee in consideration of *goods or services* ~~service~~ provided to the department by the wireless provider. All such fees collected by the department shall be deposited directly into the State Agency Law Enforcement Radio System Trust Fund and may be used to construct, maintain, or support the system.

Section 76. Subsection (2) of section 338.239, Florida Statutes, is amended to read:

338.239 Traffic control on the turnpike system.—

(2) Members of the Florida Highway Patrol are vested with the power, and charged with the duty, to enforce the rules of the department. *Approved expenditures* ~~Expenses~~ incurred by the Florida Highway Patrol in carrying out its powers and duties under ss. 338.22-338.241 may be treated as a part of the cost of the operation of the turnpike system, and the Department of Highway Safety and Motor Vehicles shall be reimbursed by the *turnpike enterprise* ~~Department of Transportation~~ for such expenses incurred on the turnpike *system* ~~mainline, which is that part of the turnpike system extending from the southern terminus in Florida City to the northern terminus in Wildwood including all contiguous sections~~. *Florida Highway Patrol Troop K shall be headquartered with the turnpike enterprise and shall be the official and preferred law enforcement troop for the turnpike system. The Department of Highway Safety and Motor Vehicles may, upon request of the executive director of the turnpike enterprise and approval of the Legislature, increase the number of authorized positions for Troop K, or the executive director of the turnpike enterprise may contract with the Department of Highway Safety and Motor Vehicles for additional troops to patrol the turnpike system.*

Section 77. Section 338.241, Florida Statutes, is amended to read:

338.241 Cash reserve requirement.—The budget for the turnpike system shall be so planned as to provide for a cash reserve *at the end of each fiscal year* of not less than *5* ~~10~~ percent of the unpaid balance of all turnpike system contractual obligations, excluding bond obligations, to be paid from revenues.

Section 78. Section 338.251, Florida Statutes, is amended to read:

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

(1) The department is authorized to advance funds for preliminary engineering, traffic and revenue studies, environmental impact studies, financial advisory services, engineering design, right-of-way map preparation, other appropriate project-related professional services, and advanced right-of-way acquisition to expressway authorities, *the turnpike enterprise,* counties, or other local governmental entities that desire to undertake revenue-producing road projects.

(2) No funds shall be advanced pursuant to this section unless the following is documented to the department:

(a) The proposed facility is consistent with the adopted transportation plan of the appropriate metropolitan planning organization and the Florida Transportation Plan.

(b) A proposed 2-year budget detailing the use of the cash advance and a project schedule consistent with the budget.

(3) Prior to receiving any moneys for advance right-of-way acquisition, it shall be shown that such right-of-way will substantially appreciate prior to construction and that savings will result from its advance purchase. Any such request for moneys for advance right-of-way acquisition shall be accompanied by a preliminary engineering study, environmental impact study, traffic and revenue study, and right-of-way maps along with either a negotiated contract for purchase of the right-of-way, such contract to include a clause stating that it is subject to funding by the department or the Legislature, or an appraisal of the subject property for purpose of condemnation proceedings.

(4) Each advance pursuant to this section shall require repayment out of the initial bond issue revenue or, at the discretion of the governmental entity *or the turnpike enterprise* ~~of the facility~~, repayment shall begin no later than 7 years after the date of the advance, provided repayment shall be completed no later than 12 years after the date of the advance. However, such election shall be made at the time of the initial bond issue, and, if repayment is to be made during the time period referred to above, a schedule of such repayment shall be submitted to the department.

(5) No amount in excess of $1.5 million annually shall be advanced to any one governmental entity *or the turnpike enterprise* pursuant to this section without specific appropriation by the Legislature.

(6) Funds may not be advanced for funding final design costs beyond 60 percent completion until an acceptable plan to finance all project costs, including the reimbursement of outstanding trust fund advances, is approved by the department.

(7) The department may advance funds sufficient to defray shortages in toll revenues of facilities receiving funds pursuant to this section for the first 5 years of operation, up to a maximum of $5 million per year, to be reimbursed to this fund within 5 years of the last advance hereunder. Any advance under this provision shall require specific appropriation by the Legislature.

(8) No expressway authority, county, or other local governmental entity*, or the turnpike enterprise,* shall be eligible to receive any advance under this section if the expressway authority, county, or other local governmental entity *or the turnpike enterprise* has failed to repay any previous advances as required by law or by agreement with the department.

(9) Repayment of funds advanced, including advances made prior to January 1, 1994, shall not include interest. However, interest accruing to local governmental entities *and the turnpike enterprise* from the investment of advances shall be paid to the department.

Section 79. Subsection (1) of section 553.80, Florida Statutes, as amended by section 86 of chapter 2000-141, Laws of Florida, is amended to read:

553.80 Enforcement.—

(1) Except as provided in paragraphs *(a)-(f)* ~~(a)-(c)~~, each local government and each legally constituted enforcement district with statutory authority shall regulate building construction and, where authorized in the state agency's enabling legislation, each state agency shall enforce the Florida Building Code required by this part on all public or private buildings, structures, and facilities, unless such responsibility has been delegated to another unit of government pursuant to s. 553.79(9).

(a) Construction regulations relating to correctional facilities under the jurisdiction of the Department of Corrections and the Department of Juvenile Justice are to be enforced exclusively by those departments.

(b) Construction regulations relating to elevator equipment under the jurisdiction of the Bureau of Elevators of the Department of Business and Professional Regulation shall be enforced exclusively by that department.

(c) In addition to the requirements of s. 553.79 and this section, facilities subject to the provisions of chapter 395 and part II of chapter 400 shall have facility plans reviewed and construction surveyed by the state agency authorized to do so under the requirements of chapter 395 and part II of chapter 400 and the certification requirements of the Federal Government.

(d) Building plans approved pursuant to s. 553.77(6) and state-approved manufactured buildings, including buildings manufactured and assembled offsite and not intended for habitation, such as lawn storage buildings and storage sheds, are exempt from local code enforcing agency plan reviews except for provisions of the code relating to erection, assembly, or construction at the site. Erection, assembly, and construction at the site are subject to local permitting and inspections.

(e) Construction regulations governing public schools, state universities, and community colleges shall be enforced as provided in subsection (6).

(f) Construction regulations relating to transportation facilities under the jurisdiction of the turnpike enterprise of the Department of Transportation shall be enforced exclusively by the turnpike enterprise.

The governing bodies of local governments may provide a schedule of fees, as authorized by s. 125.56(2) or s. 166.222 and this section, for the enforcement of the provisions of this part. Such fees shall be used solely for carrying out the local government's responsibilities in enforcing the Florida Building Code. The authority of state enforcing agencies to set fees for enforcement shall be derived from authority existing on July 1, 1998. However, nothing contained in this subsection shall operate to limit such agencies from adjusting their fee schedule in conformance with existing authority.

Section 80. *(1) This shall be known as the "Dori Slosberg Act of 2001."*

(2) Notwithstanding the provisions of s. 318.121, Florida Statutes, a board of county commissioners may require, by ordinance, that the clerk of the court collect an additional $3 with each civil traffic penalty, which shall be used to fund driver education programs in public and nonpublic schools. The ordinance shall provide for the board of county commissioners to administer the funds. The funds shall be used for direct educational expenses and shall not be used for administration.

Section 81. *Small Aircraft Transportation System; legislative intent.—*

(1) The Legislature recognizes that the State of Florida has an opportunity to participate with the National Aeronautics and Space Administration, the Federal Aviation Administration, the aircraft industry, and various universities as partners to provide Florida with improved transportation access and mobility for all of its communities, rural and urban alike, by participating in NASA's Small Aircraft Transportation System. The Legislature recognizes that state support can be leveraged with current federal and industry resources to provide an infrastructure that utilizes the state's network of 129 public-use airports and provides a transportation system capable of competing with the automobile in both convenience and affordability.

(2) The Legislature hereby expresses its commitment, through participation in the Small Aircraft Transportation System, to:

(a) Improve travel choices, mobility, and accessibility for the citizens of the state.

(b) Enhance economic growth and competitiveness for the rural and remote communities of the state through improved transportation choices.

(c) Maintain the state's leadership and proactive role in aviation and aerospace through active involvement in advancing aviation technology infrastructure and capabilities.

(d) Take advantage of federal programs that can bring investments in technology, research, and infrastructure capable of enhancing competitiveness and opportunities for industry and workforce development.

(e) Participate in opportunities that can place the state's industries and communities in a first-to-market advantage when developing, implementing, and proving new technologies which have the potential to satisfy requirements for the public good.

(f) Participate as partners with the National Aeronautics and Space Administration, the Federal Aviation Administration, the aircraft industry, local governments, and those universities which comprise the Southeast SATSLab Consortium to implement a Small Aircraft Transportation System infrastructure as a statewide network of airports to support the commitments described in paragraphs (a)-(e).

Section 82. *(1) That portion of I-275 which begins at the Pinellas County end of the Howard Franklin Bridge and, proceeding south, ends at the beginning of the Sunshine Skyway Bridge is designated as the "St. Petersburg Parkway."*

(2) The Department of Transportation is directed to erect suitable markers designating the "St. Petersburg Parkway" as described in subsection (1).

Section 83. *George Crady Bridge designation; markers.—*

(1) The old Nassau Sound Bridge (bridge number 750055) on State Road 105 in Nassau and Duval Counties is hereby redesignated as the "George Crady Bridge."

(2) The Department of Transportation is directed to erect suitable markers designating the "George Crady Bridge" as described in subsection (1).

Section 84. *Doyle Parker Memorial Highway designation; markers.—*

(1) U.S. Highway 17 from Wauchula to Bowling Green is hereby designated as the "Doyle Parker Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating the "Doyle Parker Memorial Highway" as described in subsection (1).

Section 85. *Lynn Haven Parkway designation; markers.—*

(1) That portion of State Road 77 between Baldwin Road and Mowat School Road in the City of Lynn Haven, Bay County, is hereby designated as the "Lynn Haven Parkway."

(2) The Department of Transportation is directed to erect suitable markers designating the "Lynn Haven Parkway" as described in subsection (1).

Section 86. *Bennett C. Russell Florida/Alabama Parkway designation; markers.—*

(1) State Road 87 from the Florida/Alabama border to U.S. Highway 98 in Santa Rosa County is hereby designated as the "Bennett C. Russell Florida/Alabama Parkway."

(2) The Department of Transportation is directed to erect suitable markers designating the "Bennett C. Russell Florida/Alabama Parkway" as described in subsection (1).

Section 87. *Mamie Langdale Memorial Bridge designation; markers.—*

(1) The new U.S. Highway 27 bridge in the City of Moore Haven in Glades County is hereby designated as the "Mamie Langdale Memorial Bridge."

(2) The Department of Transportation is directed to erect suitable markers designating the "Mamie Langdale Memorial Bridge" as described in subsection (1).

Section 88. *Martin Luther King, Jr., Memorial Highway designation; markers.—*

(1) That portion of Highway 41 located in White Springs is hereby designated as the "Martin Luther King, Jr., Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating the "Martin Luther King, Jr., Memorial Highway" as described in subsection (1).

Section 89. *Purple Heart Highway designation; markers.—*

(1) Interstate 75 from the Georgia state line to the city limits of Ocala is hereby designated as the "Purple Heart Highway."

(2) The Department of Transportation is directed to erect suitable markers designating the "Purple Heart Highway" as described in subsection (1).

Section 90. *Jean-Jacques Dessalines Boulevard designation; markers.—*

(1) State Road 944 on N.W. 54th Street in Miami-Dade County, from the west boundary of State House District 108 approaching U.S. 1, is hereby designated as "Jean-Jacques Dessalines Boulevard."

(2) The Department of Transportation is directed to erect suitable markers designating the "Jean-Jacques Dessalines Boulevard" as described in subsection (1).

Section 91. *Florida Highway Patrol Memorial Highway designation; markers.—*

(1) I-75 from Tampa to the Georgia State Line is hereby designated as the "Florida Highway Patrol Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating the "Florida Highway Patrol Memorial Highway" as described in subsection (1).

Section 92. *Jerome A. Williams Memorial Highway designation; markers.—*

(1) That portion of U.S. Highway 17 from Crescent City south to the Putnam/Volusia County boundary is hereby designated as the "Jerome A. Williams Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating the "Jerome A. Williams Memorial Highway" as described in subsection (1).

Section 93. *Borinquen Boulevard designation; markers.—*

(1) That portion of North 36th Street (State Road 25) from Biscayne Boulevard to N.W. 7th Avenue is hereby designated "Borinquen Boulevard" in honor of Miami-Dade County's Puerto Rican community.

(2) The Department of Transportation is directed to erect suitable markers designating the "Borinquen Boulevard" as described in subsection (1).

Section 94. *Korean War Veterans Memorial Highway designation; markers.—*

(1) Highway 417 in Seminole County is hereby designated as the "Korean War Veterans Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating the "Korean War Veterans Memorial Highway" as described in subsection (1).

Section 95. *Veterans Memorial Highway designation; markers.—*

(1) That portion of State Road 100, beginning at Highway A1A in Flagler County and continuing east to U.S. 1 in Bunnell, is hereby designated as the "Veterans Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating the "Veterans Memorial Highway" as described in subsection (1).

Section 96. *Toni Jennings Boulevard designated; Department of Transportation to erect suitable markers.—*

(1) That portion of Semoran Boulevard in the City of Orlando in Orange County beginning at the Bee Line Expressway (State Road 528) on the South to Curry Ford Road on the North is hereby designated as "Toni Jennings Boulevard."

(2) The Department of Transportation is directed to erect suitable markers designating Toni Jennings Boulevard as described in subsection (1).

Section 97. *Ed Fraser Memorial Highway designation; markers.—*

(1) State Road 121, from the Georgia-Florida line in Baker County to the city limits of Lake Butler in Union County is hereby designated as the Ed Fraser Memorial Highway.

(2) The Department of Transportation is hereby directed to erect suitable markers designating the Ed Fraser Memorial Highway as described in subsection (1).

Section 98. *Correctional Officers Memorial Highway designated; markers.—*

(1) That portion of State Road 16 from the northwestern Starke city limits in Bradford County to State Road 121 in Union County is hereby designated as the "Correctional Officers Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating the Correctional Officers Memorial Highway as described in subsection (1).

Section 99. *"Steven Cranman Boulevard" and "Ethel Beckford Boulevard" designated; Department of Transportation to erect suitable markers.—*

(1) That portion of U.S. 1, between S.W. 136th Street and S.W. 186th Street in Miami-Dade County is hereby designated as Steven Cranman Boulevard. The Department of Transportation is directed to erect suitable markers designating Steven Cranman Boulevard as described in this subsection.

(2) That portion of S.W. 186th Street between U.S. 1 and S.W. 107th Avenue in Miami-Dade County is hereby designated as Ethel Beckford Boulevard. The Department of Transportation is directed to erect suitable markers designating Ethel Beckford Boulevard as described in this subsection.

Section 100. *"Phicol Williams Boulevard" designated; Department of Transportation to erect suitable markers.—*

(1) That portion of State Road 5 (U.S. 1) between S.W. 312th Street and S.W. 328th Street in Miami-Dade County is hereby designated as Phicol Williams Boulevard.

(2) The Department of Transportation is directed to erect suitable markers designating Phicol Williams Boulevard as described in subsection (1).

Section 101. *Section 316.3027 and subsection (3) of section 316.610, Florida Statutes, are repealed.*

Section 102. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 3 through page 10, line 27,
remove from the title of the bill: all of said lines,

and insert in lieu thereof: amending s. 20.23, F.S.; revising language with respect to the organization of the department; deleting responsibilities assigned to the secretary; providing that the secretary or his or her designee shall submit a report on major actions at each meeting of the Florida Transportation Commission; revising language with respect to assistant secretaries; creating the Office of Comptroller; deleting language with respect to the inspector general and comptroller; changing the Turnpike District into a turnpike enterprise; exempting the turnpike enterprise from department policies, procedures, and standards, subject to the Secretary of Transportation's decision to apply such requirements; giving the secretary authority to promulgate rules that will assist the turnpike enterprise in using best business practices; amending s. 110.205, F.S.; correcting cross references, to conform; amending s. 163.3180, F.S.; extending a deadline for development on certain roads; amending s. 189.441, F.S.; removing an exemption to s. 287.055, F.S.; amending s. 206.46, F.S.; revising language with respect to the State Transportation Trust Fund; increasing the debt service cap; amending s. 255.20, F.S.; exempting certain transportation projects for certain competitive bidding requirements; amending s. 287.005, F.S.; increasing the amount defining a continuing contract; amending s. 311.09, F.S.; directing seaports to abide by the provisions of s. 287.055, F.S., related to competitive negotiation; amending s. 315.031, F.S.; authorizing certain entertainment expenditures for seaports; amending s. 316.302, F.S.; revising a date concerning commercial motor vehicles to conform to federal regulations; amending s. 316.3025, F.S.; updating a cross reference to federal trucking regulations; amending s. 316.515, F.S.; deleting a requirement for a department permit with respect to the height of automobile transporters; amending s. 316.535, F.S.; adding weight requirements for certain commercial trucks; amending s. 316.545, F.S.; correcting a cross reference; amending s. 330.27, F.S.; revising definitions relating to aviation; providing definitions; amending s. 330.29, F.S.; clarifying the department's rulemaking authority with respect to airports; amending s. 330.30, F.S.; eliminating airport license fees; revising language with respect to the department's site approval process; eliminating on-site inspections of private airports; creating a registration process for private airports; providing conditions; deleting obsolete language; providing exceptions; amending s. 330.35, F.S.; deleting obsolete language with respect to airport zoning; amending s. 330.36, F.S.; providing conditions under which municipalities may prohibit or otherwise regulate seaplanes; amending s. 331.308, F.S.; revising membership of the board of supervisors of the Spaceport Florida Authority; amending s.332.004, F.S.; adding off-airport noise mitigation projects to the projects eligible for federal and state matching funds; amending s. 334.044, F.S.; authorizing the department to expend promotional money on scenic highway projects; authorizing the department to delegate its drainage permitting responsibilities to other governmental entities under certain circumstances; amending s. 334.193, F.S.; providing for employee bidding by department employees; amending s. 334.30, F.S.; clarifying existing program for public-private transportation projects; specifying legislative approval for certain projects; specifying notice and selection requirements for projects under this section; allowing Internal Revenue Service Code chapter 63-20 corporations to participate in these public-private transportation projects; providing conditions for using loans from Toll Facilities Revolving Trust Fund; deleting obsolete language; creating s. 335.066, F.S.; creating the Safe Paths to Schools Program; directing the department to establish the program and to authorize establishment of a grant program for purposes of funding the program; authorizing the department to adopt rules to administer the program; amending s. 335.141, F.S.; eliminating the requirement that the department regulate all train speeds; amending s. 336.41, F.S.; clarifying that a contract already qualified by the Department of Transportation is presumed qualified to bid on county road projects; amending s. 336.44, F.S.; replacing the term "competent" with "responsible bidder"; amending s. 337.107, F.S.; authorizing the department to enter into design-build contracts that include right-of-acquisition services; amending s. 337.11, F.S.; raising the cap on certain contracts into which the department can enter without first obtaining bids; adding enhancement projects to the types of projects that can be combined into a design-build contract; specifying that construction on design-build projects may not begin until certain conditions have been met; amending s. 337.14, F.S.; clarifying that contractors qualified by the Department of Transportation are presumed qualified to bid on projects for expressway authorities; amending s. 337.401, F.S.; providing that for projects on public roads or rail corridors under the department's jurisdiction, a utility relocation schedule and relocation agreement may be executed in lieu of a written permit; amending s. 339.08, F.S.; clarifying language with respect to the use of moneys in the State Transportation Trust Fund; amending s. 339.12, F.S.; raising the cap on the amount of money that a local government can advance the

department for state road projects; providing that local governments which perform projects for the department are compensated promptly; amending s. 339.135, F.S.; conforming language with respect to the tentative work program; extending the concurrency deadline for certain department road projects; conforming a reference to the turnpike district; amending s. 339.137, F.S.; revising definitions; amending criteria for program eligibility; directing the advisory council to develop methodology for ranking and prioritizing project proposals; directing the Florida Transportation Commission to review the proposed project list before submittal to the Legislature; amending s. 341.051, F.S.; deleting obsolete language; amending s. 341.302, F.S.; deleting obsolete language; amending s. 348.0003, F.S.; giving a county governing body authority to set qualifications, terms of office, and obligations for the members of expressway authorities within their jurisdictions; amending ss. 348.0012, 348.754, 348.7543, 348.7544, 348.7545, 348.755, and 348.765, F.S.; giving the Orlando-Orange County Expressway Authority the ability to issue bonds, rather than issuance through the state Division of Bond Finance; amending s. 348.565, F.S.; adding the Leroy Selmon Crosstown Expressway connector to the legislatively approved list of expressway projects; amending s. 373.4137, F.S.; allowing transportation authorities created pursuant to chs. 348 and 349, F.S., to create environmental impact inventories and participate in a mitigation program to offset adverse impacts caused by their transportation projects; amending s. 373.414, F.S.; providing for legislative review of the uniform wetland mitigation assessment method rule; amending s. 475.011, F.S.; granting exemption from Florida licensing for certain firms or their employees under contract with the state or a local governmental entity to provide right-of-way acquisition services for property subject to condemnation; amending s. 479.15, F.S.; revising language with respect to harmony of regulations concerning lawfully erected signs; creating s. 479.25, F.S.; authorizing local governments to enter into agreements which allow outdoor signs to be erected above sound barriers; creating s. 70.20, F.S.; creating process for governmental entities and sign owners to enter into relocation and reconstruction agreements related to outdoor advertising signs; providing for just compensation to sign owners under certain conditions; amending s. 496.425, F.S.; redefining the term "facility"; creating s. 496.4256, F.S.; providing that a governmental entity or authority that owns or operates welcome centers, wayside parks, service plazas, or rest areas on the state highway system are not required to issue a permit to, or grant access to, any person for the purpose of soliciting funds; repealing s. 316.3027, F.S.; relating to identification requirements on certain commercial motor vehicles; amending s. 337.408, F.S.; revising language with respect to the regulation of benches, transit shelters, and waste disposal receptacles within rights-of-way; providing for regulation of street light poles; amending s. 380.0651, F.S.; excluding certain wholesaling facilities from development-of-regional-impact review; deleting provision which provides the development-of-regional-impact statewide guidelines and standards for airports; amending s. 768.28, F.S.; providing that certain operators of rail services and providers of security for rail services are agents of the state for certain purposes; providing for indemnification; repealing s. 316.610(3), F.S.; relating to certain inspections of certain commercial motor vehicles; amending s. 337.025, F.S.; eliminating cap on innovative highway projects for the turnpike enterprise; amending s. 337.11, F.S.; providing an exemption for a turnpike enterprise project; amending s. 338.22, F.S.; redesignating the Florida Turnpike Law as the Florida Turnpike Enterprise Law; amending s. 338.221, F.S.; redefining the term "economically feasible" as used with respect to turnpike projects; creating s. 338.2215, F.S.; providing legislative findings, policy, purpose, and intent for the Florida Turnpike Enterprise; creating s. 338.2216, F.S.; prescribing the power and authority of the turnpike enterprise; amending s. 338.223, F.S.; increasing the maximum loan amount for the turnpike enterprise; amending ss. 338.165 and 338.227, F.S.; conforming provisions; amending s. 338.2275, F.S.; authorizing the turnpike enterprise to advertise for bids for contracts prior to obtaining environmental permits; amending s. 338.234, F.S.; authorizing the turnpike enterprise to expand business opportunities; amending s. 338.235, F.S.; authorizing the consideration of goods instead of fees; amending s. 338.239, F.S.; providing that approved expenditure to the Florida Highway Patrol be paid by the turnpike enterprise; amending s. 338.241, F.S.; lowering the required cash reserve for the turnpike enterprise; amending s. 338.251, F.S.; conforming provisions; amending s. 553.80, F.S.; providing for self-regulation; amending s. 333.06, F.S.; requiring each licensed publicly owned and operated airport to prepare an airport master plan; providing notice to affected local governments with respect thereto; amending s. 380.06, F.S., relating to developments of regional impact; removing provisions which specify that certain changes in airport facilities or increases in the storage capacity for chemical or petroleum storage facilities constitute a substantial deviation and require further development-of-regional-impact review; exempting certain proposed facilities for the storage of any petroleum product from development-of-regional-impact requirements; amending ss. 163.3180 and 331.303, F.S.; correcting references; providing application with respect to airports and petroleum storage facilities which have received a development-of-regional-impact development order, or which have an application for development approval or notification of proposed change pending, on the effective date of the act; providing for severability; authorizing a board of county commissioners to require by ordinance that an additional amount be collected with each civil fine and used to fund traffic education and awareness programs; designating a number of roads and bridges in honor of certain individuals; providing an effective date.

Rep. Russell moved the adoption of the amendment.

Representative(s) Heyman offered the following:

(Amendment Bar Code: 135173)

Amendment 1 to Amendment 8 (with title amendment)—On page 1, between lines 16 & 17,

insert:

Section 1. Section 316.655, Florida Statutes, is amended to read:

316.655 Penalties*; enhanced fines in certain circumstances*.—

(1) A violation of any of the provisions of this chapter, except those violations with a specific criminal charge, as enumerated in s. 318.17, are infractions, as defined in s. 318.13(3). Except for violations of s. 316.302, infractions of this chapter are punishable as provided in chapter 318. Any person convicted of a violation of or otherwise found to be in violation of s. 316.063, s. 316.3025, s. 316.516, s. 316.545, or s. 316.550 shall be punished as specifically provided in that section.

(2) Drivers convicted of a violation of any offense prohibited by this chapter or any other law of this state regulating motor vehicles may have their driving privileges revoked or suspended by the court if the court finds such revocation or suspension warranted by the totality of the circumstances resulting in the conviction and the need to provide for the maximum safety for all persons who travel on or who are otherwise affected by the use of the highways of the state. In determining whether suspension or revocation is appropriate, the court shall consider all pertinent factors, including, but not limited to, such factors as the extent and nature of the driver's violation of this chapter, the number of persons killed or injured as the result of the driver's violation of this chapter, and the extent of any property damage resulting from the driver's violation of this chapter.

(3) Any operator of a motor vehicle who commits a moving violation in violation of this chapter, when the operator is engaged in a secondary activity which results in driver distraction, shall be subject to penalty enhancement of double the amount of the fine established under s. 318.18. The amount of the enhanced fine shall be distributed as provided for in s. 318.211.

Section 2. Section 318.211, Florida Statutes, is created to read:

318.211 Enhanced penalties for certain violations of chapter 316; distribution.—Moneys collected for violations described in s. 316.655(3) shall be distributed as follows:

(1) Forty-five percent of the enhanced penalty amount shall be deposited in the Brain and Spinal Cord Injury Rehabilitation Trust Fund for the purposes set forth in s. 381.79, with funds distributed evenly between the University of Miami's Miami Project to Cure Paralysis, the

University of South Florida's Spinal Cord and Head Injury Program, and the University of Florida's McKnight Brain Institute's Neurotrauma Program.

(2) Fifteen percent of the enhanced penalty amount shall be paid to the Department of Children and Family Services for deposit into the Child Welfare Training Trust Fund pursuant to s. 402.40, in memory of Helen Marie Witty.

(3) Ten percent of the enhanced penalty amount shall be deposited in the Transportation Disadvantaged Trust Fund created in Part 1 of Chapter 427, and used as provided therein.

(4) Ten percent of the enhanced penalty amount shall be deposited into the County Article V Trust Fund of the county in which the penalty was collected.

(5) Ten percent of the enhanced penalty amount shall be deposited in the endowment fund of the Florida Endowment Foundation for Vocational Rehabilitation established pursuant to s. 413.615.

(6) Ten percent of the enhanced penalty amount shall be deposited in the Criminal Justice Standards and Training Trust Fund created pursuant to s. 943.25(2).

And the title is amended as follows:

On page 147, between lines 18 and 19,

insert: amending s. 316.655, F.S.; providing for enhanced penalties for certain violations of chapter 316, F.S.; creating s. 318.211, F.S.; providing for the disposition of such enhanced penalties;

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

Representative(s) Brown offered the following:

(Amendment Bar Code: 871913)

Amendment 2 to Amendment 8 (with title amendment)—On page 94, between lines 24 and 25 of the amendment

insert:

Section 49. Subsection (18) of section 373.414, Florida Statutes, is amended to read:

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

(18) The department and each water management district responsible for implementation of the environmental resource permitting program shall develop a uniform wetland mitigation assessment method no later than October 1, 2001. The department shall adopt the uniform wetland mitigation assessment method by rule no later than January 31, 2002. *Rules promulgated pursuant to this subsection shall be submitted to the President of the Senate and the Speaker of the House of Representatives for review by the Legislature no later than 30 days prior to the 2002 regular session, and shall become effective only after legislative review. In its review, the Legislature may reject, modify, or take no action relative to such rules.* Once the department adopts the uniform wetland mitigation assessment method by rule, the uniform wetland mitigation assessment method shall be binding on the department, the water management districts, local governments, and any other governmental agencies and shall be the sole means to determine mitigation needed to offset adverse impacts and to award and deduct mitigation bank credits. A water management district and any other governmental agency subject to chapter 120 may apply the uniform wetland mitigation assessment method without the need to adopt it pursuant to s. 120.54. It shall be a goal of the department and water management districts that the uniform wetland mitigation assessment method developed be practicable for use within the timeframes provided in the permitting process and result in a consistent process for determining mitigation requirements. It shall be recognized that any such method shall require the application of reasonable scientific judgment. The uniform wetland mitigation assessment method must determine the value of functions provided by wetlands and other surface waters considering the current conditions of these areas, utilization by fish and wildlife, location, uniqueness, and hydrologic connection, in addition to the factors listed in s. 373.4136(4). The uniform wetland mitigation assessment method shall also account for the expected time-lag associated with offsetting impacts and the degree of risk associated with the proposed mitigation. The uniform wetland mitigation assessment method shall account for different ecological communities in different areas of the state. In developing the uniform wetland mitigation assessment method, the department and water management districts shall consult with approved local programs under s. 403.182 which have an established wetland mitigation program. The department and water management districts shall consider the recommendations submitted by such approved local programs, including any recommendations relating to the adoption by the department and water management districts of any uniform wetland mitigation methodology that has been adopted and used by an approved local program in its established wetland mitigation program. Environmental resource permitting rules may establish categories of permits or thresholds for minor impacts under which the use of the uniform wetland mitigation assessment method will not be required. The application of the uniform wetland mitigation assessment method is not subject to s. 70.001. In the event the rule establishing the uniform wetland mitigation assessment method is deemed to be invalid, the applicable rules related to establishing needed mitigation in existence prior to the adoption of the uniform wetland mitigation assessment method, including those adopted by a county which is an approved local program under s. 403.182, and the method described in paragraph (b) for existing mitigation banks, shall be authorized for use by the department, water management districts, local governments, and other state agencies.

(a) In developing the uniform wetland mitigation assessment method, the department shall seek input from the United States Army Corps of Engineers in order to promote consistency in the mitigation assessment methods used by the state and federal permitting programs.

(b) An entity which has received a mitigation bank permit prior to the adoption of the uniform wetland mitigation assessment method shall have impact sites assessed, for the purpose of deducting bank credits, using the credit assessment method, including any functional assessment methodology, which was in place when the bank was permitted; unless the entity elects to have its credits redetermined, and thereafter have its credits deducted, using the uniform wetland mitigation assessment method.

And the title is amended as follows:

On page 155, line 16 of the amendment
remove: all of said line

and insert in lieu thereof: thereto; amending s. 373.414, F.S.; providing for legislative review of the uniform wetland mitigation assessment method rule; amending s. 475.011, F.S.; amending s. 380.06, F.S., relating to

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

Reconsideration

On motion by Rep. Bennett, the House reconsidered the vote by which **Amendment 1 to Amendment 8** was adopted. The question recurred on the adoption of the amendment to the amendment, which failed of adoption.

Representative(s) Gardiner offered the following:

(Amendment Bar Code: 764783)

Amendment 3 to Amendment 8 (with title amendment)—On page 54, between lines 16 and 17,

insert:

Section 27. Section 336.12, Florida Statutes, is amended to read:

336.12 Closing and abandonment of roads; termination of easement; conveyance of fee*; optional conveyance for gated communities*.—

(1) Except as otherwise provided in subsection (2), the act of any commissioners in closing or abandoning any such road, or in renouncing or disclaiming any rights in any land delineated on any recorded map as a road, shall abrogate the easement theretofore owned, held, claimed or used by or on behalf of the public and the title of fee owners shall be freed and released therefrom; and if the fee of road space has been vested in the county, same will be thereby surrendered and will vest in the abutting fee owners to the extent and in the same manner as in case of termination of an easement for road purposes.

(2) The governing body of the county may abandon the roads and rights-of-way dedicated in a recorded residential subdivision plat and simultaneously convey the county's interest in such roads, rights-of-way, and appurtenant drainage facilities to a homeowners' association for the subdivision, if the following conditions have been met:

(a) The homeowners' association has requested the abandonment and conveyance in writing for the purpose of converting the subdivision to a gated neighborhood with restricted public access.

(b) No fewer than four-fifths of the owners of record of property located in the subdivision have consented in writing to the abandonment and simultaneous conveyance to the homeowners' association.

(c) The homeowners' association is both a corporation not for profit organized and in good standing under chapter 617, and a "homeowners' association" as defined in s. 720.301(7) with the power to levy and collect assessments for routine and periodic major maintenance and operation of street lighting, drainage, sidewalks, and pavement in the subdivision.

(d) The homeowners' association has entered into and executed such agreements, covenants, warranties, and other instruments; has provided, or has provided assurance of, such funds, reserve funds, and funding sources; and has satisfied such other requirements and conditions as may be established or imposed by the county with respect to the ongoing operation, maintenance, and repair and the periodic reconstruction or replacement of the roads, drainage, street lighting, and sidewalks in the subdivision after the abandonment by the county.

Upon abandonment of the roads and rights-of-way and the conveyance thereof to the homeowners' association, the homeowners' association shall have all the rights, title, and interests in the roads and rights-of-way, including all appurtenant drainage facilities, as were previously vested in the county. Thereafter, the homeowners' association shall hold the roads and rights-of-way in trust for the benefit of the owners of the property in the subdivision, and shall operate, maintain, repair, and, from time to time, replace and reconstruct the roads, street lighting, sidewalks, and drainage facilities as necessary to ensure their use and enjoyment by the property owners, tenants, and residents of the subdivision and their guests and invitees.

And the title is amended as follows:

On page 150, line 21, after "speeds;" of the amendment

insert: amending s. 336.12, F.S.; creating a process for homeowners' associations to be conveyed roads and rights-of-way abandoned by a county governing board for the purpose of converting subdivisions into gated neighborhoods;

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

THE SPEAKER IN THE CHAIR

Representative(s) Greenstein and Frankel offered the following:

(Amendment Bar Code: 852379)

Amendment 4 to Amendment 8 (with title amendment)—On page 113, line 31 through page 118, line 23,
remove from the amendment: all of said lines

and insert in lieu thereof:

Section 59. *(1) The Legislature recognizes that municipalities, counties, and other governmental entities are empowered to alter or remove signs along roadways for a public purpose and with just compensation, and that such compensation includes amortization or monetary compensation. Further, the Legislature recognizes compensation by amortization may burden, restrict, or limit private property rights. The Legislature therefore determines that there is an important state interest in balancing private property owners' rights and the responsibility of municipalities, counties, and other governmental entities to enhance the safety and aesthetics of their communities.*

(2) The Sign Valuation Task Force is created and shall be staffed by the Department of Transportation. The task force is charged with developing formulas for providing just compensation through monetary compensation or amortization periods. The task force shall consider whether amortization periods should include a premium in recognition of a potential burden upon private property owners' rights due to the private property owners being compelled by amortization to earn their own compensation.

(a) The task force shall be composed of five members. The President of the Senate and the Speaker of the House of Representatives shall each appoint two members. The remaining member shall be appointed by the Secretary of Transportation and shall be an appraiser who is a member of the Appraisal Institute. The task force members shall select a chair of the task force. All appointments must be made by July 15, 2001. Three members of the task force shall constitute a quorum, and the vote of three members shall be necessary for any action taken by the task force. The task force may meet upon the constitution of a quorum.

(b) Upon the appointment of the members, the task force shall schedule an organizational meeting to be held no later than August 1, 2001. Thereafter, the task force shall meet at least three times, preferably at various locations throughout the state. The task force may meet by teleconference.

(c) Members of the task force from the private sector are not entitled to per diem or reimbursement for travel expenses; however, members of the task force from the public sector are entitled to reimbursement, if any, from their respective agencies. Members of the task force may request staff assistance from the Department of Transportation as necessary.

(d) The task force shall conduct an in-depth review of sign valuation methods and methods of providing compensation. In its review, the task force shall analyze existing laws of this state, of other states, and of the Federal Government, including existing case law, all sign appraisal valuation methods, methods of providing compensation, and other related issues.

(e) The task force may conduct meetings, hearings, and workshops in Tallahassee and at other locations around the state, and may take evidence, testimony and debate at the meetings, hearings, and workshops. The task force must keep electronic recordings of the meetings, hearings, and workshops. Such recordings shall be preserved under chapters 119 and 257, Florida Statutes.

(f) The task force shall submit its findings and recommendations in the form of a written report to the President of the Senate, the Speaker of the House of Representatives, and the Governor by December 15, 2001. Upon submission of the written report, the task force shall cease to exist.

And the title is amended as follows:

On page 153, lines 8-14, of the amendment
remove: all of said lines

and insert in lieu thereof: barriers; creating the Sign Valuation Task Force; providing for appointment of members; providing duties and responsibilities; providing for a report and termination of the task force upon submission thereof; amending s. 496.425, F.S.;

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

Representative(s) Greenstein and Seiler offered the following:

(Amendment Bar Code: 314337)

Amendment 5 to Amendment 8—On page 116, line 16 through page 117, line 1,
remove from the amendment: all of said lines

and insert in lieu thereof: *(6) A municipality, county or other governmental entity may not condition the issuance or continued effectiveness of a development order, as defined in s. 163.3164(7) upon the removal or alteration of a lawfully erected sign unless the maintenance of a lawfully erected sign is inconsistent with the zoning designation or change sought by the owner of the property on which the sign has been erected.*

(7) A municipality, county, or other governmental entity who is voluntarily acquiring property upon which a sign owner has the legal right to maintain a lawfully erected sign, through a lease or other contractual arrangement, may not force, coerce, or otherwise require the property owner to violate the terms of the lease or contractual arrangement to cause the removal of the sign. This section shall not be construed to prohibit a municipality, county or other governmental agency from providing notice as required pursuant to s. 73.015, engaging in generally accepted real estate practices for the purchase of real property, or from having any sign removed, after appropriate notice to the sign owner, when title to the property has been acquired by the municipality, county or other governmental entity.

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

Representative(s) Greenstein offered the following:

(Amendment Bar Code: 051191)

Amendment 6 to Amendment 8—On page 118, between lines 23 & 24,

insert:

(13) This section shall not apply to a charter county with a population of 1.6 million or greater which is not a county defined in s. 125.011(1), 85 percent of more of the county's residents reside in incorporated areas, and the charger county enacted an ordinance regulating signs as described in subsection (9) within the unincorporated area of the county prior to January 1, 2001. Nothing herein is intended to abrogate the rights any sign owner may have to challenge the county's enforcement of its sign ordinance or the removal of any lawfully erected sign after the application amortization period established in the charter county's ordinance has expired.

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

The question recurred on the adoption of **Amendment 8**, as amended, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/CS/HB 1053. The vote was:

Session Vote Sequence: 352

Yeas—108

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

Nays—6

Berfield	Brummer	Cusack	Justice
Bilirakis	Carassas		

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

CS/CS/HB 807—A bill to be entitled An act relating to the Department of Highway Safety and Motor Vehicles; amending s. 320.08056, F.S.; increasing the fee for the Florida educational license plate; creating s. 860.146, F.S.; defining the terms "fake airbag" and "junk-filled airbag compartment"; prohibiting the sale, purchase, or installation of fake airbags or junk-filled airbag compartments; providing criminal penalties; amending s. 322.056, F.S.; authorizing the court to direct the Department of Highway Safety and Motor Vehicles to issue a driver's license restricted to business or employment purposes only to certain persons under age 18 found guilty of certain alcohol, drug, or tobacco offenses; amending s. 316.003, F.S.; providing that certain vehicles of the Department of Health are authorized emergency vehicles; providing that a motorized scooter is not a motor vehicle for traffic control purposes; creating a definition of the term motorized scooter; amending s. 316.006, F.S.; authorizing the installation of multiparty stop signs on certain roads; providing guidelines for the installation of such signage; amending s. 316.1951, F.S.; revising provisions related to parking vehicles to display for sale; amending s. 316.1975, F.S.; exempting operators of solid waste and recovered materials vehicles from provisions regarding unattended motor vehicles; amending s. 316.2065, F.S.; providing motorized scooter operating regulations; amending s. 316.228, F.S.; requiring strobe lights to be placed on the exterior of a commercial vehicle transporting unprocessed forest products extending more than 4 feet beyond the rear of the vehicle; providing an alternate method for placing strobe lights in certain instances; requiring the use of a red flag on the load; amending s. 316.2397, F.S.; authorizing the emergency response vehicles of the Department of Health to use red flashing lights; amending s. 316.520, F.S.; clarifying that a violation of a provision governing loads on vehicles is a moving rather than a nonmoving violation; exempting certain vehicles carrying agricultural products; amending s. 316.640, F.S.; revising the powers and duties of traffic crash investigation officers; amending s. 316.650, F.S.; requiring the issuance of a copy of the traffic school reference guide with traffic citations under certain circumstances; amending s. 318.14, F.S.; deleting reference to a restriction on the number of elections a person may make to attend a basic driver improvement course; amending s. 318.1451, F.S.; providing an assessment fee with respect to driver improvement courses for persons who are ordered by the court to attend and for certain other violations; providing traffic school reference guide requirements; amending s. 322.0261, F.S.; deleting reference to a time period and increasing the amount of damage required with respect to a crash for the screening of certain crash reports; requiring the Department of Highway Safety and Motor Vehicles to approve and regulate certain courses for driver improvement schools; creating s. 322.02615, F.S.; providing for mandatory driver improvement courses for certain violations; amending s. 319.001, F.S.; providing definitions; amending s. 319.14, F.S.; authorizing the Department of Highway Safety and Motor

Vehicles to place a decal on a rebuilt vehicle so as to clarify its identity; providing a penalty for the removal of the decal; amending s. 319.22, F.S.; providing a limitation on an action challenging the validity of a certificate of title issued pursuant to ch. 319, F.S.; amending s. 319.23, F.S.; providing a limitation on the issuance of certain titles; amending s. 319.27, F.S.; including reference to ownership interest with respect to liens on motor vehicles or mobile homes; providing special requirements with respect to an ownership interest which is different from that shown on an application for certificate of title; creating s. 319.275, F.S.; providing for interpleader actions for law enforcement officers alleging possession of a stolen motor vehicle by a good faith purchaser or person duly issued a certificate of title; amending s. 319.32, F.S.; clarifying fees for recording of liens and ownership interests; amending s. 319.323, F.S.; revising language with respect to expedited service on title transfers; amending s. 319.23, F.S.; conforming the requirements for the transfer of ownership on an antique vehicle to that of any other motor vehicle; amending s. 319.28, F.S.; deleting the requirement that a copy of a contract for processing an application for title based on a contractual default be provided; amending s. 319.30, F.S.; clarifying the major component parts of a motor vehicle; amending s. 320.01, F.S.; conforming the length limitation for a motor home to that established in ch. 316, F.S.; providing that a motorized scooter is not a motor vehicle for registration purposes; amending s. 320.02, F.S.; requiring application forms for motor vehicle registration and renewal of registration to include language permitting a voluntary contribution to certain organizations; amending s. 320.023, F.S.; requiring certain organizations receiving voluntary check-off contributions to notify the department under certain circumstances and to meet specified requirements; conforming the section to the Florida Single Audit Act; requiring organizations seeking authorization to establish a voluntary check-off contribution on a motor vehicle registration application to conform to the requirements of ch. 496, F.S.; conforming this section to the Florida Single Audit Act; amending s. 320.025, Florida Statutes, conforming the vessel registration law to the motor vehicle registration law; requiring a decal to be affixed to a vessel that is registered under a fictitious name and operated by any law enforcement agency; amending s. 320.05, F.S.; conforming the vessel registration law to the motor vehicle registration law; providing instructions for the release of information regarding a vessel to the public; amending s. 320.055, F.S.; correcting the registration period for nonapportioned vehicles; amending s. 320.06, F.S.; providing for the placement of only one decal rather than two on a license plate; amending s. 320.072, F.S.; reducing the timeframe a registrant can use a previous license plate for the initial registration fee exemption; amending s. 320.0805, F.S.; reducing the timeframe for a personalized license plate to remain out of circulation prior to reassignment; amending s. 320.08056, F.S.; requiring certain organizations to notify the department under certain circumstances; including two more colleges to the discontinuance exemptions provided for collegiate specialty license plates; amending s. 320.08062, F.S.; conforming this section to the Florida Single Audit Act; amending s. 320.083, F.S.; increasing the weight restriction for a private-use vehicle so as to be eligible to apply for the Amateur Radio Operator specialty license plate; amending s. 320.089, F.S.; increasing the weight restriction for a private-use vehicle so as to be eligible to apply for the EX-POW or Purple Heart specialty license plate; amending s. 320.18, F.S.; providing for cancellation of license plates and fuel use tax decals for failure to pay motor carrier weight and safety violation penalties; amending s. 320.27, F.S.; redefining the term "motor vehicle auction"; deleting the requirement for a licensee to have the certificate of title or ownership indicia in his or her possession at an auction; deleting a requirement for establishing a pattern of wrongdoing; revising requirements for denial, suspension, or revocation of a motor vehicle dealer license; amending s. 320.60, F.S.; revising definitions used in ss. 320.61-320.70, F.S.; amending s. 320.61, F.S.; amending procedures to be followed when a complaint of unfair cancellation of a dealer agreement has been made by a motor vehicle dealer against a licensee; defining the term "final decision"; amending s. 320.64, F.S.; providing penalties and remedies for violations; deleting subsections (13) and (16); amending subsection (18); creating subsections (22) through (32) and renumbering sections; amending s. 320.641, F.S.; providing procedures relating to discontinuations, cancellations, nonrenewals, modifications, and replacements of franchise agreements; amending s. 320.643, F.S.; amending provisions relating to the transfer, assignment, or sale of franchise agreements; amending s. 320.645, F.S.; amending provisions relating to restrictions upon a licensee's owning a dealership; providing for "dealer development arrangements"; providing exceptions; amending s. 320.699, F.S.; amending procedures for administrative hearings; creating s. 320.6991; providing for severability; amending s. 320.691 F.S.; creating the Automobile Dealers Industry Advisory Board; amending s. 322.01, F.S.; providing that a motorized scooter is not a motor vehicle for drivers' licensing purposes; amending s. 322.05, F.S.; correcting a statutory reference regarding the requirements for an individual under 18 years of age to apply for a driver's license; amending s. 322.081, F.S.; requiring certain organizations receiving voluntary check-off contributions to notify the department under certain circumstances and to meet specified requirements; conforming the section to the Florida Single Audit Act; requiring organizations seeking authorization to establish a voluntary contribution on a motor vehicle registration to register with the Department of Agriculture and Consumer Services; amending s. 322.095, F.S.; requiring the Department of Highway Safety and Motor Vehicles to approve and regulate certain courses for driver improvement schools; creating s. 322.222, F.S.; authorizing the Department of Highway Safety and Motor Vehicles to hold a hearing when an individual's driver's license has been suspended or revoked due to medical reasons; amending s. 322.25, F.S.; correcting a cross reference; amending s. 322.2615, F.S.; complying with the USDOT's drunk driving prevention incentive program; reducing the timeframe for a temporary permit that is allotted when an individual is charged with driving with an unlawful blood-alcohol level; amending s. 322.27, F.S.; clarifying the time period for a driver's license revocation of a habitual traffic offender; amending s. 322.28, F.S.; deleting obsolete language regarding the revocation of a driver's license; repealing s. 322.282, F.S., relating to the procedure when the court revokes or suspends license or driving privilege and orders reinstatement; amending s. 322.292, F.S.; adding the requirement that DUI programs must be governmental programs or not-for-profit corporations; amending s. 322.61, F.S.; complying with the Federal Motor Carrier Safety Regulations; adding two more violations for which a commercial motor vehicle may be disqualified of driving privileges; amending s. 322.64, F.S.; reducing the timeframe for a temporary permit allotted when an individual holding a commercial driver's license is charged with an unlawful blood-alcohol level; repealing s. 322.331, F.S., relating to the reinstatement of a license of a habitual traffic offender; creating the Driver Licensing Study Commission within the Department of Highway Safety and Motor Vehicles; providing for membership and appointment; providing for staff; providing for duties of the commission; providing for dissolution of the commission upon submission of a required report; providing an appropriation; amending s. 324.091, F.S.; providing for electronic access to vehicle insurance information; amending s. 328.01, F.S.; deleting the requirement for a copy of a contract upon which a claim of ownership of a vessel is made on a contractual default; amending s. 328.42, F.S.; authorizing the department to deny or cancel any vessel registration, license plate, or fuel use decal when given a dishonored check by the customer; amending s. 328.56, F.S.; deleting the terms "commercial" and "recreational" when referring to vessels operated on the waters of this state; amending s. 328.72, F.S.; deleting the requirements for the transfer of ownership of an antique vessel; amending s. 328.76, F.S.; providing for the appropriation allotted for fiscal year 2000-2001 to be deposited into the Highway Safety Operating Trust Fund; amending s. 713.78, F.S.; adding the insurance company to the list of individuals to be contacted when a vehicle has been towed; providing storage periods before the expiration of which certain salvaged vehicles may not be sold; repealing s. 715.05, F.S., relating to the reporting of unclaimed motor vehicles; amending ss. 681.1096 and 681.1097, F.S.; revising program requirements for the Pilot RV Mediation and Arbitration program; amending s. 681.115, F.S.; providing that a motor vehicle sales agreement which prohibits disclosure of its terms is void; amending s. 715.07, F.S.; conforming the vessel registration law to the motor vehicle registration law; defining the term "vessel"; authorizing the removal of an undocumented vessel parked on private property; amending s. 832.09, F.S.; authorizing the department to create a standardized form to be used for notification of satisfaction of a worthless check; amending s. 212.08, F.S.; providing additional requirements on vehicle tax

assessments; creating ch. 261, F.S.; creating the T. Mark Schmidt Off-Highway-Vehicle Safety and Recreation Act; providing legislative intent; providing definitions; creating the Off-Highway-Vehicle Recreation Advisory Committee; providing duties and responsibilities; providing for duties and responsibilities of the Department of Agriculture and Consumer Services; providing for rulemaking authority; providing for the publication and distribution of a guidebook; providing for the repair, maintenance, and rehabilitation of areas, trails, and lands; providing for contracts and agreements; providing criteria for recreation areas and trails; providing for the use of designated off-highway-vehicle funds within the Incidental Trust Fund of the Division of Forestry, Department of Agriculture and Consumer Services; amending s. 316.2074, F.S.; revising the definition of the term "all-terrain vehicle"; prohibiting the use of all-terrain vehicles on public roadways in the state; creating the Florida Off-Highway-Vehicle Titling and Registration Act; providing legislative intent; providing definitions; providing for administration by the Department of Highway Safety and Motor Vehicles; providing for rules, forms, and notices; requiring certificates of title; providing for application for and issuance of certificates of title; providing for duplicate certificates of title; requiring the furnishing of a manufacturer's statement of origin; requiring registration; providing for application for and issuance of certificate of registration, registration number, and decal; providing for the registration period and for reregistration by mail; requiring notification of change of interest and address; providing for duplicate registration certificate and decal; providing for fees; providing for disposition of fees; providing for refusal to issue and authority to cancel a certificate of title or registration; providing for crimes relating to certificates of title and registration decals; providing penalties; providing for noncriminal infractions; providing penalties; amending s. 375.315, F.S., relating to the registration of off-road vehicles; providing an appropriation; amending ss. 316.605, 318.14, 318.18, and 322.121, F.S.; correcting cross references; providing effective dates.

—was taken up, having been read the third time earlier today; now pending on motion by Rep. Gardiner to adopt Amendment 14, as amended.

The question recurred on the adoption of **Amendment 14,** as amended, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/CS/HB 807. The vote was:

Session Vote Sequence: 353

Yeas—119

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

CS/HB 1219 was taken up. On motion by Rep. Brown, the rules were waived and—

CS for SB 2174—A bill to be entitled An act relating to insurance; amending s. 624.318, F.S.; requiring access to records by the department; repealing s. 624.501(11) and (23), F.S.; repealing provisions establishing specified fees; amending s. 626.112, F.S.; prohibiting certain activities that constitute solicitation of insurance by unlicensed persons; amending s. 626.171, F.S.; revising agent application requirements; amending s. 626.181, F.S.; extending a period of eligibility for reappointment; creating s. 626.202, F.S.; requiring fingerprinting of specified persons; amending s. 626.431, F.S.; extending the nonappointment period to 48 months; amending s. 626.521, F.S.; requiring certain information upon demand of the department; amending s. 626.541, F.S.; requiring notification to the department of certain name changes and other information; amending s. 626.5715, F.S.; removing a requirement that the Department of Insurance adopt rules to assure parity of regulation; providing that the Insurance Code applies to all transactions; amending s. 626.601, F.S.; revising a confidentiality provision; amending s. 626.611, F.S.; prohibiting the sale of unregistered securities; amending ss. 626.741, 626.792, 626.835, F.S.; limiting the authority of certain nonresident licenses to that granted by the resident state; amending s. 626.8427, F.S.; revising provisions governing the duration of licenses; amending s. 626.856, F.S.; revising the definition of the term "company employee adjuster"; amending s. 626.872, F.S.; limiting the term of a temporary adjuster's license; amending s. 626.873, F.S.; revising a catchline regarding nonresident company adjusters; amending s. 627.927; limiting an experience requirement for surplus lines agents; extending a renewal grace period; creating s. 626.9531, F.S.; requiring the identification of certain persons in advertisements and other communications; amending ss. 648.315, 648.38, 648.384, F.S.; extending a period of eligibility for reappointment; creating s. 626.9651, F.S.; requiring the Department of Insurance to adopt rules governing the use of a consumer's nonpublic personal financial and health information; providing standards for the rules; providing an effective date.

—was substituted for CS/HB 1219 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Brown, the rules were waived and CS for SB 2174 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 354

Yeas—120

The Chair	Bense	Cusack	Gibson
Alexander	Benson	Davis	Goodlette
Allen	Berfield	Detert	Gottlieb
Andrews	Betancourt	Diaz de la Portilla	Green
Argenziano	Bilirakis	Diaz-Balart	Greenstein
Arza	Bowen	Dockery	Haridopolos
Attkisson	Brown	Farkas	Harper
Atwater	Brummer	Fasano	Harrell
Ausley	Brutus	Fields	Harrington
Baker	Bucher	Fiorentino	Hart
Ball	Bullard	Flanagan	Henriquez
Barreiro	Byrd	Frankel	Heyman
Baxley	Cantens	Gannon	Hogan
Bean	Carassas	Garcia	Holloway
Bendross-Mindingall	Clarke	Gardiner	Jennings
Bennett	Crow	Gelber	Johnson

Jordan	Lynn	Paul	Siplin
Joyner	Machek	Peterman	Slosberg
Justice	Mack	Pickens	Smith
Kallinger	Mahon	Prieguez	Sobel
Kendrick	Mayfield	Rich	Sorensen
Kilmer	Maygarden	Richardson	Spratt
Kosmas	McGriff	Ritter	Stansel
Kottkamp	Meadows	Romeo	Trovillion
Kravitz	Mealor	Ross	Wallace
Kyle	Melvin	Rubio	Waters
Lacasa	Miller	Russell	Weissman
Lee	Murman	Ryan	Wiles
Lerner	Needelman	Seiler	Wilson
Littlefield	Negron	Simmons	Wishner

Nays—None

So the bill passed and was immediately certified to the Senate.

CS/HB 1263 was taken up. On motion by Rep. Dockery, the rules were waived and—

CS for CS for SB 1376—A bill to be entitled An act relating to mining; amending s. 378.035, F.S.; reserving certain funds in the Nonmandatory Land Reclamation Trust Fund for use by the Department of Environmental Protection for reclaiming lands; authorizing the department to use funds from the trust fund for the purpose of closing certain abandoned phosphogypsum stack systems; limiting the period of operation of the program; requiring the Bureau of Mine Reclamation to review the sufficiency of the trust fund to support certain objectives and make reports; amending s. 378.601, F.S.; deleting provisions exempting certain mining operations from review as developments of regional impact; amending s. 403.4154, F.S.; defining the terms "phosphogypsum stack system" and "process wastewater"; authorizing the Department of Environmental Protection to take action to abate or reduce any imminent hazard caused by a phosphogypsum stack system; requiring the department to recover moneys from the owner or operator of the system; providing for attorney's fees and costs; authorizing the department to impose a lien for the recovery of such moneys; imposing certain fees upon an owner or operator who has not demonstrated financial responsibility; providing for the refund of the fee upon closure of the phosphogypsum stack; authorizing the department to expend moneys from the Nonmandatory Land Reclamation Trust Fund to close abandoned phosphogypsum stack systems; providing for a lien for the recovery of such moneys; amending s. 403.4155, F.S.; requiring the department to review certain rules and determine the adequacy of the rules; providing an appropriation; providing an effective date.

—was substituted for CS/HB 1263 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Dockery, the rules were waived and CS for CS for SB 1376 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 355

Yeas—117

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

Nays—2

Haridopolos	Mack

Votes after roll call:
Yeas to Nays—Baker

So the bill passed and was immediately certified to the Senate.

HB 1379 was taken up. On motion by Rep. Flanagan, the rules were waived and—

SB 1142—A bill to be entitled An act relating to the emergency telephone system; amending ss. 365.171, 365.172, 365.174, F.S.; transferring state control over the Florida Emergency Telephone Act and the Wireless Emergency Communications Act from the Department of Management Services to the Office of State Technology; conforming statutory references; providing for the "911" fee to be used by certain counties to fund a pilot project for a nonemergency system; amending s. 365.173, F.S.; authorizing the State Treasurer to invest moneys in the Wireless Emergency Telephone System Fund; removing requirements that funds be held in escrow; revising the date for submission of the legislative budget request; providing an effective date.

—was substituted for HB 1379 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Flanagan, the rules were waived and SB 1142 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 356

Yeas—120

The Chair	Brummer	Gardiner	Kilmer
Alexander	Brutus	Gelber	Kosmas
Allen	Bucher	Gibson	Kottkamp
Andrews	Bullard	Goodlette	Kravitz
Argenziano	Byrd	Gottlieb	Kyle
Arza	Cantens	Green	Lacasa
Attkisson	Carassas	Greenstein	Lee
Atwater	Clarke	Haridopolos	Lerner
Ausley	Crow	Harper	Littlefield
Baker	Cusack	Harrell	Lynn
Ball	Davis	Harrington	Machek
Barreiro	Detert	Hart	Mack
Baxley	Diaz de la Portilla	Henriquez	Mahon
Bean	Diaz-Balart	Heyman	Mayfield
Bendross-Mindingall	Dockery	Hogan	Maygarden
Bennett	Farkas	Holloway	McGriff
Bense	Fasano	Jennings	Meadows
Benson	Fields	Johnson	Mealor
Berfield	Fiorentino	Jordan	Melvin
Betancourt	Flanagan	Joyner	Miller
Bilirakis	Frankel	Justice	Murman
Bowen	Gannon	Kallinger	Needelman
Brown	Garcia	Kendrick	Negron

Paul	Romeo	Siplin	Trovillion
Peterman	Ross	Slosberg	Wallace
Pickens	Rubio	Smith	Waters
Prieguez	Russell	Sobel	Weissman
Rich	Ryan	Sorensen	Wiles
Richardson	Seiler	Spratt	Wilson
Ritter	Simmons	Stansel	Wishner

Nays—None

So the bill passed and was immediately certified to the Senate.

HB 1415—A bill to be entitled An act relating to Medicaid environmental modification services; creating s. 409.9072, F.S.; providing for Medicaid enrollment of licensed general, building, and residential contractors as providers of environmental modification services for Medicaid recipients under any home and community-based services waiver program; providing a definition; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 357

Yeas—120

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

Nays—None

So the bill passed and was immediately certified to the Senate.

HB 1491 was taken up. On motion by Rep. Attkisson, the rules were waived and—

CS for SB 1662—A bill to be entitled An act relating to Lake Okeechobee Protection Program; amending s. 373.4595, F.S.; authorizing a line item on utility sewer rates to cover wastewater residual treatment and disposal in certain counties; providing exemption from requirements of the Public Service Commission; providing for audits; providing an effective date.

—was substituted for HB 1491 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Attkisson, the rules were waived and CS for SB 1662 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 358

Yeas—118

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

Nays—None

So the bill passed and was immediately certified to the Senate.

HB 1545—A bill to be entitled An act relating to school district performance; providing a short title; amending s. 229.57, F.S.; requiring the designation and publication of district performance grades; amending s. 236.02, F.S.; revising minimum requirements of the Florida Education Finance Program to include minimum classroom expenditure requirements and associated reporting; creating s. 236.08102, F.S.; authorizing the Legislature to require a school district that fails to meet minimum academic performance standards to meet district minimum classroom expenditure requirements; providing for monitoring; requiring reports; amending s. 237.041, F.S.; requiring a district's annual budget to include provision for required minimum classroom expenditure requirements; amending s. 237.081, F.S.; requiring the advertisement of the tentative school district budget to include notice of minimum classroom expenditure requirements; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 359

Yeas—97

The Chair	Baker	Bilirakis	Crow
Alexander	Ball	Bowen	Davis
Allen	Barreiro	Brown	Detert
Andrews	Baxley	Brummer	Diaz de la Portilla
Argenziano	Bean	Bullard	Diaz-Balart
Arza	Bennett	Byrd	Dockery
Attkisson	Bense	Cantens	Farkas
Atwater	Benson	Carassas	Fasano
Ausley	Berfield	Clarke	Fields

Fiorentino	Holloway	Maygarden	Rubio
Flanagan	Jennings	McGriff	Russell
Garcia	Johnson	Meadows	Ryan
Gardiner	Jordan	Mealor	Simmons
Gelber	Justice	Melvin	Siplin
Gibson	Kallinger	Miller	Slosberg
Goodlette	Kendrick	Murman	Sorensen
Gottlieb	Kilmer	Needelman	Spratt
Green	Kottkamp	Negron	Stansel
Greenstein	Kravitz	Paul	Trovillion
Haridopolos	Kyle	Peterman	Wallace
Harrell	Lacasa	Pickens	Waters
Harrington	Littlefield	Prieguez	Wilson
Hart	Lynn	Ritter	
Henriquez	Mack	Romeo	
Hogan	Mahon	Ross	

Nays—21

Bendross-Mindingall	Gannon	Machek	Weissman
Betancourt	Harper	Rich	Wiles
Brutus	Heyman	Richardson	Wishner
Bucher	Kosmas	Seiler	
Cusack	Lee	Smith	
Frankel	Lerner	Sobel	

Votes after roll call:
Nays—Mayfield
Nays to Yeas—Wiles

So the bill passed and was immediately certified to the Senate.

Consideration of **HB 1863** was temporarily postponed under Rule 11.10.

HB 1971—A bill to be entitled An act relating to water supply policy; amending s. 153.11, F.S.; authorizing county commissions to establish water and sewer rates and rate structures to encourage and promote water conservation and the use of reclaimed water; amending s. 163.3167, F.S.; requiring that each local government provide in its growth management plan for the long-term availability of water supplies for approved land development; amending s. 163.3177, F.S.; directing local government comprehensive plans to coordinate with regional water supply plans; directing future land use plans to be based on data regarding the availability of sufficient water supplies for present and future growth; amending s. 373.1961, F.S.; allowing certain alternative water supply facilities to recover the costs of such facilities through rate structures; amending s. 373.217, F.S.; recognizing a permit issued under Part II of Chapter 373, F.S., as conclusive determination of water supply availability; creating s. 373.621, F.S.; recognizing the significance of water conservation; requiring consideration of the implementation of water conservation practices in water use permitting; amending s. 403.064, F.S.; requiring the reuse of reclaimed water when feasible; creating s. 570.080, F.S.; establishing an agricultural water conservation program; requiring water management districts to develop and finance public-private alternative water supply projects; requiring the dissemination of public information regarding the status of major water sources; amending s. 373.0693, F.S.; providing for membership on the Manasota Basin Board and for the resolution of tie votes; providing an effective date.

—was read the third time by title.

Representative(s) Harrington offered the following:

(Amendment Bar Code: 835159)

Amendment 2 (with title amendment)—On page 2, line 12 through page 5, line 23
remove from the bill: all of said lines

And the title is amended as follows:

On page 1, lines 3 through 7
remove from the title of the bill: all of said lines

and insert in lieu thereof: amending s. 163.3167, F.S.; requiring

Rep. Harrington moved the adoption of the amendment, which was adopted by the required two-thirds vote.

Representative(s) Harrington offered the following:

(Amendment Bar Code: 080453)

Amendment 3—On page 9, line 8
remove from the bill: all of said line

(k) The Florida Public

Rep. Harrington moved the adoption of the amendment, which was adopted by the required two-thirds vote.

Representative(s) Harrington offered the following:

(Amendment Bar Code: 734821)

Amendment 4—On page 16, lines 5 through 9
remove from the bill: all of said lines

and insert in lieu thereof:
year 2001-2002. The selected project shall meet at least one of the following criteria:

1. The project supports establishment of a dependable, sustainable supply of water which is not otherwise financially feasible;

2. The project provides substantial environmental benefits by preventing or limiting adverse water resource impacts, but requires funding assistance to be economically competitive with other options; or

3. The project significantly implements reuse, capture, storage, recharge, or conservation of water in a manner that contributes to the sustainability of regional water sources.
Projects that create new sources in order to help implement a prevention or recovery strategy for a minimum flow or level shall be given priority consideration for funding.

Rep. Harrington moved the adoption of the amendment, which was adopted by the required two-thirds vote.

Representative(s) Harrington offered the following:

(Amendment Bar Code: 283883)

Amendment 5 (with title amendment)—On page 17, between lines 20 and 21 of the bill

insert: Paragraph (b) of subsection (3) of section 403.1835, Florida Statutes, is amended to read:

403.1835 Water pollution control financial assistance.—

(3) The department may provide financial assistance through any program authorized under s. 603 of the Federal Water Pollution Control Act (Clean Water Act), Pub. L. No. 92-500, as amended, including, but not limited to, making grants and loans, providing loan guarantees, purchasing loan insurance or other credit enhancements, and buying or refinancing local debt. This financial assistance must be administered in accordance with this section and applicable federal authorities. The department shall administer all programs operated from funds secured through the activities of the Florida Water Pollution Control Financing Corporation under s. 403.1837, to fulfill the purposes of this section.

(b) The department may make or request the corporation to make loans, grants, and deposits to other entities eligible to participate in the financial assistance programs authorized under the Federal Water Pollution Control Act, or as a result of other federal action, which entities may pledge any revenue available to them to repay any funds borrowed. *Notwithstanding s. 18.10, the department may make deposits to financial institutions that earn less than the prevailing rate for United States Treasury securities with corresponding maturities for the purpose of enabling such financial institutions to make below-market interest rate loans to entities qualified to receive loans under this section and the rules of the department.*

And the title is amended as follows:

On page 2, line 7
remove from the title of the bill: all of said line

and insert in lieu thereof: the resolution of tie votes; amending s. 403.1835, F.S.; providing for below-market interest rate loans to qualified entities; providing an

Rep. Harrington moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of HB 1971. The vote was:

Session Vote Sequence: 360

Yeas—113

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

Nays—1

Lee

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

HB 1863—A bill to be entitled An act relating to onsite sewage treatment and disposal systems; amending s. 381.0065, F.S.; providing for regulation by the Department of Health of maintenance entities for performance-based treatment systems and aerobic treatment unit systems; requiring such systems to contract with a permitted maintenance entity; providing duties of such entities; providing for biennial operating permits for aerobic treatment units; revising duties of the department; amending s. 381.0066, F.S.; reducing the operating permit fee for aerobic treatment units and providing operating permit and maintenance entity permit fees for performance-based treatment systems; providing an effective date.

—was read the third time by title.

Representative(s) Argenziano offered the following:

(Amendment Bar Code: 090653)

Amendment 1 (with title amendment)—On page 18, between lines 30 and 31, of the bill

insert:

Section 3. *The Department of Health Technical Review and Advisory Panel, as created in s. 381.0068, Florida Statutes, is directed to review and advise on the need for licensing the portable restroom industry in the state. Taking into consideration issues relating to qualifications, education, training, and the procedure for handling, transporting, and disposal of septage. The review is not intended to impact work done by septic tank or master septic tank operators. The technical review and advisory panel shall submit its report to the Legislature by January 2, 2002.*

And the title is amended as follows:

On page 1, line 16,

after the semicolon, insert: providing for review of the need for licensing the portable restroom industry; requiring a report to the Legislature;

Rep. Argenziano moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of HB 1863. The vote was:

Session Vote Sequence: 361

Yeas—120

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

SB 150—A bill to be entitled An act relating to property exempt from legal process; amending s. 222.25, F.S.; exempting certain debtor's interests from attachment, garnishment, or legal process; providing that such exemption does not apply to debts owed for child support or spousal support; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 362

Yeas—119

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

Nays—1

Baker

So the bill passed and was immediately certified to the Senate.

CS for SB 178—A bill to be entitled An act relating to duration of real property liens; amending s. 55.10, F.S.; revising the period of duration of certain liens; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 363

Yeas—120

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

Nays—None

So the bill passed and was immediately certified to the Senate.

On motion by Rep. Diaz-Balart, the rules were waived by the required two-thirds vote and—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 466, as amended, and requests the concurrence of the House; and in the event the House refuses to concur, the Senate requests that a conference committee be appointed to work out the differences between the two houses.

Faye W. Blanton, Secretary

By the Committee on Governmental Oversight and Productivity and Senators Garcia, Sanderson, Bronson and Sebesta—

CS for SB 466—A bill to be entitled An act relating to public employment; amending s. 20.23, F.S.; eliminating provisions requiring that the inspector general position in the Department of Transportation be within the Career Service System; repealing ss. 110.108, 110.109, F.S., relating to personnel pilot projects, productivity improvement, and personnel audits of executive branch agencies; amending s. 110.1091, F.S.; providing requirements for a program to assist state employees; repealing s. 110.1095, F.S., relating to supervisory and management training and continuing education for executive branch agencies; amending s. 110.1099, F.S.; providing for state employees to receive vouchers or grants to attend public educational institutions under specified circumstances; requiring the Department of Management Services to adopt rules; conforming language; amending s. 110.1127, F.S.; providing for security background checks for certain state employee positions; amending s. 110.113, F.S.; requiring all state employees except those who receive an exemption to participate in the direct deposit program; amending s. 110.1245, F.S.; providing for a savings-sharing program for employees whose proposals result in savings; providing for bonus payments; eliminating the meritorious service awards program; requiring that such bonuses be paid from funds authorized by the Legislature; repealing s. 110.1246, F.S., relating to lump-sum bonus payments; amending s. 110.129, F.S.; authorizing the Department of Management Services to furnish technical assistance to improve personnel administration for municipalities or other political subdivisions; amending s. 110.131, F.S.; requiring approval by the Executive Office of the Governor for an extension in hours of other-personal-services temporary employment; providing certain exceptions; amending s. 110.203, F.S.; revising definitions; including the outsourcing and privatization of an activity or function within the definition of the term "layoff"; defining the term "firefighter" and "law enforcement or correctional officer"; creating s. 110.2035, F.S.; requiring the Department of Management Services to develop a classification and compensation program for certain employees; providing requirements for the program; requiring that the department submit a proposed plan to the Governor and the Legislature; requiring the department to adopt rules; amending s. 110.205, F.S.; providing for managerial employees and certain employees under a collective bargaining agreement to be exempt from the Career Service System; providing for carrying leave forward; amending s. 110.211, F.S.; authorizing the Department of Management Services to contract for recruitment services; amending s. 110.213, F.S.; requiring a probationary period for new employees; revising requirements for agency heads in selecting employees; providing certain restrictions for leave benefits for Senior Management

Service employees; providing for annual payouts for a specified amount of unused annual leave for career service employees; amending s. 110.219, F.S.; revising provisions governing attendance and leave; providing for a year-end cash-out of annual leave by specified employees under specified circumstances; amending s. 110.224, F.S.; providing for a public employee performance evaluation system; providing requirements for the system; authorizing the department to adopt rules; amending s. 110.227, F.S.; prohibiting "bumping"; providing certain exceptions; prescribing layoff procedures; amending the definition of cause for suspensions or dismissals; establishing grievance procedures; providing procedures for suspensions, reductions in pay, demotions, and dismissals; providing for appeals to the Public Employees Relations Commission; providing for hearings and final orders by the Public Employees Relations Commission; amending s. 110.233, F.S.; prohibiting certain political activity by a career service employee; amending s. 110.235, F.S.; requiring state agencies to implement training programs; amending s. 110.401, F.S.; providing for training and management-development programs for senior-level management; amending s. 110.403, F.S.; requiring the department to administer a professional development program; increasing the percentage of authorized positions within the Senior Management Service; amending s. 110.601, F.S.; providing for a system of personnel management; amending s. 110.602, F.S.; eliminating a limitation on the percentage of authorized positions within the Selected Exempt Service; amending s. 110.605, F.S.; providing for personnel rules, records, reports, and performance appraisals; amending s. 110.606, F.S.; requiring the department to collect certain data with respect to classifications with the Selected Exempt Service; amending ss. 288.708 and 440.4416, F.S.; providing for the executive director of the Florida Black Business Investment Board and the members of the Workers' Compensation Oversight Board to be subject to the Senior Management Service System; amending s. 216.262, F.S.; providing for the Legislative Budget Commission to authorize a state agency to retain moneys associated with eliminated positions under certain circumstances; amending s. 447.201, F.S.; providing public policy with respect to public employees; amending s. 447.205, F.S.; removing reference to the Department of Labor and Employment Security; conforming language; amending s. 447.207, F.S.; revising authority of the commission to hear certain appeals; conforming provisions to changes made by the act; amending s. 447.208, F.S.; conforming language; amending procedures for specified appeals; amending s. 447.507, F.S.; revising requirements for the probation served by certain public employees; amending s. 112.215, F.S.; authorizing certain pretax, trustee-to-trustee transfer of deferred compensation accounts; repealing s. 125.0108(2)(d), F.S., relating to the former Career Service Commission; transferring the Public Employees Relations Commission from the Department of Labor and Employment Security to the Agency for Workforce Innovation; transferring powers, duties, functions, rules, records, personnel, property, and unexpended balances; providing for the commission's independence under specified circumstances; requiring the Department of Management Services to adopt rules; requiring that the department develop a performance agreement between management employees and agency heads; creating s. 110.1315, F.S.; authorizing the department to contract for an alternative retirement program for temporary and seasonal employees; providing requirements for selecting a vendor; amending s. 447.403, F.S.; revising requirements for resolving an impasse in collective bargaining negotiations; prohibiting the appointment of a mediator if the Governor is the employer; providing a procedure for resolving such impasse; amending s. 216.163, F.S., relating to an impasse in collective bargaining negotiations; conforming provisions to changes made by the act; creating a Career Service Advisory Board; providing for selection of members; providing powers and duties; authorizing the Governor to develop a tax-sheltered plan for leave and special compensation pay for specified employees; providing effective dates.

—was read the first time by title. On motion by Rep. Diaz-Balart, the rules were waived and the bill was read the second time by title.

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

(Amendment Bar Code: 825195)

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

Section 1. *Section 110.105, Florida Statutes, is renumbered as section 109.105, Florida Statutes.*

Section 2. Section 110.107, Florida Statutes, is renumbered as section 109.107, Florida Statutes, and amended to read:

109.107 ~~110.107~~ Definitions.—As used in this chapter~~, the term~~:

(1) "Department" means the Department of Management Services.

(2)~~(3)~~ "Furlough" means a temporary reduction in the regular hours of employment in a pay period, or temporary leave without pay for one or more pay periods, with a commensurate reduction in pay, necessitated by a projected deficit in any fund that supports salary and benefit appropriations. The deficit must be projected by the Revenue Estimating Conference pursuant to s. 216.136(3).

(3) "Office" means the Office of Employee Relations within the Department of Management Services.

(4)~~(2)~~ "Secretary" means the Secretary of Management Services.

Section 3. *Sections 110.108 and 110.109, Florida Statutes, are repealed.*

Section 4. *Section 110.1082, Florida Statutes, is renumbered as section 109.1082, Florida Statutes.*

Section 5. Section 110.1091, Florida Statutes, is renumbered as section 109.1091, Florida Statutes, and amended to read:

109.1091 ~~110.1091~~ Program for assisting state employees; confidentiality.—*An* ~~Each~~ employing state agency may provide a program to assist any *of its* state *employees* ~~employee~~ who *have* ~~has~~ a behavioral or medical disorder, substance abuse problem, or emotional difficulty which affects *their* ~~the employee's~~ job performance, through referral for counseling, therapy, or other professional treatment. Each employing state agency may designate community diagnostic and referral resources as necessary to implement the provisions of this section. Any communication between a state employee and personnel or service providers of a state employee assistance program relative to the employee's participation in the program shall be a confidential communication. Any routine monitoring of telephone calls by the state agency does not violate this provision. All records relative to that participation shall be confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2003, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 6. *Section 110.1095, Florida Statutes, is repealed.*

Section 7. Section 110.1099, Florida Statutes, is renumbered as section 109.1099, Florida Statutes, and amended to read:

109.1099 ~~110.1099~~ Education and training opportunities for state employees.—

(1) Education and training are an integral component in improving the delivery of services to the public. Recognizing that the application of productivity-enhancing technology and practice demand continuous educational and training opportunities, *a* state *employee* ~~employees~~ may be authorized to receive *a* fundable tuition *waiver* ~~waivers~~ on a space-available basis or *a voucher* ~~vouchers~~ to attend work-related courses at public universities. Student credit hours generated by state employee fee waivers shall be fundable credit hours.

(2) The department, in conjunction with the agencies, shall request that *public universities* ~~such institutions~~ provide evening and weekend programs for state employees. When evening and weekend training and educational programs are not available, *an employee* ~~employees~~ may be authorized to take paid time off during *his or her* ~~their~~ regular working hours for training and career development, as provided in s. *109.105(1)* ~~110.105(1)~~, if such training benefits the employer *as determined by that employee's agency head*.

(3) *An employee* ~~Employees~~ who *exhibits* ~~exhibit~~ superior aptitude and performance may be authorized *by that employee's agency head* to take *a* paid educational *leave* ~~leaves~~ of absence for up to 1 academic year at a time, for specific approved work-related education and training.

~~(4)~~ *That employee* ~~Such employees~~ must enter into *a contract* ~~contracts~~ to return to state employment for a period of time equal to the length of the leave of absence or refund salary and benefits paid during *his or her* ~~their~~ educational *leave* ~~leaves~~ of absence.

(4)~~(6)~~ As a precondition to approving an employee's training request, an agency or the judicial branch may require an employee to enter into an agreement that requires the employee to reimburse the agency or judicial branch for the registration fee or similar expense for any training or training series when the cost of the fee or similar expense exceeds $1,000 if the employee voluntarily terminates employment or is discharged ~~for cause~~ from the agency or judicial branch within a specified period of time not *to exceed* ~~exceeding~~ 4 years after the conclusion of the training. This subsection does not apply to any training program that an agency or the judicial branch requires *an* ~~the~~ employee to attend. An agency or the judicial branch may pay the outstanding balance then due and owing on behalf of a state employee under this subsection in connection with recruitment and hiring of such state employee.

(5) The Department of Management Services, in consultation with the agencies and, to the extent applicable, Florida's public *universities* ~~postsecondary educational institutions~~, shall adopt rules to implement and administer this section.

Section 8. Section 110.112, Florida Statutes, is renumbered as section 109.112, Florida Statutes, and amended to read:

109.112 ~~110.112~~ Affirmative action; equal employment opportunity.—

(1) It *is* ~~shall be~~ the policy of *this* ~~the~~ state to *fully utilize the rich diversity of Florida's human resources and to* assist in providing the assurance of equal employment opportunity through *education and other* programs of affirmative and positive action that will allow *the citizens of Florida to benefit from the* full utilization of *all available human resources* ~~women and minorities~~.

(2)(a) The head of each executive agency *and each state attorney and public defender* shall develop and implement an affirmative action plan in accordance with rules adopted by the department and approved by a majority vote of the Administration Commission before their adoption.

(b) Each executive agency shall establish annual goals for ensuring full utilization of groups underrepresented in its workforce as compared to the relevant labor market, as defined by the agency. *Each state attorney and public defender shall establish annual goals for ensuring full utilization of groups underrepresented in his or her workforce as compared to the relevant labor market, as defined by the state attorney or public defender.* Each executive agency *and each state attorney and public defender* shall design *the* ~~its~~ affirmative action plan to meet *the* ~~its~~ established goals.

(c) An affirmative action-equal employment opportunity officer shall be appointed by the head of each executive agency *and each state attorney and public defender*. The affirmative action-equal employment opportunity officer's responsibilities *shall* ~~must~~ include determining annual goals, monitoring agency compliance, and providing consultation *with* ~~to~~ managers regarding progress, deficiencies, and appropriate corrective action.

(d) The department shall report information in its annual workforce report relating to the implementation, continuance, updating, and results of each executive agency's affirmative action plan for the previous fiscal year.

(e) The department shall provide to all supervisory personnel of the executive agencies training in the principles of equal employment opportunity and affirmative action, the development and implementation of affirmative action plans, and the establishment of annual affirmative action goals. The department may contract for training services, and each participating agency shall reimburse the department for costs incurred through such contract. After the department approves the contents of the training program for the agencies, the department may delegate this training to the executive agencies.

(3) Each state attorney and public defender shall:

~~(a) Develop and implement an affirmative action plan.~~

~~(b) Establish annual goals for ensuring full utilization of groups underrepresented in its workforce as compared to the relevant labor market in this state. The state attorneys' and public defenders' affirmative action plans must be designed to meet the established goals.~~

~~(c) Appoint an affirmative action-equal employment opportunity officer.~~

~~(d)~~ report annually to the Justice Administrative Commission on the implementation, continuance, updating, and results of his or her affirmative action program for the previous fiscal year.

(4) The state, its agencies and officers shall ensure freedom from discrimination in employment as provided by the Florida Civil Rights Act of 1992, by s. 112.044, and by this chapter.

(5) Any individual claiming to be aggrieved by an unlawful employment practice may file a complaint with the Florida Commission on Human Relations as provided by s. *760.11(1)* ~~760.10(10)~~.

(6) The department shall review and monitor executive agency actions in carrying out the rules adopted by the department pursuant to this section.

Section 9. Section 110.1127, Florida Statutes, is renumbered as section 109.1127, Florida Statutes, and subsection (1) of said section is amended to read:

109.1127 ~~110.1127~~ Employee security checks.—

(1) Each employing agency shall designate *those employee* ~~such of its~~ positions ~~of state employment~~ which, because of the special trust or responsibility or sensitive location of *those* ~~such~~ positions, require that persons occupying *those* ~~such~~ positions be subject to a security background check, including fingerprinting, as a condition of employment.

Section 10. *Section 110.1128, Florida Statutes, is renumbered as section 109.1128, Florida Statutes.*

Section 11. Section 110.113, Florida Statutes, is renumbered as section 109.113, Florida Statutes, and, effective January 1, 2002, subsection (2) of said section is amended to read:

109.113 ~~110.113~~ Pay periods for state officers and employees; salary payments by direct deposit.—

(2) As a condition of employment, a person appointed to a position in state government ~~on or after July 1, 1996,~~ is required to participate in the direct deposit program pursuant to s. 17.076. ~~This subsection does not apply to persons who are in the employment of the state on July 1, 1996, and subsequently receive promotion appointments, transfers, or other changes in positions within the same personnel system after July 1, 1996.~~ An employee may request an exemption from the provisions of this subsection when such employee can demonstrate a hardship ~~or when such employee is in an other personal services position~~.

Section 12. *Sections 110.114, 110.115, 110.1155, 110.116, and 110.1165, Florida Statutes, are renumbered as sections 109.114, 109.115, 109.1155, 109.116, and 109.1165, Florida Statutes, respectively.*

Section 13. Section 110.117, Florida Statutes, is renumbered as section 109.117, Florida Statutes, and subsection (3) of said section is amended to read:

109.117 ~~110.117~~ Paid holidays.—

(3) Each full-time employee is entitled to one personal holiday each year. Each part-time employee is entitled to a personal holiday each year which shall be calculated proportionately to the personal holiday allowed to a full-time employee. Such personal holiday shall be credited to eligible employees on July 1 of each year to be taken prior to June 30 of the following year. Members of the teaching and research faculty of the State University System and administrative and professional positions exempted under s. *109.205(2)(d)* ~~110.205(2)(d)~~ are not eligible for this benefit.

Section 14. *Sections 110.118, 110.119, 110.120, 110.121, 110.122, 110.1221, and 110.1225, Florida Statutes, are renumbered as sections 109.118, 109.119, 109.120, 109.121, 109.122, 109.1221, and 109.1225, Florida Statutes, respectively.*

Section 15. Section 110.1227, Florida Statutes, is renumbered as section 109.1227, Florida Statutes, and paragraph (c) of subsection (1) of said section is amended to read:

109.1227 ~~110.1227~~ Florida Employee Long-Term-Care Plan Act.—

(1) The Legislature finds that state expenditures for long-term-care services continue to increase at a rapid rate and that the state faces increasing pressure in its efforts to meet the long-term-care needs of the public.

(c) This act in no way affects the Department of Management Services' authority pursuant to s. *109.123* ~~110.123~~.

Section 16. Section 110.123, Florida Statutes, is renumbered as section 109.123, Florida Statutes, and paragraph (g) of subsection (3) of said section is amended to read:

109.123 ~~110.123~~ State group insurance program.—

(3) STATE GROUP INSURANCE PROGRAM.—

(g)1. A person eligible to participate in the state group insurance program may be authorized by rules adopted by the department, in lieu of participating in the state group health insurance plan, to exercise an option to elect membership in a health maintenance organization plan which is under contract with the state in accordance with criteria established by this section and by said rules. The offer of optional membership in a health maintenance organization plan permitted by this paragraph may be limited or conditioned by rule as may be necessary to meet the requirements of state and federal laws.

2. The department shall contract with health maintenance organizations seeking to participate in the state group insurance program through a request for proposal or other procurement process, as developed by the Department of Management Services and determined to be appropriate.

a. The department shall establish a schedule of minimum benefits for health maintenance organization coverage, and that schedule shall include: physician services; inpatient and outpatient hospital services; emergency medical services, including out-of-area emergency coverage; diagnostic laboratory and diagnostic and therapeutic radiologic services; mental health, alcohol, and chemical dependency treatment services meeting the minimum requirements of state and federal law; skilled nursing facilities and services; prescription drugs; and other benefits as may be required by the department. Additional services may be provided subject to the contract between the department and the HMO.

b. The department may establish uniform deductibles, copayments, or coinsurance schedules for all participating HMO plans.

c. The department may require detailed information from each health maintenance organization participating in the procurement process, including information pertaining to organizational status, experience in providing prepaid health benefits, accessibility of services, financial stability of the plan, quality of management services, accreditation status, quality of medical services, network access and adequacy, performance measurement, ability to meet the department's reporting requirements, and the actuarial basis of the proposed rates and other data determined by the director to be necessary for the evaluation and selection of health maintenance organization plans and negotiation of appropriate rates for these plans. Upon receipt of proposals by health maintenance organization plans and the evaluation of those proposals, the department may enter into negotiations with all of the plans or a subset of the plans, as the department determines appropriate. Nothing shall preclude the department from negotiating regional or statewide contracts with health maintenance organization plans when this is cost-effective and when the department determines that the plan offers high value to enrollees.

d. The department may limit the number of HMOs that it contracts with in each service area based on the nature of the bids the department receives, the number of state employees in the service area, or any unique geographical characteristics of the service area. The department shall establish by rule service areas throughout the state.

e. All persons participating in the state group insurance program who are required to contribute towards a total state group health premium shall be subject to the same dollar contribution regardless of whether the enrollee enrolls in the state group health insurance plan or in an HMO plan.

3. The department is authorized to negotiate and to contract with specialty psychiatric hospitals for mental health benefits, on a regional basis, for alcohol, drug abuse, and mental and nervous disorders. The department may establish, subject to the approval of the Legislature pursuant to subsection (5), any such regional plan upon completion of an actuarial study to determine any impact on plan benefits and premiums.

4. In addition to contracting pursuant to subparagraph 2., the department shall enter into contract with any HMO to participate in the state group insurance program which:

a. Serves greater than 5,000 recipients on a prepaid basis under the Medicaid program;

b. Does not currently meet the 25 percent non-Medicare/non-Medicaid enrollment composition requirement established by the Department of Health excluding participants enrolled in the state group insurance program;

c. Meets the minimum benefit package and copayments and deductibles contained in sub-subparagraphs 2.a. and b.;

d. Is willing to participate in the state group insurance program at a cost of premiums that is not greater than 95 percent of the cost of HMO premiums accepted by the department in each service area; and

e. Meets the minimum surplus requirements of s. 641.225.

The department is authorized to contract with HMOs that meet the requirements of sub-subparagraphs a.-d. prior to the open enrollment period for state employees. The department is not required to renew the contract with the HMOs as set forth in this paragraph more than twice. Thereafter, the HMOs shall be eligible to participate in the state group insurance program only through the request for proposal process described in subparagraph 2.

5. All enrollees in the state group health insurance plan or any health maintenance organization plan shall have the option of changing to any other health plan which is offered by the state within any open enrollment period designated by the department. Open enrollment shall be held at least once each calendar year.

6. When a contract between a treating provider and the state-contracted health maintenance organization is terminated for any reason other than for cause, each party shall allow any enrollee for whom treatment was active to continue coverage and care when medically necessary, through completion of treatment of a condition for which the enrollee was receiving care at the time of the termination, until the enrollee selects another treating provider, or until the next open enrollment period offered, whichever is longer, but no longer than 6 months after termination of the contract. Each party to the terminated contract shall allow an enrollee who has initiated a course of prenatal

care, regardless of the trimester in which care was initiated, to continue care and coverage until completion of postpartum care. This does not prevent a provider from refusing to continue to provide care to an enrollee who is abusive, noncompliant, or in arrears in payments for services provided. For care continued under this subparagraph, the program and the provider shall continue to be bound by the terms of the terminated contract. Changes made within 30 days before termination of a contract are effective only if agreed to by both parties.

7. Any HMO participating in the state group insurance program shall submit health care utilization and cost data to the department, in such form and in such manner as the department shall require, as a condition of participating in the program. The department shall enter into negotiations with its contracting HMOs to determine the nature and scope of the data submission and the final requirements, format, penalties associated with noncompliance, and timetables for submission. These determinations shall be adopted by rule.

8. The department may establish and direct, with respect to collective bargaining issues, a comprehensive package of insurance benefits that may include supplemental health and life coverage, dental care, long-term care, vision care, and other benefits it determines necessary to enable state employees to select from among benefit options that best suit their individual and family needs.

a. Based upon a desired benefit package, the department shall issue a request for proposal for health insurance providers interested in participating in the state group insurance program, and the department shall issue a request for proposal for insurance providers interested in participating in the non-health-related components of the state group insurance program. Upon receipt of all proposals, the department may enter into contract negotiations with insurance providers submitting bids or negotiate a specially designed benefit package. Insurance providers offering or providing supplemental coverage as of May 30, 1991, which qualify for pretax benefit treatment pursuant to s. 125 of the Internal Revenue Code of 1986, with 5,500 or more state employees currently enrolled may be included by the department in the supplemental insurance benefit plan established by the department without participating in a request for proposal, submitting bids, negotiating contracts, or negotiating a specially designed benefit package. These contracts shall provide state employees with the most cost-effective and comprehensive coverage available; however, no state or agency funds shall be contributed toward the cost of any part of the premium of such supplemental benefit plans. With respect to dental coverage, the division shall include in any solicitation or contract for any state group dental program made after July 1, 2001, a comprehensive indemnity dental plan option which offers enrollees a completely unrestricted choice of dentists. If a dental plan is endorsed, or in some manner recognized as the preferred product, such plan shall include a comprehensive indemnity dental plan option which provides enrollees with a completely unrestricted choice of dentists.

b. Pursuant to the applicable provisions of s. *109.161* ~~110.161~~, and s. 125 of the Internal Revenue Code of 1986, the department shall enroll in the pretax benefit program those state employees who voluntarily elect coverage in any of the supplemental insurance benefit plans as provided by sub-subparagraph a.

c. Nothing herein contained shall be construed to prohibit insurance providers from continuing to provide or offer supplemental benefit coverage to state employees as provided under existing agency plans.

Section 17. Section 110.12312, Florida Statutes, is renumbered as section 109.12312, Florida Statutes, and amended to read:

109.12312 ~~110.12312~~ Open enrollment period for retirees.—On or after July 1, 1997, the Department of Management Services shall provide for an open enrollment period for retired state employees who want to obtain health insurance coverage under ss. *109.123* ~~110.123~~ and *109.12315* ~~110.12315~~. The options offered during the open enrollment period must provide the same health insurance coverage as the coverage provided to active employees under the same premium payment conditions in effect for covered retirees, including eligibility for health insurance subsidy payments under s. 112.363. A person who separates from employment subsequent to May 1, 1988, but whose date of retirement occurs on or after August 1, 1995, is eligible as of the first open enrollment period occurring after July 1, 1997, with an effective date of January 1, 1998, as long as the retiree's enrollment remains in effect.

Section 18. *Section 110.12315, Florida Statutes, is renumbered as section 109.12315, Florida Statutes.*

Section 19. Section 110.1232, Florida Statutes, is renumbered as section 109.1232, Florida Statutes, and amended to read:

109.1232 ~~110.1232~~ Health insurance coverage for persons retired under state-administered retirement systems before January 1, 1976, and for spouses.—Notwithstanding any provisions of law to the contrary, the Department of Management Services shall provide health insurance coverage under the state group insurance program for persons who retired before January 1, 1976, under any of the state-administered retirement systems and who are not covered by social security and for the spouses and surviving spouses of such retirees who are also not covered by social security. Such health insurance coverage shall provide the same benefits as provided to other retirees who are entitled to participate under s. *109.123* ~~110.123~~. The claims experience of this group shall be commingled with the claims experience of other members covered under s. *109.123* ~~110.123~~.

Section 20. *Sections 110.1234, 110.1238, and 110.1239, Florida Statutes, are renumbered as sections 109.1234, 109.1238, and 109.1239, Florida Statutes, respectively.*

Section 21. Section 110.124, Florida Statutes, is renumbered as section 109.124, Florida Statutes, and, effective January 1, 2002, subsections (2) and (4) of said section are amended to read:

109.124 ~~110.124~~ Termination or transfer of employees aged 65 or older.—

(2) Whenever any employee who has attained age 65 is terminated by an agency or department solely because the employee attains age 65, the employee may *seek* ~~apply for~~ relief from the action *through voluntary binding arbitration pursuant to s. 109.240* ~~to the Public Employees Relations Commission pursuant to s. 447.208~~. The employee shall continue in employment pending the outcome of the *voluntary binding arbitration* ~~application~~. If the employee continues in employment following *a* ~~the~~ decision of the *voluntary binding arbitration panel* ~~commission~~, no further action shall be taken by the agency or department to terminate the employee for a period of 1 year following the date of the *panel's* decision ~~of the commission~~ unless approved by the *office* ~~commission~~ upon a showing by the agency or department that the employee's capability has changed to a sufficient extent that he or she is no longer able to perform any job within such agency or department. *An employee who does not request voluntary binding arbitration may apply for relief to the circuit court.*

(4) If mutually agreed to by the employee and the agency or department, an employee who has attained age 65 may be reduced to a part-time position for the purpose of phasing the employee out of employment into retirement. Such an arrangement may also be required by the *voluntary binding arbitration panel or the court* ~~Public Employees Relations Commission~~ as part of its decision in any appeal arising out of this section. A reduction to a part-time position may be accompanied by an appropriate reduction in pay.

Section 22. Section 110.1245, Florida Statutes, is renumbered as section 109.1245, Florida Statutes, and amended to read:

(Substantial rewording of section. See s. 110.1245, F.S., for present text.)

109.1245 Savings sharing; bonus payments; other awards.—

(1)(a) The Department of Management Services shall set policy, develop procedures, and promote a savings sharing program for an individual or group of employees who propose procedures or ideas which are adopted and which result in eliminating or reducing state

expenditures, if such proposals are placed in effect and can be implemented under current statutory authority.

(b) Each agency head shall recommend employees individually or by group to be awarded an amount of money, which amount shall be directly related to the cost savings realized. Each proposed award and amount of money must be approved by the Legislative Budgeting Commission.

(c) Each state agency, unless otherwise provided by law, may participate in the program. The Chief Justice shall have the authority to establish a savings sharing program for employees of the judicial branch within the parameters established in this section. The program shall apply to all employees within the Career Service System, the Selected Exempt Service, and comparable employees within the judicial branch.

(d) The department and the judicial branch shall submit annually to the President of the Senate and the Speaker of the House of Representatives information that outlines each agency's level of participation in the savings sharing program. The information shall include, but is not limited to:

1. The number of proposals made.

2. The number of awards made to employees or groups for adopted proposals.

3. The actual cost savings realized as a result of implementing employee or group proposals.

4. The number of employees or groups recognized for superior accomplishments.

(2) In June of each year, bonuses shall be paid to employees from funds authorized by the Legislature in an appropriation specifically for bonuses. Each agency shall develop a plan for awarding lump-sum bonuses, which plan shall be submitted to and approved by the Office of Policy and Budget in the Executive Office of the Governor no later than September 15 of each year. Such plan shall include, at a minimum:

(a) A statement that bonuses shall be awarded from unused salary and expense dollars.

(b) A statement that all bonuses are subject to appropriation by the Legislature.

(c) Eligibility criteria as follows:

1. The employee must have been employed prior to July 1 of that fiscal year and have been continuously employed through the date of distribution.

2. The employee must not have been on leave without pay consecutively for more than 6 months during the fiscal year.

3. The employee must have had no disciplinary action during the period beginning July 1 through the date the bonus checks are distributed. Disciplinary actions include written reprimands, suspensions, dismissals, and involuntary or voluntary demotions that were associated with a disciplinary action.

4. The employee must have demonstrated a commitment to the agency mission by reducing the burden on those served, continually improving the way business is conducted, producing results in the form of increased outputs, and working to improve processes.

5. The employee must have demonstrated initiative in work and exceeded normal job expectations.

6. The employee must have modeled the way for others by displaying agency values of fairness, cooperation, respect, commitment, honesty, excellence, and teamwork.

(d) An evaluation process of the employee's performance and eligibility to be performed no less than quarterly.

(e) Peer input to account for at least 40 percent of the bonus award determination.

(f) A division of the agency by work unit for purposes of peer input and bonus distribution.

(g) A limitation on bonus distributions equal to 35 percent of the agency's total authorized positions. This requirement may be waived by the Office of Policy and Budget in the Executive Office of the Governor upon a showing of exceptional circumstances.

(3) Each department head is authorized to incur expenditures to award suitable framed certificates, pins, and other tokens of recognition to retiring state employees whose service with the state has been satisfactory, in appreciation and recognition of such service. Such awards may not cost in excess of $100 each plus applicable taxes.

(4) Each department head is authorized to incur expenditures to award suitable framed certificates, pins, or other tokens of recognition to state employees who have achieved increments of 5 years of satisfactory service in the agency or to the state, in appreciation and recognition of such service. Such awards may not cost in excess of $100 each plus applicable taxes.

(5) Each department head is authorized to incur expenditures not to exceed $100 each plus applicable taxes for suitable framed certificates, plaques, or other tokens of recognition to any appointed member of a state board or commission whose service to the state has been satisfactory, in appreciation and recognition of such service upon the expiration of such board or commission member's final term in such position.

Section 23. *Section 110.1246, Florida Statutes, is repealed.*

Section 24. *Sections 110.125, 110.126, and 110.127, Florida Statutes, are renumbered as sections 109.125, 109.126, and 109.127, Florida Statutes, respectively.*

Section 25. Section 110.129, Florida Statutes, is renumbered as section 109.129, Florida Statutes, and amended to read:

109.129 ~~110.129~~ Services to political subdivisions.—

(1) Upon request, the department may enter into *a* formal *agreement* ~~agreements~~ with any municipality or political subdivision of the state to furnish technical assistance to improve the system or methods of personnel administration of *that* ~~such~~ municipality or political subdivision. The department shall provide such assistance within the limitations of available staff, funds, and other resources. All municipalities and political subdivisions of the state are authorized to enter into such agreements.

(2) Technical assistance *includes* ~~may include~~, but *is* ~~shall~~ not ~~be~~ limited to, *providing* technical advice, written reports, *or* ~~and~~ other information or materials*, which* ~~and~~ may cover such subjects as management and personnel systems, central administrative and support services, employee training, and employee productivity.

(3) Technical assistance rendered to municipalities or political subdivisions pursuant to this section may be on a nonreimbursable basis or may be partly or wholly reimbursable based upon the extent, nature, and duration of the requested assistance; the extent of resources required; and the degree to which the assistance would be of use to other municipalities or political subdivisions of the state.

Section 26. Section 110.131, Florida Statutes, is renumbered as section 109.131, Florida Statutes, and, effective July 1, 2001, subsections (2) and (3) and paragraph (c) of subsection (6) of said section are amended to read:

109.131 ~~110.131~~ Other-personal-services temporary employment.—

(2) An agency may employ any *qualified* individual in other-personal-services temporary employment for *100 hours in any calendar month* ~~1,040 hours within any 12-month~~ period. An extension beyond a total of *100 hours in any calendar month period* ~~1,040 hours~~ within an agency for any individual *or category of individuals* requires the approval of the *Governor's Office of Policy and Budget for good cause* ~~agency head or a designee~~. ~~Approval of extensions shall be made in accordance with criteria established by the department. Each agency~~

~~shall maintain employee information as specified by the department regarding each extension of other-personal-services temporary employment.~~ The time limitation established by this subsection does not apply to board members, ~~consultants, seasonal employees,~~ institutional clients employed as part of their rehabilitation, or bona fide, degree-seeking students in accredited secondary or postsecondary educational programs.

(3) The department shall adopt rules providing that other-personal-services temporary employment in an employer-employee relationship shall be used for short-term tasks. Such rules shall specify the employment categories, terms, conditions, rate of pay, and frequency of other-personal-services temporary employment and the duration for which such employment may last,~~; specify criteria for approving extensions beyond the time limitation provided in subsection (2);~~ and prescribe recordkeeping and reporting requirements for other-personal-services employment.

(6)

(c) Notwithstanding the provisions of this section, the agency head or his or her designee may extend the other-personal-services employment of a health care practitioner licensed pursuant to chapter 458, chapter 459, chapter 460, chapter 461, chapter 463, part I of chapter 464, chapter 466, chapter 468, chapter 483, chapter 486, or chapter 490 beyond 2,080 hours *per year* and may employ such practitioner on an hourly or other basis.

Section 27. *Section 110.151, Florida Statutes, is renumbered as section 109.151, Florida Statutes.*

Section 28. Section 110.152, Florida Statutes, is renumbered as section 109.152, Florida Statutes, and subsection (4) of said section is amended to read:

109.152 ~~110.152~~ Adoption benefits for state or water management district employees; parental leave.—

(4) Any employee of the state or of a water management district who has a child placed in the custody of the employee for adoption, and who continues to reside in the same household as the child placed for adoption, shall be granted parental leave for a period not to exceed 6 months as provided in s. *109.221* ~~110.221~~.

Section 29. *Section 110.15201, Florida Statutes, is renumbered as section 109.15201, Florida Statutes.*

Section 30. Section 110.1521, Florida Statutes, is renumbered as section 109.1521, Florida Statutes, and amended to read:

109.1521 ~~110.1521~~ Short title.—Sections *109.1521-109.1523* ~~110.1521-110.1523~~ may be cited as the "Family Support Personnel Policies Act."

Section 31. Section 110.1522, Florida Statutes, is renumbered as section 109.1522, Florida Statutes, and amended to read:

109.1522 ~~110.1522~~ Model rule establishing family support personnel policies.—The Department of Management Services shall develop a model rule establishing family support personnel policies for all executive branch agencies, excluding the State University System. "Family support personnel policies," for purposes of ss. *109.1521-109.1523* ~~110.1521-110.1523~~, means personnel policies affecting employees' ability to both work and devote care and attention to their families and includes policies on flexible hour work schedules, compressed time, job sharing, part-time employment, maternity or paternity leave for employees with a newborn or newly adopted child, and paid and unpaid family or administrative leave for family responsibilities.

Section 32. Section 110.1523, Florida Statutes, is renumbered as section 109.1523, Florida Statutes, and amended to read:

109.1523 ~~110.1523~~ Adoption of model rule.—The model rule shall be effective 20 days after having been filed with the Department of State and shall become part of the personnel rules of all applicable state agencies 150 days after the effective date of the rule to the extent that each agency does not, subsequent to such effective date, adopt a rule that sets forth the intent to specifically amend all or part of such model rule. Any employee or organization representing employees shall be considered a party for purposes of any rule required by ss. *109.1521-109.1523* ~~110.1521-110.1523~~, notwithstanding any provision of chapter 120 to the contrary.

Section 33. Section 110.161, Florida Statutes, is renumbered as section 109.161, Florida Statutes, and paragraph (a) of subsection (6) of said section is amended to read:

109.161 ~~110.161~~ State employees; pretax benefits program.—

(6) The Department of Management Services is authorized to administer the pretax benefits program established for all employees so that employees may receive benefits that are not includable in gross income under the Internal Revenue Code of 1986. The pretax benefits program:

(a) Shall allow employee contributions to premiums for the state group insurance program administered under s. *109.123* ~~110.123~~ to be paid on a pretax basis unless an employee elects not to participate.

Section 34. Section 110.171, Florida Statutes, is renumbered as section 109.171, Florida Statutes, and paragraph (c) of subsection (2) of said section is amended to read:

109.171 ~~110.171~~ State employee telecommuting program.—

(2) The department shall:

(c) Identify state employees who are participating in a telecommuting program and their job classifications through the state personnel payroll information subsystem created under s. *109.116* ~~110.116~~.

Section 35. *Section 110.181, Florida Statutes, is renumbered as section 109.181, Florida Statutes.*

Section 36. Section 110.191, Florida Statutes, is renumbered as section 109.191, Florida Statutes, and amended to read:

109.191 ~~110.191~~ State employee leasing.—

(1) In situations where the Legislature has expressly authorized the state, an agency, or the judicial branch as defined in s. *109.203* ~~110.203~~ to lease employees, the Executive Office of the Governor for the executive branch or the Chief Justice for the judicial branch may authorize any of the following actions related to such state employee leasing activities, provided that the direct cost of such actions is to be paid or reimbursed within 30 days after payment by the entity or person to whom the employees are leased:

(a) Create a separate budget entity from which leased employees shall be paid and transfer the positions authorized to be leased to that budget entity.

(b) Provide increases in the operating budget entity.

(c) Authorized lump-sum salary bonuses to leased employees; however, any lump-sum salary bonus above the automatic salary increases which may be contained in the General Appropriations Act must be funded from private sources.

(d) Approve increases in salary rate for positions which are leased; however, any salary rate above the automatic salary increases which may be contained in the General Appropriations Act must be funded from private sources.

(e) Waive any requirement for automatic salary increases which may be contained in the General Appropriations Act.

(2) Positions which are in the Senior Management Service System or the Selected Exempt Service System on the day before the state employee lease agreement takes effect shall remain in the respective system if the duties performed by the position during the assignment of the state employee lease agreement are comparable as determined by

the department. Those Senior Management Service System or Selected Exempt Service System positions which are not determined comparable by the department and positions which are in other pay plans on the day before the lease agreement takes effect shall have the same salaries and benefits provided to employees of the Office of the Governor pursuant to s. *109.205(2)(k)2* ~~110.205(2)(k)2~~.

Section 37. *Section 110.201, Florida Statutes, is renumbered as section 109.201, Florida Statutes.*

Section 38. Section 110.203, Florida Statutes, is renumbered as section 109.203, Florida Statutes, and subsections (11), (18), (19), (22), and (23) of said section are amended to read:

109.203 ~~110.203~~ Definitions.—For the purpose of this part and the personnel affairs of the state:

(11) "Pay plan" means a formal description of the philosophy, methods, procedures, and salary *schedules* ~~schedule~~ for competitively compensating employees at market-based rates for work performed.

(18) "Promotion" means ~~the~~ changing ~~of~~ the classification of an employee to a class having a higher maximum salary; or ~~the~~ changing ~~of~~ the classification of an employee to a class having the same or a lower maximum salary but a higher level of responsibility as determined by the Department of Management Services.

(19) "Demotion" means ~~the~~ changing ~~of~~ the classification of an employee to a class having a lower maximum salary; or ~~the~~ changing ~~of~~ the classification of an employee to a class having the same or a higher maximum salary but a lower level of responsibility as determined by the Department of Management Services.

(22) "Dismissal" means a disciplinary action taken by an agency against an employee resulting in termination of his or her employment for a violation of agency standards or for cause pursuant to s. *109.227* ~~110.227~~.

(23) "Suspension" means a disciplinary action taken by an agency against an employee to temporarily relieve the employee of his or her duties and place him or her on leave without pay for violation of agency standards or for cause pursuant to s. *109.227* ~~110.227~~.

Section 39. Effective July 1, 2001, subsections (22), (23), and (24) of section 109.203, Florida Statutes, as renumbered and amended by this act, are amended, and subsections (28) and (29) are added to said section, to read:

109.203 Definitions.—For the purpose of this part and the personnel affairs of the state:

(22) "Dismissal" means a disciplinary action taken by an agency *pursuant to s. 109.227* against an employee resulting in termination of his or her employment ~~for a violation of agency standards or for cause pursuant to s. 109.227~~.

(23) "Suspension" means a disciplinary action taken by an agency *pursuant to s. 109.227* against an employee to temporarily relieve the employee of his or her duties and place him or her on leave without pay ~~for violation of agency standards or for cause pursuant to s. 109.227~~.

(24) "Layoff" means termination of employment due to abolishment of positions necessitated by a shortage of funds or work, or a material change in the duties or organization of an agency*, including the outsourcing or privatization of an activity or function previously performed by career service employees*.

(28) "Firefighter" means a firefighter certified under chapter 633.

(29) "Law enforcement or correctional officer" means a law enforcement officer, special agent, correctional officer, correctional probationer officer, or institutional security specialist required to be certified under chapter 943.

Section 40. Section 109.2035, Florida Statutes, is created to read:

109.2035 Civil service classification and compensation program.—

(1) The Department of Management Services, in consultation with the Executive Office of the Governor and the Legislature, shall develop a civil service classification and compensation program. This program shall be developed for use by all state agencies and shall address all civil service classes.

(2) The program shall consist of the following:

(a) A position classification system using no more than 50 occupational groups and up to a six-class series structure for each occupation within an occupational group. Additional occupational groups may be established only by the Executive Office of the Governor after consultation with the Legislature.

(b) A pay plan which shall provide broad, market-based salary ranges for each occupational group.

(3) The following goals shall be considered in designing and implementing the program:

(a) The classification system must significantly reduce the need to reclassify positions due to work assignment and organizational changes by decreasing the number of classification changes required.

(b) The classification system must establish broad-based classes allowing flexibility in organizational structure and must reduce the levels of supervisory classes.

(c) The classification system and pay plan must emphasize pay administration and job performance evaluation by management rather than use of the classification system to award salary increases.

(d) The pay administration system must contain provisions to allow managers the flexibility to move employees through the pay ranges and provide for salary increase additives and lump-sum bonuses.

(4) The classification system shall be structured such that each confidential, managerial, and supervisory employee shall be included in the Selected Exempt Service, in accordance with part V of this chapter.

(5) The Department of Management Services shall submit the proposed design of the civil service classification and compensation program to the Executive Office of the Governor, the presiding officers of the Legislature, and the appropriate legislative fiscal and substantive standing committees on or before December 1, 2001.

(6) The department shall establish, by rule, guidelines with respect to, and shall delegate, where appropriate, to the employing agencies the authority to administer, the following:

(a) Shift differentials.

(b) On-call fees.

(c) Hazardous-duty pay.

(d) Advanced appointment rates.

(e) Salary increase and decrease corrections.

(f) Lead worker pay.

(g) Temporary special duties pay.

(h) Trainer additive pay.

(i) Competitive area differentials.

(j) Coordinator pay.

(k) Critical market pay.

The employing agency must use such pay additives as are appropriate within the guidelines established by the department and shall advise the department in writing of the plan for implementing such pay additives prior to the implementation date. Any action by an employing agency to implement temporary special duties pay, competitive area differentials, or critical market pay may be implemented only after the department has reviewed and recommended such action; however, an employing agency

may use temporary special duties pay for up to 3 months without prior review by the department. The department shall annually provide a summary report of the pay additives implemented pursuant to this section.

Section 41. Section 110.205, Florida Statutes, is renumbered as section 109.205, Florida Statutes, paragraphs (h) and (u) of subsection (2) and subsection (3) of said section are amended and subsections (7) and (8) are added to said section, and, effective July 1, 2001, paragraphs (v) and (w) are added to subsection (2) of said section, to read:

109.205 ~~110.205~~ Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions which are not covered by this part include the following, provided that no position, except for positions established for a limited period of time pursuant to paragraph (h), shall be exempted if the position reports to a position in the career service:

(h) All positions which are established for a limited period of time for the purpose of conducting a special study, project, or investigation and any person paid from an other-personal-services appropriation. Unless otherwise fixed by law, the salaries for such positions and persons shall be set in accordance with rules established by the employing agency for other-personal-services payments pursuant to s. *109.131* ~~110.131~~.

(u) Positions which are leased pursuant to a state employee lease agreement expressly authorized by the Legislature pursuant to s. *109.191* ~~110.191~~.

(v) Managerial employees, as defined in s. 447.203(4), confidential employees, as defined in s. 447.203(5), and supervisory employees who spend the majority of their time communicating with, motivating, training, and evaluating employees, and planning and directing employees' work, and who have the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline subordinate employees or effectively recommend such action, including all employees serving as supervisors, administrators, and directors, except employees also designated as special risk or special risk administrative support and except administrative law judges and hearing officers. Unless otherwise fixed by law, the department shall establish the salary range and benefits for these positions in accordance with the rules of the Selected Exempt Service.

(w) Any employee exempted and moved to the Selected Exempt Service by way of a collective bargaining agreement.

(3) PARTIAL EXEMPTION OF DEPARTMENT OF LAW ENFORCEMENT.—Employees of the Department of Law Enforcement shall be subject to the provisions of s. *109.227* ~~110.227~~, except in matters relating to transfer.

(7) If an employee is transferred or otherwise moves from the Career Service System into the Selected Exempt Service, all of the employee's unused annual leave and unused sick leave shall carry forward with the employee.

(8) If an employee is transferred or otherwise moves from the Career Service System into the Selected Exempt Service on July 1, 2001, all of the employee's unused compensatory leave shall carry forward with the employee.

Section 42. *Sections 110.207, 110.209, and 110.21, Florida Statutes, are renumbered as sections 109.207, 109.209, and 109.21, Florida Statutes, respectively.*

Section 43. *Effective June 30, 2002, sections 109.207 and 109.209, Florida Statutes, are repealed.*

Section 44. Section 110.211, Florida Statutes, is renumbered as section 109.211, Florida Statutes, and amended to read:

109.211 ~~110.211~~ Recruitment.—

(1) Recruiting shall be planned and carried out in a manner that assures open competition based upon current and projected employing agency needs, taking into consideration the number and types of positions to be filled and the labor market conditions, with special emphasis placed on recruiting efforts to attract minorities, women, or other groups that are underrepresented in the workforce of the employing agency.

(2) Recruiting efforts to fill current or projected vacancies shall be *carried out in the sound discretion of the agency head* ~~the responsibility of the employing agency~~.

(3) *Recruiting shall provide efficiency in advertising and may be assisted by a contracted vendor responsible for maintenance of the personnel data.* ~~The department shall provide for executive-level recruitment and a recruitment enhancement program designed to encourage individuals to seek employment with state government and to promote better public understanding of the state as an employer.~~

~~(4) An application for a publicly announced vacancy must be made directly to the employing agency.~~

(4)~~(5)~~ All recruitment literature ~~printed after July 1, 1979,~~ involving state position vacancies shall contain the phrase "An Equal Opportunity Employer/Affirmative Action Employer."

~~(6) The department shall develop model recruitment rules which may be used by employing agencies. Such rules must be approved by the Administration Commission before their adoption by the department. Employing agencies electing to adopt recruitment rules that are inconsistent with the model rules must consult with and submit such rules to the department for review. Such rules must also be approved by the Administration Commission before their adoption by the employing agencies.~~

Section 45. Section 110.213, Florida Statutes, is renumbered as section 109.213, Florida Statutes, and amended to read:

109.213 ~~110.213~~ Selection.—

~~(1) The department shall have the responsibility for determining guidelines for selection procedures to be utilized by the employing agencies.~~

~~(2) Any selection procedure utilized in state employment shall be designed to provide maximum validity, reliability, and objectivity; shall be based on adequate job analysis to ensure job relatedness; and shall measure the relative ability, knowledge, and skill needed for entry to a job.~~

(1)~~(3)~~ Selection for appointment from among the most qualified *candidates* ~~available eligibles~~ shall be the *sole* responsibility of the employing agency. *Effective July 1, 2001, all new employees must successfully complete at least a 1-year probationary period before attainment of permanent status.*

(2) Selection shall reflect efficiency and simplicity in hiring procedures. The agency head or his or her designee shall be required to document the qualifications of the selected candidate to ensure that the candidate meets the minimum qualifications and possesses the requisite knowledge, skills, and abilities for the position. No other documentation or justification shall be required prior to selecting a candidate for a position.

~~(4) The department shall develop model selection rules that may be used by employing agencies. Such rules must be approved by the Administration Commission before their adoption by the department. Employing agencies electing to adopt selection rules that are inconsistent with the model rules shall consult with and submit such rules to the department for review. Such rules must also be approved by the Administration Commission before their adoption by the employing agencies.~~

Section 46. *Sections 110.2135, 110.215, and 110.217, Florida Statutes, are renumbered as sections 109.2135, 109.215, and 109.217, Florida Statutes, respectively.*

Section 47. Section 110.219, Florida Statutes, is renumbered as section 109.219, Florida Statutes, and paragraph (c) of subsection (5) of

said section is amended, and, effective July 1, 2001, subsection (6) is added to said section, to read:

109.219 ~~110.219~~ Attendance and leave; general policies.—

(5) Rules shall be adopted by the department in cooperation and consultation with the agencies to implement the provisions of this section; however, such rules must be approved by the Administration Commission prior to their adoption. Such rules must provide for, but need not be limited to:

(c) Holidays as provided in s. *109.117* ~~110.117~~.

(6) The leave benefits provided to Senior Management Service employees shall not exceed those provided to employees in the Selected Exempt Service.

Section 48. *Section 110.221, Florida Statutes, is renumbered as section 109.221, Florida Statutes.*

Section 49. Section 110.224, Florida Statutes, is renumbered as section 109.224, Florida Statutes, and amended to read:

109.224 ~~110.224~~ *Public employee* ~~Review and~~ performance *evaluation* ~~planning~~ system.—A *public employee* ~~review and~~ performance *evaluation* ~~planning~~ system shall be established as a basis *to evaluate and improve* ~~for improving~~ the performance of the state's workforce, ~~to provide documentation in support of recommendations for salary increases, promotions, demotions, reassignments, or dismissals;~~ to inform employees of strong and weak points in the employee's performance, *to identify* ~~improvements expected, and current and future~~ training needs*, and to award lump-sum bonuses in accordance with s. 109.1245(2)*~~; and to assist in determining the order of layoff and reemployment~~.

(1) Upon original appointment, promotion, demotion, or reassignment, *a job description of the position assigned* ~~each career service employee~~ must be *made available to the career service employee* ~~given a statement of the work expectations and performance standards applicable to the position~~. The *job description may be made available in an electronic format.* ~~statement may be included in the position description or in a separate document. An employee will not be required to meet work expectations or performance standards that have not been furnished in writing to the employee.~~

(2) Each *employee must have a* ~~employee's~~ performance *evaluation* ~~must be reviewed~~ at least annually, and the employee must receive *a copy* ~~an oral and written assessment~~ of his or her performance *evaluation*. The *performance evaluation* ~~assessment~~ may include a plan of ~~corrective~~ action for improvement of the employee's performance based on the work expectations or performance standards applicable to the position *as determined by the agency head*.

(3) The department may adopt rules to administer the *public employee* ~~review and~~ performance *evaluation* ~~planning~~ system which establish procedures for performance evaluation, ~~procedures to be followed in case of failure to meet performance standards,~~ review periods, and forms.

Section 50. Section 110.227, Florida Statutes, is renumbered as section 109.227, Florida Statutes, and subsection (2) of said section is amended, and, effective July 1, 2001, subsections (1) and (3) and paragraph (a) of subsection (5) of said section are amended, present subsections (6) and (7) are amended and renumbered, and a new subsection (6) is added to said section, and, effective January 1, 2002, subsection (4) and paragraph (b) of subsection (5) of said section are amended, to read:

109.227 ~~110.227~~ Suspensions, dismissals, reductions in pay, demotions, layoffs, transfers, and grievances.—

(1) Any employee *other than a law enforcement or correctional officer or a firefighter* who has permanent status in the career service may only be suspended or dismissed for *reasonable* cause. *Reasonable* cause shall *be a determination made within the sound discretion of the agency head and includes* ~~include~~, but *is* not ~~be~~ limited to, negligence, inefficiency or inability to perform assigned duties, insubordination, ~~willful~~ violation of the provisions of law or agency rules, conduct unbecoming a public employee, misconduct, habitual drug abuse, or conviction of any crime ~~involving moral turpitude~~. *Suspension or dismissal based upon patronage, discrimination, or arbitrariness or for any conduct that is otherwise protected under state or federal law shall constitute an abuse of sound discretion. A law enforcement or correctional officer or a firefighter who has permanent status in the career service may only be suspended or dismissed for just cause. The* ~~Each~~ agency head shall ensure that all employees of the agency *have reasonable access to the agency's personnel manual* ~~are completely familiar with the agency's established procedures on disciplinary actions and grievances~~.

(2) The department shall establish rules and procedures for the suspension, reduction in pay, transfer, layoff, demotion, and dismissal of employees in the career service. *Except with regard to law enforcement or correctional officers or firefighters, rules regarding layoff procedures shall not include any system whereby a career service employee with greater seniority has the option of selecting a different position not being eliminated, but either vacant or already occupied by an employee of less seniority, and taking that position, commonly referred to as "bumping."* Such rules shall be approved by the Administration Commission prior to their adoption by the department. *This subsection does not prohibit collective bargaining units from seeking to incorporate "bumping" in their collective bargaining agreements.*

(3)(a) *With regard to law enforcement or correctional officers or firefighters,* when a layoff becomes necessary, such layoff shall be conducted within the competitive area identified by the agency head and approved by the Department of Management Services. Such competitive area shall be established taking into consideration the similarity of work; the organizational unit, which may be by agency, department, division, bureau, or other organizational unit; and the commuting area for the work affected.

(b) Layoff procedures shall be developed to establish the relative merit and fitness of employees and shall include a formula for uniform application among *potentially adversely affected employees, or, with respect to law enforcement or correctional officers or firefighters, among* all employees in the competitive area, taking into consideration the type of appointment, the length of service, and the evaluations of the employee's performance within the last 5 years of employment.

(4) Any permanent career service employee subject to reduction in pay, transfer, layoff, or demotion from a class in which he or she has permanent status in the Career Service System shall be notified in writing by the agency prior to its taking such action. The notice may be delivered to the employee personally or may be sent by certified mail with return receipt requested. *As of January 1, 2002,* such actions shall be appealable to the *circuit court, or the aggrieved employee may request voluntary binding arbitration as provided in s. 109.240* ~~Public Employees Relations Commission, pursuant to s. 447.208 and rules adopted by the commission~~. *Appeals based on the protections provided by the Whistle-blower's Act, ss. 112.3187-112.31895, must be filed with the Commission on Human Relations as provided for in that act.*

(5)(a) Any permanent career service employee who is subject to suspension or dismissal shall receive written notice of such action at least 10 days prior to the date such action is to be taken. *Subsequent to such notice, and prior to the date the action is to be taken, an affected employee other than a law enforcement or correctional officer or a firefighter shall be given an opportunity to appear before the agency head or the agency head's designee to rebut the conclusion that reasonable grounds exist for the suspension or dismissal.* Subsequent to such notice, and prior to the date the action is to be taken, *an* ~~the~~ affected *law enforcement or correctional officer or a firefighter* ~~employee~~ shall be given an opportunity to appear before the agency or official taking the action to answer orally and in writing the charges against him or her. The notice to the employee required by this paragraph may be delivered to the employee personally or may be sent by certified mail with return receipt requested. An employee who is suspended or dismissed shall be entitled to a hearing before the Public Employees Relations Commission or its designated agent pursuant to s. 447.208 and rules adopted by the commission.

(b) In extraordinary situations such as when the retention of a permanent career service employee would result in damage to state property, would be detrimental to the best interest of the state, or would result in injury to the employee, a fellow employee, or some other person, such employee may be suspended or dismissed without 10 days' prior notice, provided that written or oral notice of such action, evidence of the reasons therefor, and an opportunity to rebut the charges are furnished to the employee prior to such dismissal or suspension. Such notice may be delivered to the employee personally or may be sent by certified mail with return receipt requested. Agency compliance with the foregoing procedure requiring notice, evidence, and an opportunity for rebuttal must be substantiated. *Any* ~~any~~ employee who is suspended or dismissed *on or after January 1, 2002,* pursuant to the provisions of this paragraph shall be entitled to a hearing before the *circuit court, or the aggrieved employee may request voluntary binding arbitration as provided in s. 109.240* ~~Public Employees Relations Commission or its designated agent pursuant to s. 447.208, except that such hearing shall be held no more than 20 days after the filing of the notice of appeal by the employee~~. *Appeals based on the protections provided by the Whistleblower's Act, ss. 112.3187-112.31895, must be filed with the Commission on Human Relations as provided for in that act.*

(6) For any alleged adverse agency action against an employee, other than a law enforcement or correctional officer or a firefighter, occurring on or after July 1, 2001, the adversely affected employee bears the burden of proof to establish by preponderance of the evidence that the agency head abused his or her discretion in suspending, dismissing, reducing the pay of, demoting, laying off, or transferring that employee and that no reasonable cause existed for the alleged adverse action taken by the agency, or that the alleged adverse action was in violation of s. 109.233. For any alleged adverse agency action against a law enforcement or correctional officer or a firefighter occurring on or after July 1, 2001, the agency must prove just cause for suspending, dismissing, reducing the pay of, demoting, laying off, or transferring that employee.

(7)~~(6)~~ A grievance process shall be available to career service employees. A grievance is defined as the dissatisfaction that occurs when an employee *believes* ~~thinks or feels~~ that any condition affecting the employee is unjust, inequitable, or a hinderance to effective operation, or creates a problem, except that an employee shall not have the right to file a grievance against performance evaluations unless *the employee alleges* ~~it is alleged~~ that the evaluation is based on factors other than the employee's performance. Claims of discrimination and sexual harassment, suspensions, reductions in pay, transfers, layoffs, demotions, and dismissals are not subject to the career service grievance process.

(8)~~(7)~~ The department shall adopt rules for administration of the grievance process for career service employees. Such rules shall establish agency grievance procedures, eligibility, filing deadlines, forms, and review and evaluation governing the grievance process.

Section 51. Effective January 1, 2002, paragraph (a) of subsection (5) of section 109.227, Florida Statutes, as renumbered and amended by this act, is amended to read:

109.227 Suspensions, dismissals, reductions in pay, demotions, layoffs, transfers, and grievances.—

(5)(a) Any permanent career service employee who is subject to suspension or dismissal shall receive written notice of such action at least 10 days prior to the date such action is to be taken. Subsequent to such notice, and prior to the date the action is to be taken, an affected employee other than a law enforcement or correctional officer or a firefighter shall be given an opportunity to appear before the agency head or the agency head's designee to rebut the conclusion that reasonable grounds exist for the suspension or dismissal. Subsequent to such notice, and prior to the date the action is to be taken, an affected law enforcement or correctional officer or a firefighter shall be given an opportunity to appear before the agency or official taking the action to answer orally and in writing the charges against him or her. The notice to the employee required by this paragraph may be delivered to the employee personally or may be sent by certified mail with return receipt requested. *An* ~~an~~ employee who is suspended or dismissed *on or after January 1, 2002,* shall be entitled to a hearing before the *circuit court, or the aggrieved employee may request voluntary binding arbitration as provided in s. 109.240* ~~Public Employees Relations Commission or its designated agent pursuant to s. 447.208 and rules adopted by the commission~~. *Appeals based on the protections provided by the Whistleblower's Act, ss. 112.3187-112.31895, must be filed with the Commission on Human Relations as provided for in that act.*

Section 52. Section 110.233, Florida Statutes, is renumbered as section 109.233, Florida Statutes, and paragraph (a) of subsection (4) of said section is amended to read:

109.233 ~~110.233~~ Political activities and unlawful acts prohibited.—

(4) As an individual, each employee retains all rights and obligations of citizenship provided in the Constitution and laws of the state and the Constitution and laws of the United States. However, no employee in the career service shall:

(a) Hold, or be a candidate for, public office while in the employment of the state or take any active part in a political campaign while on duty or within any period of time during which the employee is expected to perform services for which he or she receives compensation from the state. However, when authorized by his or her agency head and approved by the department ~~of Management Services~~ as involving no interest which conflicts or activity which interferes with his or her state employment, an employee in the career service may be a candidate for or hold local public office. The department ~~of Management Services~~ shall prepare and make available to all affected personnel who make such request a definite set of rules and procedures consistent with the provisions herein.

Section 53. Section 110.235, Florida Statutes, is renumbered as section 109.235, Florida Statutes, and subsection (1) of said section is amended to read:

109.235 ~~110.235~~ Training.—

(1) ~~It is the intent of the Legislature that~~ State agencies shall implement training programs that encompass modern management principles, and that provide the framework to develop human resources through empowerment, training, and rewards for productivity enhancement; to continuously improve the quality of services; and to satisfy the expectations of the public.

Section 54. Section 109.237, Florida Statutes, is created to read:

109.237 Office of Employee Relations.—

(1) There is created within the Department of Management Services the Office of Employee Relations, hereinafter referred to as the "office." The Governor shall appoint an executive director of the office. The executive director shall serve at the pleasure of and report to the Governor. The executive director must be a member in good standing of The Florida Bar, have a minimum of 5 years of legal experience, and be knowledgeable regarding and have a background in the laws regarding state employees, the Career Service System, employee bargaining units, and collective bargaining. The executive director shall serve on a full-time basis, and shall personally, or through a representative of the office, carry out the purposes and functions of the office in accordance with state and federal law. The executive director shall be responsible for the administrative functions of the office. The executive director shall make all planning, personnel, and budgeting decisions with regard to the office. The executive director shall be solely responsible for administering the voluntary binding arbitration program provided for by s. 109.240. The executive director, or the executive director's designee, shall be responsible for establishing and implementing a training and education program for all the office's employees with regard to their duties and responsibilities, procedural requirements, and applicable law, as appropriate for each employee's position.

(2) The executive director shall employ a general counsel and an administrative assistant to meet immediate staffing needs. The executive director, general counsel, and administrative assistant shall be paid annual salaries to be fixed by law. Such salaries shall be paid in equal

monthly installments. The executive director, general counsel, and administrative assistant shall be reimbursed for necessary travel expenses, as provided in s. 112.061. Effective December 1, 2001, the executive director shall have the authority to employ such personnel as is necessary to carry out the duties and responsibilities of the office. These personnel shall be paid annual salaries fixed by law, in equal monthly installments, and such personnel shall be reimbursed for necessary travel expenses as provided in s. 112.061.

(3) The office, in the performance of its powers and duties under this part, shall not be subject to control, supervision, or direction of the Department of Management Services. The office shall be a separate budget entity within the department's legislative budget request.

(4) The Department of Management Services shall provide the necessary office space, furniture, equipment, and supplies necessary for the startup of the office. The department shall further provide administrative support and service to the office to the extent requested by the executive director within the available resources of the department. The executive director may request the assistance of the Inspector General of the Department of Management Services in providing auditing services, and the Office of General Counsel of the department may provide assistance in rulemaking and other matters as needed to assist the office.

(5) The office shall make such expenditures, including expenditures for personal services and rent at the seat of government and elsewhere, for law books, books of reference, periodicals, furniture, equipment, and supplies, and for printing and binding, as may be necessary in exercising its authority and powers and carrying out its duties and responsibilities. All such expenditures by the office shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the executive director.

(6) The office may charge for copies of records and documents as provided for in s. 119.07.

(7) The office shall maintain and keep open during reasonable business hours an office at which its public records shall be kept. The office may conduct hearings at any place within the state.

(8) The office shall have a seal for authentication of its orders and proceedings, upon which shall be inscribed the words "State of Florida—Office of Employee Relations—Seal" and which shall be judicially noticed.

(9) The office is expressly authorized to provide by rule for, and to destroy, obsolete records of the office.

(10) Any hearing held or oral argument heard by the office pursuant to chapter 120 or this chapter shall be open to the public.

(11) Any hearing held by the office under this part shall be conducted in accordance with the provisions of ss. 120.569 and 120.57 by an employee of the office, or a person designated by the executive director, who is a member in good standing of The Florida Bar.

Section 55. (1) Except as otherwise provided, effective January 1, 2002, section 109.240, Florida Statutes, is created to read:

109.240 Voluntary binding arbitration.—

(1) Upon receipt of notice of an adverse agency action, any permanent career service employee may request voluntary binding arbitration administered by the Office of Employee Relations. As used in this section, "adverse agency action" means the suspension, dismissal, reduction in pay, demotion, layoff, or transfer of an employee. Any eligible employee choosing to participate in voluntary binding arbitration must file a written request for arbitration with the office no later than 14 days after the receipt of notice of the adverse agency action.

(2) The arbitration request must be submitted on a form prescribed by the office by rule. The form must be signed by the employee and must include stipulations that:

(a) The employee is voluntarily participating in binding arbitration pursuant to this section.

(b) The arbitration order is final and may not be set aside except for an error in law that is apparent on the record.

(c) The employee will faithfully abide by the arbitration order unless otherwise determined by a court of competent jurisdiction.

(3) Upon receipt of the arbitration request, the office shall provide written notice to the agency against which a request is made regarding the employee request for binding arbitration. The agency must participate in the requested binding arbitration. Binding arbitration shall not be conducted pursuant to this section unless the employee requests it.

(4)(a) The employee bears the burden of establishing by a preponderance of the evidence that the agency action complained of was adverse, that the agency head abused his or her discretion in taking the adverse agency action, and that no reasonable cause existed for the adverse agency action. This paragraph does not apply to law enforcement or correctional officers or firefighters.

(b) With regard to law enforcement or correctional officers or firefighters, the employer must prove just cause for the adverse agency action.

(5)(a) The voluntary binding arbitration shall be heard and determined by an employee panel that consists of three randomly selected career service employees chosen by the office in a manner to ensure a balanced representation of employees from each pay classification. At least one of the employees selected to serve on an employee panel must be a member of the same pay classification as the employee requesting binding arbitration. This paragraph does not apply to law enforcement or correctional officers or firefighters.

(b) With regard to law enforcement or correctional officers or firefighters, the voluntary binding arbitration shall be heard and determined by an employee panel that consists of three career service employees selected as follows:

1. One panel member who is a member of the same pay classification as the employee requesting the voluntary binding arbitration, selected by that employee.

2. One panel member who is a member of the same pay classification as the employee requesting the voluntary binding arbitration, selected by the employer.

3. One panel member jointly selected by the other two panel members. If the two panel members do not agree on the jointly selected panel member, within 10 working days after the appeal is submitted, the parties shall jointly request the Federal Mediation and Conciliation Service to furnish a panel of seven names from which each party shall have the option, within 5 days of receipt, of striking three names in alternating fashion. The seventh or remaining name shall serve as the third panel member. The parties shall jointly notify the panel member of his or her selection. Either party may object to all names on the list, provided the objection is made prior to the commencement of the striking process. If this occurs, the objecting party may request the Federal Mediation and Conciliation Service to furnish another list of names. No more than two lists may be requested.

(c) The employee panel shall receive procedural direction and legal advice from the arbitrator appointed by the office.

(d) No employee currently employed or employed within the preceding 6 months by the agency participating in the binding arbitration shall be selected for an employee panel. Employees selected to serve on an employee panel shall hear all evidence submitted by the parties in arbitration and their decision shall be governed by the statutory burden of proof. The office shall reimburse agencies for the daily tasks of each agency employee that serves on an employee panel.

(e) The employee panel shall make all findings of fact and determination of claims. The arbitrator shall draft the arbitration decision for submission to the members of the employee panel for their approval and signatures. Unless otherwise provided in the decision, the decision shall become final 10 days after its execution by the panel.

(6) Any party may be represented by counsel or another appointed representative. The arbitrator and employee panel must complete all arbitration of the employee's claims raised in the request within 60 days after receipt of the claim. The arbitrator may extend the 60-day period upon request of the parties or at the request of one party, after a hearing on that party's request for extension.

(7)(a) The arbitrator selected by the office shall not be an employee within the Career Service System, the Select Management Service, or the Selected Exempt Service. Each selected arbitrator must, at a minimum, meet the following requirements:

1. Completion of a Florida Supreme Court certified circuit or county arbitration program, or other arbitration program approved by the office, in addition to a minimum of 1 day of training in the application of this chapter and chapter 447 and any rules adopted thereunder.

2. Compliance with the Code of Ethics for Arbitrators in Employment Disputes published by the American Arbitration Association and the American Bar Association in 1977, as amended.

3. Membership in good standing in The Florida Bar.

(b) The arbitrator shall have authority to commence and adjourn the arbitration hearing. The arbitrator shall not have authority to hold any person in contempt or to in any way impose sanctions against any person. The arbitrator shall provide assistance to the employee panel on questions of law.

(c) The arbitrator shall schedule all arbitration proceedings, including the date, time, and location of such proceedings and provide notice of the arbitration proceeding to the parties at least 5 days in advance of the hearing date, unless otherwise agreed to by the parties. The arbitrator has the discretion to grant a continuance for reasonable cause.

(d) The arbitrator may set a preliminary conference and require all parties to file a statement of position prior to the conference. The statement of position may include stipulations of the parties to uncontested facts and applicable law, citations to all governing statutory or regulatory laws that control the controversy, a list of issues of fact and law that are in dispute, any proposals designed to expedite the arbitration process, a list of documents exchanged by the parties and a schedule for the delivery of any additional relevant documents, identification of witnesses expected to be called during the arbitration proceeding accompanied by a short summary of their expected testimony, and any other matters specified by the arbitrator.

(8) The duties of the office in administering voluntary binding arbitration pursuant to this section include, but are not limited to, the following:

(a) Supporting the arbitration process, including the filing and noticing of all arbitration requests, objections, and other party communications; the selection of the arbitrator; and the design and operation of the employee panel pool.

(b) Providing for the selection of the employee panel and arbitrator, which includes:

1. Providing selection notice to all parties, the arbitrator, and the employee panel participants.

2. Securing a signed disclosure statement from each appointed arbitrator and selected employee describing any circumstances likely to affect impartiality, including any bias or any financial or personal interest with either party or any present or past relationship with the employee seeking binding arbitration, and making these disclosure statements available to the parties. The duty to disclose shall be a continuing obligation throughout the arbitration process.

3. Filling vacancies.

4. Compensating arbitrators, provided that an arbitrator's fees and expenses shall not exceed $500 per day for case preparation, prehearing conferences, hearings, and preparation of the arbitration order.

5. Making an electronic recording of each arbitration proceeding, including preconference hearings, even when a party chooses to make a stenographic recording of the arbitration proceeding at that party's expense.

(c) Publishing the final arbitration order submitted to the office by both parties and the arbitrator.

(9) The office shall maintain records of each dispute submitted to voluntary binding arbitration, including the recordings of the arbitration hearings. All records maintained by the office under this section shall be public records and shall be available for inspection upon reasonable notice.

(10) The arbitration proceedings shall be governed by the following procedural requirements:

(a) A party may object to the arbitrator or any employee on the panel based on the arbitrator's or employee's past or present, direct or indirect, relationship with either party or either party's attorney, whether that relationship was or is financial, professional, or social. The arbitrator shall consider any objection to a panel employee, determine its validity, and notify the parties of his or her determination. If the objection is determined valid, the office shall assign another employee from the employee panel pool. The office shall consider any objection to the arbitrator, determine its validity, and notify the parties of its determination. If the objection is determined valid, the office shall appoint another arbitrator.

(b) The arbitrator has the power to issue subpoenas, and to effect discovery on the written request of any party by any means available to the courts and in the manner provided in the Florida Rules of Civil Procedure, including the imposition of sanctions, excluding contempt. Fees for attendance of witnesses shall be the same as that provided in civil actions in circuit courts of this state.

(c) At all arbitration proceedings, the parties may present oral and written testimony, present witnesses and evidence relevant to the dispute, cross-examine witnesses, and be represented by counsel. The arbitrator shall record the arbitration hearing and shall have the power to administer oaths.

(d) The arbitrator may continue a hearing on his or her own motion or upon the request of the party for good cause shown. A request for continuance by the employee constitutes a waiver of the 60-day time period for completion of all arbitration proceedings authorized under this section.

(e) The employee panel shall render its decision within 10 days after the closing of the hearing. The decision shall be in writing on a form prescribed or adopted by the office. The arbitrator shall send a copy of the decision to the parties by registered mail.

(f) Unless otherwise provided, the arbitration decision rendered by the employee panel and any appeals thereof are exempt from the provisions of chapter 120.

(11)(a) The office shall establish rules of procedure governing the arbitration process. Such rules shall include, but are not limited to:

1. The exchange and filing of information among the parties.

2. Discovery.

3. Offering evidence.

4. Calling and excluding witnesses.

5. Submitting evidence by affidavit.

6. Attendance of the parties and witnesses.

7. The order of proceedings.

(b) The office may adopt additional rules necessary to implement this section.

(12) Either party may make application to the circuit court for the county in which one of the parties resides or has a place of business, or

the county where the arbitration hearing was held, for an order confirming, vacating, or modifying the arbitration decision. Such application must be filed within 30 days after the later of the moving party's receipt of the written decision or the date the decision becomes final. Upon filing such application, the moving party shall mail a copy to the office and, upon entry of any judgment or decree, shall mail a copy of such judgment or decree to the office. A review of such application to circuit court shall be limited to review on the record and not de novo, of:

(a) Any alleged failure of the arbitrator to comply with the applicable rules of procedure or evidence.

(b) Any alleged partiality or misconduct by an arbitrator prejudicing the rights of any party.

(c) Whether the decision reaches a result contrary to the United States Constitution or the Florida Constitution.

If the arbitrator and employee panel fail to state findings or reasons for the stated decision, or the findings and reasons are inadequate, the court shall search the record to determine whether a basis exists to uphold the decision.

(13) The office, the arbitrator, and the employee panel shall have absolute immunity from liability arising from the performance of their duties while acting within the scope of their appointed function in any arbitration conducted under this section.

(2) For purposes of rulemaking by the Office of Employee Relations, subsection (11) of s. 109.240, Florida Statutes, as created by this section, shall take effect July 1, 2001.

Section 56. Section 110.401, Florida Statutes, is renumbered as section 109.401, Florida Statutes, and amended to read:

109.401 ~~110.401~~ Declaration of policy.~~—It is the intent of~~ This part *creates* ~~to create~~ a uniform system for attracting, retaining, and developing highly competent senior-level managers at the highest executive-management-level agency positions in order for the highly complex programs and agencies of state government to function effectively, efficiently, and productively. The Legislature recognizes that senior-level management is an established profession and that the public interest is best served by developing and refining the management skills of its Senior Management Service employees. *Accordingly* ~~To this end~~, training and management-development programs are regarded as a major administrative function within agencies.

Section 57. Section 110.402, Florida Statutes, is renumbered as section 109.402, Florida Statutes, and subsection (2) of said section is amended to read:

109.402 ~~110.402~~ Senior Management Service; creation, coverage.—

(2) The Senior Management Service shall be limited to those positions which are exempt from the Career Service System by s. *109.205(2)* ~~110.205(2)~~ and for which the salaries and benefits are set by the department in accordance with the rules of the Senior Management Service.

Section 58. Section 110.403, Florida Statutes, is renumbered as section 109.403, Florida Statutes, and amended to read:

109.403 ~~110.403~~ Powers and duties of the Department of Management Services.—

(1) ~~In order to implement the purposes of this part,~~ The department ~~of Management Services~~, after approval by the Administration Commission, shall adopt and amend rules *that provide* ~~providing~~ for:

(a) A system for employing, promoting, or reassigning managers that is responsive to organizational or program needs. In no event shall the number of positions included in the Senior Management Service exceed 0.5 percent of the total full-time equivalent positions in the career service. The department shall deny approval to establish any position within the Senior Management Service which would exceed the limitation established in this paragraph. The department shall report that the limitation has been reached to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as soon as practicable after such event occurs. Employees in the Senior Management Service shall serve at the pleasure of the agency head and shall be subject to suspension, dismissal, reduction in pay, demotion, transfer, or other personnel action at the discretion of the agency head. Such personnel actions are exempt from the provisions of chapter 120.

(b) A performance appraisal system which shall take into consideration individual and organizational efficiency, productivity, and effectiveness.

(c) A classification plan and a salary and benefit plan that provides appropriate incentives for the recruitment and retention of outstanding management personnel and provides for salary increases based on performance.

(d) A system of rating duties and responsibilities for positions within the Senior Management Service and the qualifications of candidates for those positions.

(e) A system for documenting actions taken on agency requests for approval of position exemptions and special pay increases.

(f) Requirements regarding recordkeeping by agencies with respect to Senior Management Service positions. Such records shall be audited periodically by the department ~~of Management Services~~ to determine agency compliance with the provisions of this part and *with* the *department's* rules ~~of the Department of Management Services~~.

(g) Other procedures relating to personnel administration to carry out the purposes of this part.

(h) A program of affirmative and positive action that will ensure full utilization of *the rich diversity of Florida's human resources* ~~women and minorities~~ in Senior Management Service positions.

(2) The powers, duties, and functions of the department ~~of Management Services~~ shall include responsibility for the policy administration of the Senior Management Service.

(3) The department ~~of Management Services~~ shall have the following additional responsibilities:

(a) To establish and administer a professional development program which shall provide for the systematic development of managerial, executive, or administrative skills.

(b) To promote public understanding of the purposes, policies, and programs of the Senior Management Service.

(c) To approve contracts of employing agencies with persons engaged in the business of conducting multistate executive searches to identify qualified and available applicants for Senior Management Service positions for which the department ~~of Management Services~~ sets salaries in accordance with the classification and pay plan. Such contracts may be entered by the agency head only after completion of an unsuccessful in-house search. The department ~~of Management Services~~ shall establish, by rule, the minimum qualifications for persons desiring to conduct executive searches, including a requirement for the use of contingency contracts. *These* ~~Such~~ rules shall ensure that such persons possess the requisite capacities to perform effectively at competitive industry prices. *These* ~~The Department of Management Services shall make the~~ rules *shall also* ~~required pursuant to this paragraph in such a manner as to~~ comply with state and federal laws and regulations governing equal opportunity employment.

(4) All policies and procedures adopted by the department ~~of Management Services~~ regarding the Senior Management Service shall comply with all federal regulations necessary to permit the state agencies to be eligible to receive federal funds.

(5) The department ~~of Management Services~~ shall adopt, by rule, procedures for Senior Management Service employees that require disclosure to the agency head of any application for or offer of employment, gift, contractual relationship, or financial interest with

any individual, partnership, association, corporation, utility, or other organization, whether public or private, doing business with or subject to regulation by the agency.

Section 59. Effective July 1, 2001, paragraph (a) of subsection (1) of section 109.403, Florida Statutes, as renumbered and amended by this act, is amended to read:

109.403 Powers and duties of the Department of Management Services.—

(1) The department, after approval by the Administration Commission, shall adopt and amend rules which provide for:

(a) A system for employing, promoting, or reassigning managers that is responsive to organizational or program needs. In no event shall the number of positions included in the Senior Management Service exceed *1.5* ~~0.5~~ percent of the total full-time equivalent positions in the career service. The department shall deny approval to establish any position within the Senior Management Service which would exceed the limitation established in this paragraph. The department shall report that the limitation has been reached to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as soon as practicable after such event occurs. Employees in the Senior Management Service shall serve at the pleasure of the agency head and shall be subject to suspension, dismissal, reduction in pay, demotion, transfer, or other personnel action at the discretion of the agency head. Such personnel actions are exempt from the provisions of chapter 120.

Section 60. *Section 110.405, Florida Statutes, is renumbered as section 109.405, Florida Statutes.*

Section 61. Section 110.406, Florida Statutes, is renumbered as section 109.406, Florida Statutes, and paragraph (a) of subsection (2) and subsection (3) of said section are amended to read:

109.406 ~~110.406~~ Senior Management Service; data collection.—

(2) The data required by this section shall include:

(a) A detailed description of the specific actions that have been taken by the department to implement the provisions of s. *109.403* ~~110.403~~.

(3) To assist in the preparation of the data required by this section, the secretary may hire a consultant with expertise in the field of personnel management and may use the services of the advisory committee authorized in s. *109.405* ~~110.405~~.

Section 62. *Section 110.501, Florida Statutes, is renumbered as section 109.501, Florida Statutes.*

Section 63. Section 110.502, Florida Statutes, is renumbered as section 109.502, Florida Statutes, and subsections (2) and (3) of said section are amended to read:

109.502 ~~110.502~~ Scope of act; status of volunteers.—

(2) Volunteers recruited, trained, or accepted by any state department or agency shall not be subject to any provisions of law relating to state employment, to any collective bargaining agreement between the state and any employees' association or union, or to any laws relating to hours of work, rates of compensation, leave time, and employee benefits, except those consistent with s. *109.504* ~~110.504~~. However, all volunteers shall comply with applicable department or agency rules.

(3) Every department or agency utilizing the services of volunteers is hereby authorized to provide such incidental reimbursement or benefit consistent with the provisions of s. *109.504* ~~110.504~~, including transportation costs, lodging, and subsistence, recognition, and other accommodations as the department or agency deems necessary to assist, recognize, reward, or encourage volunteers in performing their functions. No department or agency shall expend or authorize an expenditure therefor in excess of the amount provided for to the department or agency by appropriation in any fiscal year.

Section 64. *Sections 110.503 and 110.504, Florida Statutes, are renumbered as sections 109.503 and 109.504, Florida Statutes, respectively.*

Section 65. Section 110.601, Florida Statutes, is renumbered as section 109.601, Florida Statutes, and amended to read:

109.601 ~~110.601~~ Declaration of policy.~~—It is the purpose of~~ This part *creates* ~~to create~~ a system of personnel management *the purpose of which is to deliver* ~~which ensures to the state the delivery of~~ high-quality performance *by those employees* in select exempt classifications by facilitating the state's ability to attract and retain qualified personnel in these positions, while also providing sufficient management flexibility to ensure that the workforce is responsive to agency needs. The Legislature recognizes that the public interest is best served by developing and refining the technical and managerial skills of its Selected Exempt Service employees, and, to this end, technical training and management development programs are regarded as a major administrative function within agencies.

Section 66. Section 110.602, Florida Statutes, is renumbered as section 109.602, Florida Statutes, and amended to read:

109.602 ~~110.602~~ Selected Exempt Service; creation, coverage.—The Selected Exempt Service is created as a separate system of personnel administration for select exempt positions. Such positions shall include, and shall be limited to, those positions which are exempt from the Career Service System pursuant to s. *109.205(2) and (5)* ~~110.205(2) and (5)~~ and for which the salaries and benefits are set by the department in accordance with the rules of the Selected Exempt Service. The department shall designate all positions included in the Selected Exempt Service as either managerial/policymaking, professional, or nonmanagerial/nonpolicymaking. In no event shall the number of positions included in the Selected Exempt Service, excluding those positions designated as professional or nonmanagerial/nonpolicymaking, exceed 1.5 percent of the total full-time equivalent positions in the career service. The department shall deny approval to establish any position within the Selected Exempt Service which would exceed the limitation established in this section. The department shall report that the limitation has been reached to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as soon as practicable after such event occurs.

Section 67. Effective July 1, 2001, section 109.602, Florida Statutes, as renumbered and amended by this act, is amended to read:

109.602 Selected Exempt Service; creation, coverage.—The Selected Exempt Service is created as a separate system of personnel administration for select exempt positions. Such positions shall include, and shall be limited to, those positions which are exempt from the Career Service System pursuant to s. 109.205(2) and (5) and for which the salaries and benefits are set by the department in accordance with the rules of the Selected Exempt Service. The department shall designate all positions included in the Selected Exempt Service as either managerial/policymaking, professional, or nonmanagerial/nonpolicymaking. ~~In no event shall the number of positions included in the Selected Exempt Service, excluding those positions designated as professional or nonmanagerial/nonpolicymaking, exceed 1.5 percent of the total full-time equivalent positions in the career service. The department shall deny approval to establish any position within the Selected Exempt Service which would exceed the limitation established in this section. The department shall report that the limitation has been reached to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as soon as practicable after such event occurs.~~

Section 68. *Sections 110.603 and 110.604, Florida Statutes, are renumbered as sections 109.603 and 109.604, Florida Statutes, respectively.*

Section 69. Section 110.605, Florida Statutes, is renumbered as section 109.605, Florida Statutes, and subsection (1) of said section is amended to read:

109.605 ~~110.605~~ Powers and duties; personnel rules, records, reports, and performance appraisal.—

(1) The department shall adopt and administer uniform personnel rules, records, and reports relating to employees and positions in the Selected Exempt Service, as well as any other rules and procedures relating to personnel administration which are necessary to carry out the purposes of this part.

(a) The department shall develop uniform forms and instructions to be used in reporting transactions which involve changes in an employee's salary, status, performance, leave, fingerprint record, loyalty oath, payroll change, or appointment action or any additional transactions as the department may deem appropriate.

~~(b) It is the responsibility of the employing agency to maintain these records and all other records and reports prescribed in applicable rules on a current basis.~~

(b)~~(c)~~ The department shall develop a uniform performance appraisal system for employees and positions in the Selected Exempt Service covered by a collective bargaining agreement. Each employing agency shall develop a performance appraisal system for all other employees and positions in the Selected Exempt System. Such agency system shall take into consideration individual and organizational efficiency, productivity, and effectiveness.

(c)~~(d)~~ *The employing agency must maintain, on a current basis, all records and reports required by applicable rules.* The department shall periodically audit employing agency records to determine compliance with the provisions of this part and the rules of the department.

(d)~~(e)~~ The department shall develop a program of affirmative and positive actions that will ensure full utilization of *the rich diversity of Florida's human resources* ~~women and minorities~~ in Selected Exempt Service positions.

Section 70. Section 110.606, Florida Statutes, is renumbered as section 109.606, Florida Statutes, and paragraph (c) of subsection (2) of said section is amended to read:

109.606 ~~110.606~~ Selected Exempt Service; data collection.—

(2) The data required by this section shall include:

(c) In addition, as needed~~, the data shall include~~:

1. A pricing analysis based on a market survey of positions comparable to those included in the Selected Exempt Service and recommendations with respect to whether, and to what extent, revisions to the salary ranges for the Selected Exempt Service classifications should be implemented.

2. An analysis of actual salary levels for each classification within the Selected Exempt Service, indicating the mean salary for each classification within the Selected Exempt Service and the deviation from such means with respect to each agency's salary practice in each classification; reviewing the duties and responsibilities in relation to the incumbents' salary levels, credentials, skills, knowledge, and abilities; and discussing whether the salary practices reflected thereby indicate interagency salary inequities among positions within the Selected Exempt Service.

Section 71. *(1) Sections 109.105 through 109.191, Florida Statutes, are designated as part I of chapter 109, Florida Statutes, to be entitled "General State Employment Provisions."*

(2) Sections 109.201 through 109.240, Florida Statutes, are designated as part II of chapter 109, Florida Statutes, to be entitled "Career Service System."

(3) Sections 109.401 through 109.406, Florida Statutes, are designated as part III of chapter 109, Florida Statutes, to be entitled "Senior Management Service System."

(4) Sections 109.501 through 109.504, Florida Statutes, are designated as part IV of chapter 109, Florida Statutes, to be entitled "Volunteers."

(5) Sections 109.601 through 109.606, Florida Statutes, are designated as part V of chapter 109, Florida Statutes, to be entitled "Selected Exempt Service System."

Section 72. Paragraph (c) of subsection (2) and paragraph (d) of subsection (3) of section 20.171, Florida Statutes, are amended to read:

20.171 Department of Labor and Employment Security.—There is created a Department of Labor and Employment Security. The department shall operate its programs in a decentralized fashion.

(2)

(c) The managers of all divisions and offices specifically named in this section and the directors of the five field offices are exempt from part II of chapter *109* ~~110~~ and are included in the Senior Management Service in accordance with s. *109.205(2)(i)* ~~110.205(2)(i)~~. No other assistant secretaries or senior management positions at or above the division level, except those established in chapter *109* ~~110~~, may be created without specific legislative authority.

(3)

(d)1. The secretary shall appoint a comptroller who shall be responsible to the assistant secretary. This position is exempt from part II of chapter *109* ~~110~~.

2. The comptroller is the chief financial officer of the department and shall be a proven, effective administrator who, by a combination of education and experience, clearly possesses a broad knowledge of the administrative, financial, and technical aspects of a complex cost-accounting system. The comptroller must also have a working knowledge of generally accepted accounting principles. At a minimum, the comptroller shall hold an active license to practice public accounting in this state pursuant to chapter 473 or in any other state. In addition to the requirements of the Florida Fiscal Accounting Management Information System Act, the comptroller is responsible for the development, maintenance, and modification of an accounting system which will in a timely manner accurately reflect the revenues and expenditures of the department and which shall include a cost-accounting system to properly identify, segregate, allocate, and report department costs. The comptroller shall supervise and direct preparation of a detailed 36-month forecast of cash and expenditures and shall be responsible for managing cash and determining cash requirements. The comptroller shall review all comparative cost studies which examine the cost-effectiveness and feasibility of contracting for services and operations performed by the department. The review shall state that the study was prepared in accordance with generally accepted cost-accounting standards applied in a consistent manner using valid and accurate cost data.

3. The comptroller may be required to give bond as provided by s. 20.05(4).

4. The department shall, by rule or internal management memoranda as required by chapter 120, provide for the maintenance by the comptroller of financial records and accounts of the department as will afford a full and complete check against the improper payment of bills and provide a system for the prompt payment of the just obligations of the department, which records must at all times disclose:

a. The several appropriations available for the use of the department.

b. The specific amounts of each such appropriation budgeted by the department for each improvement or purpose.

c. The apportionment or division of all such appropriations among the several counties and field offices, when such apportionment or division is made.

d. The amount or portion of each such apportionment against general contractual and other obligations of the department.

e. The amount expended and still to be expended in connection with each contractual and each other obligation of the department.

f. The expense and operating costs of the various activities of the department.

g. The receipts accruing to the department and the distribution thereof.

h. The assets, investments, and liabilities of the department.

i. The cash requirements of the department for a 36-month period.

5. The comptroller shall maintain a separate account for each fund administered by the department.

6. The comptroller shall perform such other related duties as may be designated by the department.

Section 73. Subsection (3) of section 20.18, Florida Statutes, is amended to read:

20.18 Department of Community Affairs.—There is created a Department of Community Affairs.

(3) Unless otherwise provided by law, the Secretary of Community Affairs shall appoint the directors or executive directors of any commission or council assigned to the department, who shall serve at his or her pleasure as provided for division directors in s. *109.205* ~~110.205~~. The appointment or termination by the secretary will be done with the advice and consent of the commission or council; and the director or executive director may employ, subject to departmental rules and procedures, such personnel as may be authorized and necessary.

Section 74. Subsection (6) of section 20.21, Florida Statutes, is amended to read:

20.21 Department of Revenue.—There is created a Department of Revenue.

(6) Notwithstanding the provisions of s. *109.123* ~~110.123~~, relating to the state group insurance program, the department may pay, or participate in the payment of, premiums for health, accident, and life insurance for its full-time out-of-state employees, pursuant to such rules as it may adopt, and such payments shall be in addition to the regular salaries of such full-time out-of-state employees.

Section 75. Paragraph (d) of subsection (1), paragraph (h) of subsection (2), paragraphs (d), (f), (h), and (i) of subsection (3), paragraphs (c) and (d) of subsection (4), and subsection (5) of section 20.23, Florida Statutes, are amended to read:

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

(1)

(d) Any secretary appointed after July 5, 1989, and the assistant secretaries shall be exempt from the provisions of part III of chapter *109* ~~110~~ and shall receive compensation commensurate with their qualifications and competitive with compensation for comparable responsibility in the private sector. When the salary of any assistant secretary exceeds the limits established in part III of chapter *109* ~~110~~, the Governor shall approve said salary.

(2)

(h) The commission shall appoint an executive director and assistant executive director, who shall serve under the direction, supervision, and control of the commission. The executive director, with the consent of the commission, shall employ such staff as are necessary to perform adequately the functions of the commission, within budgetary limitations. All employees of the commission are exempt from part II of chapter *109* ~~110~~ and shall serve at the pleasure of the commission. The salaries and benefits of all employees of the commission shall be set in accordance with the Selected Exempt Service; provided, however, that the commission shall have complete authority for fixing the salary of the executive director and assistant executive director.

(3)

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

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

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

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

d. Performing other activities of a statewide nature.

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

a. The Office of Administration;

b. The Office of Policy Planning;

c. The Office of Design;

d. The Office of Highway Operations;

e. The Office of Right-of-Way;

f. The Office of Toll Operations;

g. The Office of Information Systems; and

h. The Office of Motor Carrier Compliance.

3. Other offices may be established in accordance with s. 20.04(7). The heads of such offices are exempt from part II of chapter *109* ~~110~~. No office or organization shall be created at a level equal to or higher than a division without specific legislative authority.

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

(f)1. Within the central office there is created an Office of Management and Budget. The head of the Office of Management and Budget is responsible to the Assistant Secretary for Finance and Administration and is exempt from part II of chapter *109* ~~110~~.

2. The functions of the Office of Management and Budget include, but are not limited to:

a. Preparation of the work program;

b. Preparation of the departmental budget; and

c. Coordination of related policies and procedures.

3. The Office of Management and Budget shall also be responsible for developing uniform implementation and monitoring procedures for all activities performed at the district level involving the budget and the work program.

(h)1. The secretary shall appoint an inspector general pursuant to s. 20.055. To comply with recommended professional auditing standards related to independence and objectivity, the inspector general shall be appointed to a position within the Career Service System and may be removed by the secretary with the concurrence of the Transportation Commission. In order to attract and retain an individual who has the

proven technical and administrative skills necessary to comply with the requirements of this section, the agency head may appoint the inspector general to a classification level within the Career Service System that is equivalent to that provided for in part III of chapter *109* ~~110~~. The inspector general may be organizationally located within another unit of the department for administrative purposes, but shall function independently and be directly responsible to the secretary pursuant to s. 20.055. The duties of the inspector general shall include, but are not restricted to, reviewing, evaluating, and reporting on the policies, plans, procedures, and accounting, financial, and other operations of the department and recommending changes for the improvement thereof, as well as performing audits of contracts and agreements between the department and private entities or other governmental entities. The inspector general shall give priority to reviewing major parts of the department's accounting system and central office monitoring function to determine whether such systems effectively ensure accountability and compliance with all laws, rules, policies, and procedures applicable to the operation of the department. The inspector general shall also give priority to assessing the department's management information systems as required by s. 282.318. The internal audit function shall use the necessary expertise, in particular, engineering, financial, and property appraising expertise, to independently evaluate the technical aspects of the department's operations. The inspector general shall have access at all times to any personnel, records, data, or other information of the department and shall determine the methods and procedures necessary to carry out his or her duties. The inspector general is responsible for audits of departmental operations and for audits of consultant contracts and agreements, and such audits shall be conducted in accordance with generally accepted governmental auditing standards. The inspector general shall annually perform a sufficient number of audits to determine the efficiency and effectiveness, as well as verify the accuracy of estimates and charges, of contracts executed by the department with private entities and other governmental entities. The inspector general has the sole responsibility for the contents of his or her reports, and a copy of each report containing his or her findings and recommendations shall be furnished directly to the secretary and the commission.

2. In addition to the authority and responsibilities herein provided, the inspector general is required to report to the:

a. Secretary whenever the inspector general makes a preliminary determination that particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the department have occurred. The secretary shall review and assess the correctness of the preliminary determination by the inspector general. If the preliminary determination is substantiated, the secretary shall submit such report to the appropriate committees of the Legislature within 7 calendar days, together with a report by the secretary containing any comments deemed appropriate. Nothing in this section shall be construed to authorize the public disclosure of information which is specifically prohibited from disclosure by any other provision of law.

b. Transportation Commission and the Legislature any actions by the secretary that prohibit the inspector general from initiating, carrying out, or completing any audit after the inspector general has decided to initiate, carry out, or complete such audit. The secretary shall, within 30 days after transmission of the report, set forth in a statement to the Transportation Commission and the Legislature the reasons for his or her actions.

(i)1. The secretary shall appoint a comptroller who is responsible to the Assistant Secretary for Finance and Administration. This position is exempt from part II of chapter *109* ~~110~~.

2. The comptroller is the chief financial officer of the department and must be a proven, effective administrator who by a combination of education and experience clearly possesses a broad knowledge of the administrative, financial, and technical aspects of a complex cost-accounting system. The comptroller must also have a working knowledge of generally accepted accounting principles. At a minimum, the comptroller must hold an active license to practice public accounting in Florida pursuant to chapter 473 or an active license to practice public accounting in any other state. In addition to the requirements of the Florida Fiscal Accounting Management Information System Act, the comptroller is responsible for the development, maintenance, and modification of an accounting system that will in a timely manner accurately reflect the revenues and expenditures of the department and that includes a cost-accounting system to properly identify, segregate, allocate, and report department costs. The comptroller shall supervise and direct preparation of a detailed 36-month forecast of cash and expenditures and is responsible for managing cash and determining cash requirements. The comptroller shall review all comparative cost studies that examine the cost-effectiveness and feasibility of contracting for services and operations performed by the department. The review must state that the study was prepared in accordance with generally accepted cost-accounting standards applied in a consistent manner using valid and accurate cost data.

3. The department shall by rule or internal management memoranda as required by chapter 120 provide for the maintenance by the comptroller of financial records and accounts of the department as will afford a full and complete check against the improper payment of bills and provide a system for the prompt payment of the just obligations of the department, which records must at all times disclose:

a. The several appropriations available for the use of the department;

b. The specific amounts of each such appropriation budgeted by the department for each improvement or purpose;

c. The apportionment or division of all such appropriations among the several counties and districts, when such apportionment or division is made;

d. The amount or portion of each such apportionment against general contractual and other liabilities then created;

e. The amount expended and still to be expended in connection with each contractual and other obligation of the department;

f. The expense and operating costs of the various activities of the department;

g. The receipts accruing to the department and the distribution thereof;

h. The assets, investments, and liabilities of the department; and

i. The cash requirements of the department for a 36-month period.

4. The comptroller shall maintain a separate account for each fund administered by the department.

5. The comptroller shall perform such other related duties as designated by the department.

(4)

(c) Each district secretary may appoint a district director for planning and programming, a district director for production, and a district director for operations. These positions are exempt from part II of chapter *109* ~~110~~.

(d) Within each district, offices shall be established for managing major functional responsibilities of the department. The offices may include planning, design, construction, right-of-way, maintenance, and public transportation. The heads of these offices shall be exempt from part II of chapter *109* ~~110~~.

(5) Notwithstanding the provisions of s. *109.205* ~~110.205~~, the Department of Management Services is authorized to exempt positions within the Department of Transportation which are comparable to positions within the Senior Management Service pursuant to s. *109.205(2)(i)* ~~110.205(2)(i)~~ or positions which are comparable to positions in the Selected Exempt Service under s. *109.205(2)(l)* ~~110.205(2)(l)~~.

Section 76. Subsection (2) of section 20.255, Florida Statutes, is amended to read:

20.255 Department of Environmental Protection.—There is created a Department of Environmental Protection.

(2)(a) There shall be three deputy secretaries who are to be appointed by and shall serve at the pleasure of the secretary. The secretary may assign any deputy secretary the responsibility to supervise, coordinate, and formulate policy for any division, office, or district. The following special offices are established and headed by managers, each of whom is to be appointed by and serve at the pleasure of the secretary:

1. Office of Chief of Staff,

2. Office of General Counsel,

3. Office of Inspector General,

4. Office of External Affairs,

5. Office of Legislative and Government Affairs, and

6. Office of Greenways and Trails.

(b) There shall be six administrative districts involved in regulatory matters of waste management, water resource management, wetlands, and air resources, which shall be headed by managers, each of whom is to be appointed by and serve at the pleasure of the secretary. Divisions of the department may have one assistant or two deputy division directors, as required to facilitate effective operation.

The managers of all divisions and offices specifically named in this section and the directors of the six administrative districts are exempt from part II of chapter *109* ~~110~~ and are included in the Senior Management Service in accordance with s. *109.205(2)(i)* ~~110.205(2)(i)~~.

Section 77. Paragraph (b) of subsection (3) and paragraph (e) of subsection (6) of section 20.315, Florida Statutes, are amended to read:

20.315 Department of Corrections.—There is created a Department of Corrections.

(3) SECRETARY OF CORRECTIONS.—The head of the Department of Corrections is the Secretary of Corrections. The secretary is appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor. The secretary is responsible for planning, coordinating, and managing the corrections system of the state. The secretary shall ensure that the programs and services of the department are administered in accordance with state and federal laws, rules, and regulations, with established program standards, and consistent with legislative intent. The secretary shall identify the need for and recommend funding for the secure and efficient operation of the state correctional system.

(b) The secretary shall appoint a general counsel and an inspector general, who are exempt from part II of chapter *109* ~~110~~ and are included in the Senior Management Service.

(6) FLORIDA CORRECTIONS COMMISSION.—

(e) The commission shall appoint an executive director and an assistant executive director, who shall serve under the direction, supervision, and control of the commission. The executive director, with the consent of the commission, shall employ such staff as are necessary to perform adequately the functions of the commission, within budgetary limitations. All employees of the commission are exempt from part II of chapter *109* ~~110~~ and serve at the pleasure of the commission. The salaries and benefits of all employees of the commission shall be set in accordance with the Selected Exempt Service rules; however, the commission shall have complete authority for fixing the salaries of the executive director and the assistant executive director. The executive director and staff of the Task Force for Review of the Criminal Justice and Corrections System, created under chapter 93-404, Laws of Florida, shall serve as the staff for the commission until the commission hires an executive director.

Section 78. Paragraph (d) of subsection (20) of section 24.105, Florida Statutes, is amended to read:

24.105 Powers and duties of department.—The department shall:

(20) Employ division directors and other staff as may be necessary to carry out the provisions of this act; however:

(d) The department shall establish and maintain a personnel program for its employees, including a personnel classification and pay plan which may provide any or all of the benefits provided in the Senior Management Service or Selected Exempt Service. Each officer or employee of the department shall be a member of the Florida Retirement System. The retirement class of each officer or employee shall be the same as other persons performing comparable functions for other agencies. Employees of the department shall serve at the pleasure of the secretary and shall be subject to suspension, dismissal, reduction in pay, demotion, transfer, or other personnel action at the discretion of the secretary. Such personnel actions are exempt from the provisions of chapter 120. All employees of the department are exempt from the Career Service System provided in chapter *109* ~~110~~ and, notwithstanding the provisions of s. *109.205(5)* ~~110.205(5)~~, are not included in either the Senior Management Service or the Selected Exempt Service. However, all employees of the department are subject to all standards of conduct adopted by rule for career service and senior management employees pursuant to chapter *109* ~~110~~. In the event of a conflict between standards of conduct applicable to employees of the Department of the Lottery the more restrictive standard shall apply. Interpretations as to the more restrictive standard may be provided by the Commission on Ethics upon request of an advisory opinion pursuant to s. 112.322(3)(a), for purposes of this subsection the opinion shall be considered final action.

Section 79. Paragraph (d) of subsection (4) of section 24.122, Florida Statutes, is amended to read:

24.122 Exemption from taxation; state preemption; inapplicability of other laws.—

(4) Any state or local law providing any penalty, disability, restriction, or prohibition for the possession, manufacture, transportation, distribution, advertising, or sale of any lottery ticket, including chapter 849, shall not apply to the tickets of the state lottery operated pursuant to this act; nor shall any such law apply to the possession of a ticket issued by any other government-operated lottery. In addition, activities of the department under this act are exempt from the provisions of:

(d) Section *109.131* ~~110.131~~, relating to other personal services.

Section 80. Subsection (1) of section 68.087, Florida Statutes, is amended to read:

68.087 Exemptions to civil actions.—

(1) No court shall have jurisdiction over an action brought under this act against a member of the Legislature, a member of the judiciary, or a senior executive branch official if the action is based on evidence or information known to the state government when the action was brought. For purposes of this subsection, the term "senior executive branch official" means any person employed in the executive branch of government holding a position in the Senior Management Service as defined in s. *109.402* ~~110.402~~.

Section 81. Subsection (3) of section 104.31, Florida Statutes, is amended to read:

104.31 Political activities of state, county, and municipal officers and employees.—

(3) Nothing contained in this section or in any county or municipal charter shall be deemed to prohibit any public employee from expressing his or her opinions on any candidate or issue or from participating in any political campaign during the employee's off-duty hours, so long as such activities are not in conflict with the provisions of subsection (1) or s. *109.233* ~~110.233~~.

Section 82. Subsection (3) of section 106.082, Florida Statutes, is amended to read:

106.082 Commissioner of Agriculture candidates; campaign contribution limits.—

(3) No employee of the Department of Agriculture may solicit a campaign contribution for any candidate for the office of Commissioner of Agriculture from any person or business who is licensed, inspected, or otherwise authorized to do business as a food outlet or convenience store pursuant to chapter 500; or any director, officer, lobbyist, or controlling interest of that person; or any political committee or committee of continuous existence that represents that person. For purposes of this section, "employee of the department" means any person employed in the Department of Agriculture holding a position in the Senior Management Service as defined in s. *109.402* ~~110.402~~; any person holding a position in the Selected Exempt Service as defined in s. *109.602* ~~110.602~~; any person having authority over food outlet or convenience store regulation, or inspection supervision; or any person, hired on a contractual basis, having the power normally conferred upon such person, by whatever title.

Section 83. Subsection (4) of section 106.24, Florida Statutes, is amended to read:

106.24 Florida Elections Commission; membership; powers; duties.—

(4) The commission shall appoint an executive director, who shall serve under the direction, supervision, and control of the commission. The executive director, with the consent of the commission, shall employ such staff as are necessary to adequately perform the functions of the commission, within budgetary limitations. All employees, except the executive director and attorneys, are subject to part II of chapter *109* ~~110~~. The executive director shall serve at the pleasure of the commission and be subject to part III of chapter *109* ~~110~~, except that the commission shall have complete authority for setting the executive director's salary. Attorneys employed by the commission shall be subject to part V of chapter *109* ~~110~~.

Section 84. Subsection (4) of section 112.044, Florida Statutes, is amended to read:

112.044 Public employers, employment agencies, labor organizations; discrimination based on age prohibited; exceptions; remedy.—

(4) APPEAL; CIVIL SUIT AUTHORIZED.—Any employee of the state who is within the Career Service System established by chapter *109* ~~110~~ and who is aggrieved by a violation of this act may appeal to the Public Employees Relations Commission under the conditions and following the procedures prescribed in part II of chapter 447. Any person other than an employee who is within the Career Service System established by chapter *109* ~~110~~, or any person employed by the Public Employees Relations Commission, who is aggrieved by a violation of this act may bring a civil action in any court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this act.

Section 85. Section 112.0805, Florida Statutes, is amended to read:

112.0805 Employer notice of insurance eligibility to employees who retire.—Any employer who provides insurance coverage under s. *109.123* ~~110.123~~ or s. 112.0801 shall notify those employees who retire of their eligibility to participate in either the same group insurance plan or self-insurance plan as provided in ss. *109.123* ~~110.123~~ and 112.0801, or the insurance coverage as provided by this law.

Section 86. Paragraph (a) of subsection (9) of section 112.313, Florida Statutes, is amended to read:

112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.—

(9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR LEGISLATORS AND LEGISLATIVE EMPLOYEES.—

(a)1. It is the intent of the Legislature to implement by statute the provisions of s. 8(e), Art. II of the State Constitution relating to legislators, statewide elected officers, appointed state officers, and designated public employees.

2. As used in this paragraph:

a. "Employee" means:

(I) Any person employed in the executive or legislative branch of government holding a position in the Senior Management Service as defined in s. *109.402* ~~110.402~~ or any person holding a position in the Selected Exempt Service as defined in s. *109.602* ~~110.602~~ or any person having authority over policy or procurement employed by the Department of the Lottery.

(II) The Auditor General, the Sergeant at Arms and Secretary of the Senate, and the Sergeant at Arms and Clerk of the House of Representatives.

(III) The executive director of the Legislative Committee on Intergovernmental Relations and the executive director and deputy executive director of the Commission on Ethics.

(IV) An executive director, staff director, or deputy staff director of each joint committee, standing committee, or select committee of the Legislature; an executive director, staff director, executive assistant, analyst, or attorney of the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, Senate Minority Party Office, House Majority Party Office, or House Minority Party Office; or any person, hired on a contractual basis, having the power normally conferred upon such persons, by whatever title.

(V) The Chancellor and Vice Chancellors of the State University System; the general counsel to the Board of Regents; and the president, vice presidents, and deans of each state university.

(VI) Any person having the power normally conferred upon the positions referenced in this sub-subparagraph.

b. "Appointed state officer" means any member of an appointive board, commission, committee, council, or authority of the executive or legislative branch of state government whose powers, jurisdiction, and authority are not solely advisory and include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relative to its internal operations.

c. "State agency" means an entity of the legislative, executive, or judicial branch of state government over which the Legislature exercises plenary budgetary and statutory control.

3. No member of the Legislature, appointed state officer, or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of 2 years following vacation of office. No member of the Legislature shall personally represent another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals or in settlement negotiations after the filing of a lawsuit.

4. No agency employee shall personally represent another person or entity for compensation before the agency with which he or she was employed for a period of 2 years following vacation of position, unless employed by another agency of state government.

5. Any person violating this paragraph shall be subject to the penalties provided in s. 112.317 and a civil penalty of an amount equal to the compensation which the person receives for the prohibited conduct.

6. This paragraph is not applicable to:

a. A person employed by the Legislature or other agency prior to July 1, 1989;

b. A person who was employed by the Legislature or other agency on July 1, 1989, whether or not the person was a defined employee on July 1, 1989;

c. A person who was a defined employee of the State University System or the Public Service Commission who held such employment on December 31, 1994;

d. A person who has reached normal retirement age as defined in s. 121.021(29), and who has retired under the provisions of chapter 121 by July 1, 1991; or

e. Any appointed state officer whose term of office began before January 1, 1995, unless reappointed to that office on or after January 1, 1995.

Section 87. Paragraph (a) of subsection (5) of section 112.3189, Florida Statutes, is amended to read:

112.3189 Investigative procedures upon receipt of whistle-blower information from certain state employees.—

(5)(a) If the Chief Inspector General or agency inspector general under subsection (3) determines that the information disclosed is the type of information described in s. 112.3187(5), that the source of the information is from a person who is an employee or former employee of, or an applicant for employment with, a state agency, as defined in s. 216.011, and that the information disclosed demonstrates reasonable cause to suspect that an employee or agent of an agency or independent contractor has violated any federal, state, or local law, rule, or regulation, thereby creating a substantial and specific danger to the public's health, safety, or welfare, or has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty, the Chief Inspector General or agency inspector general making such determination shall then conduct an investigation, unless the Chief Inspector General or the agency inspector general determines, within 30 days after receiving the allegations from the complainant, that such investigation is unnecessary. For purposes of this subsection, the Chief Inspector General or the agency inspector general shall consider the following factors, but is not limited to only the following factors, when deciding whether the investigation is not necessary:

1. The gravity of the disclosed information compared to the time and expense of an investigation.

2. The potential for an investigation to yield recommendations that will make state government more efficient and effective.

3. The benefit to state government to have a final report on the disclosed information.

4. Whether the alleged whistle-blower information primarily concerns personnel practices that may be investigated under chapter *109* ~~110~~.

5. Whether another agency may be conducting an investigation and whether any investigation under this section could be duplicative.

6. The time that has elapsed between the alleged event and the disclosure of the information.

Section 88. Subsection (2) of section 112.363, Florida Statutes, is amended to read:

112.363 Retiree health insurance subsidy.—

(2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—A person who is retired under a state-administered retirement system, or a beneficiary who is a spouse or financial dependent entitled to receive benefits under a state-administered retirement system, is eligible for health insurance subsidy payments provided under this section; except that pension recipients under ss. 121.40, 238.07(16)(a), and 250.22, recipients of health insurance coverage under s. *109.1232* ~~110.1232~~, or any other special pension or relief act shall not be eligible for such payments. Payment of the retiree health insurance subsidy shall be made only after coverage for health insurance for the retiree or beneficiary has been certified in writing to the Department of Management Services. Participation in a former employer's group health insurance program is not a requirement for eligibility under this section. However, participants in the Senior Management Service Optional Annuity Program as provided in s. 121.055(6) and the State University System Optional Retirement Program as provided in s. 121.35 shall not receive the retiree health insurance subsidy provided in this section. The employer of such participant shall pay the contributions required in subsection (8) to the annuity program provided in s. 121.055(6)(d) or s. 121.35(4)(a), as applicable.

Section 89. Effective July 1, 2001, paragraph (a) of subsection (2) of section 112.363, Florida Statutes, as amended by chapter 2000-169, Laws of Florida, is amended to read:

112.363 Retiree health insurance subsidy.—

(2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—

(a) A person who is retired under a state-administered retirement system, or a beneficiary who is a spouse or financial dependent entitled to receive benefits under a state-administered retirement system, is eligible for health insurance subsidy payments provided under this section; except that pension recipients under ss. 121.40, 238.07(16)(a), and 250.22, recipients of health insurance coverage under s. *109.1232* ~~110.1232~~, or any other special pension or relief act shall not be eligible for such payments.

Section 90. Subsection (38) of section 121.021, Florida Statutes, is amended to read:

121.021 Definitions.—The following words and phrases as used in this chapter have the respective meanings set forth unless a different meaning is plainly required by the context:

(38) "Continuous service" means creditable service as a member, beginning with the first day of employment with an employer covered under a state-administered retirement system consolidated herein and continuing for as long as the member remains in an employer-employee relationship with an employer covered under this chapter. An absence of 1 calendar month or more from an employer's payroll shall be considered a break in continuous service, except for periods of absence during which an employer-employee relationship continues to exist and such period of absence is creditable under this chapter or under one of the existing systems consolidated herein. However, a law enforcement officer as defined in s. 121.0515(2)(a) who was a member of a state-administered retirement system under chapter 122 or chapter 321 and who resigned and was subsequently reemployed in a law enforcement position within 12 calendar months of such resignation by an employer under such state-administered retirement system shall be deemed to have not experienced a break in service. Further, with respect to a state-employed law enforcement officer who meets the criteria specified in s. 121.0515(2)(a), if the absence from the employer's payroll is the result of a "layoff" as defined in s. *109.203(24)* ~~110.203(24)~~ or a resignation to run for an elected office that meets the criteria specified in s. 121.0515(2)(a), no break in continuous service shall be deemed to have occurred if the member is reemployed as a state law enforcement officer or is elected to an office which meets the criteria specified in s. 121.0515(2)(a) within 12 calendar months after the date of the layoff or resignation, notwithstanding the fact that such period of layoff or resignation is not creditable service under this chapter. A withdrawal of contributions will constitute a break in service. Continuous service also includes past service purchased under this chapter, provided such service is continuous within this definition and the rules established by the administrator. The administrator may establish administrative rules and procedures for applying this definition to creditable service authorized under this chapter. Any correctional officer, as defined in s. 943.10, whose participation in the state-administered retirement system is terminated due to the transfer of a county detention facility through a contractual agreement with a private entity pursuant to s. 951.062, shall be deemed an employee with continuous service in the Special Risk Class, provided return to employment with the former

employer takes place within 3 years due to contract termination or the officer is employed by a covered employer in a special risk position within 1 year after his or her initial termination of employment by such transfer of its detention facilities to the private entity.

Section 91. Paragraph (b) of subsection (3) of section 121.0515, Florida Statutes, is amended to read:

121.0515 Special risk membership.—

(3) PROCEDURE FOR DESIGNATING.—

(b)1. Applying the criteria set forth in this section, the Department of Management Services shall specify which current and newly created classes of positions under the uniform classification plan established pursuant to chapter *109* ~~110~~ entitle the incumbents of positions in those classes to membership in the Special Risk Class. Only employees employed in the classes so specified shall be special risk members.

2. When a class is not specified by the department as provided in subparagraph 1., the employing agency may petition the State Retirement Commission for approval in accordance with s. 121.23.

Section 92. Paragraph (a) of subsection (1) of section 121.055, Florida Statutes, is amended to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(1)(a) Participation in the Senior Management Service Class shall be limited to and compulsory for any member of the Florida Retirement System who holds a position in the Senior Management Service of the State of Florida, established by part III of chapter *109* ~~110~~, unless such member elects, within the time specified herein, to participate in the Senior Management Service Optional Annuity Program as established in subsection (6).

Section 93. Paragraph (a) of subsection (2) of section 121.35, Florida Statutes, is amended to read:

121.35 Optional retirement program for the State University System.—

(2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL PROGRAM.—

(a) Participation in the optional retirement program provided by this section shall be limited to persons who are otherwise eligible for membership in the Florida Retirement System; who are employed or appointed for no less than one academic year; and who are employed in one of the following State University System positions:

1. Positions classified as instructional and research faculty which are exempt from the career service under the provisions of s. *109.205(2)(d)* ~~110.205(2)(d)~~.

2. Positions classified as administrative and professional which are exempt from the career service under the provisions of s. *109.205(2)(d)* ~~110.205(2)(d)~~.

3. The Chancellor and the university presidents.

Section 94. Subsection (5) of section 215.94, Florida Statutes, is amended to read:

215.94 Designation, duties, and responsibilities of functional owners.—

(5) The Department of Management Services shall be the functional owner of the Cooperative Personnel Employment Subsystem. The department shall design, implement, and operate the subsystem in accordance with the provisions of ss. *109.116* ~~110.116~~ and 215.90-215.96. The subsystem shall include, but shall not be limited to, functions for:

(a) Maintenance of employee and position data, including funding sources and percentages and salary lapse. The employee data shall include, but not be limited to, information to meet the payroll system requirements of the Department of Banking and Finance and to meet the employee benefit system requirements of the Department of Management Services.

(b) Recruitment and examination.

(c) Time reporting.

(d) Collective bargaining.

Section 95. Subsection (2) of section 216.011, Florida Statutes, is amended to read:

216.011 Definitions.—

(2) For purposes of this chapter, terms related to personnel affairs of the state shall be defined as set forth in s. *109.203* ~~110.203~~.

Section 96. Paragraph (a) of subsection (2) of section 216.251, Florida Statutes, is amended to read:

216.251 Salary appropriations; limitations.—

(2)(a) The salary for each position not specifically indicated in the appropriations acts shall be as provided in one of the following subparagraphs:

1. Within the classification and pay plans provided for in chapter *109* ~~110~~.

2. Within the classification and pay plans established by the Board of Trustees for the Florida School for the Deaf and the Blind of the Department of Education and approved by the State Board of Education for academic and academic administrative personnel.

3. Within the classification and pay plan approved and administered by the Board of Regents for those positions in the State University System.

4. Within the classification and pay plan approved by the President of the Senate and the Speaker of the House of Representatives, as the case may be, for employees of the Legislature.

5. Within the approved classification and pay plan for the judicial branch.

6. The salary of all positions not specifically included in this subsection shall be set by the commission or by the Chief Justice for the judicial branch.

Section 97. Section 231.381, Florida Statutes, is amended to read:

231.381 Transfer of sick leave and annual leave.—In implementing the provisions of ss. 230.23(4)(n) and 402.22(1)(d), educational personnel in Department of Children and Family Services residential care facilities who are employed by a district school board may request, and the district school board shall accept, a lump-sum transfer of accumulated sick leave for such personnel to the maximum allowed by policies of the district school board, notwithstanding the provisions of s. *109.122* ~~110.122~~. Educational personnel in Department of Children and Family Services residential care facilities who are employed by a district school board under the provisions of s. 402.22(1)(d) may request, and the district school board shall accept, a lump-sum transfer of accumulated annual leave for each person employed by the district school board in a position in the district eligible to accrue vacation leave under policies of the district school board.

Section 98. Paragraph (c) of subsection (1) of section 235.217, Florida Statutes, is amended to read:

235.217 SMART (Soundly Made, Accountable, Reasonable, and Thrifty) Schools Clearinghouse.—

(1)

(c) The clearinghouse is assigned to the Department of Management Services for administrative and fiscal accountability purposes, but it shall otherwise function independently of the control and direction of

the department, except as otherwise provided in chapters *109* ~~110~~, 255, and 287 for agencies of the executive branch.

Section 99. Paragraph (f) of subsection (3) of section 240.209, Florida Statutes, is amended to read:

240.209 Board of Regents; powers and duties.—

(3) The board shall:

(f) Establish and maintain systemwide personnel programs for all State University System employees, including a systemwide personnel classification and pay plan, notwithstanding provisions of law that grant authority to the Department of Management Services over such programs for state employees. The board shall consult with the legislative appropriations committees regarding any major policy changes related to classification and pay which are in conflict with those policies in effect for career service employees with similar job classifications and responsibilities. The board may adopt rules relating to the appointment, employment, and removal of personnel which delegate its authority to the Chancellor or the universities. The board shall submit, in a manner prescribed by law, any reports concerning State University System personnel programs as shall be required of the Department of Management Services for other state employees. The Department of Management Services shall retain authority over State University System employees for programs established in ss. *109.116, 109.123, 109.1232, 109.1234, and 109.1238* ~~110.116, 110.123, 110.1232, 110.1234, and 110.1238~~ and in chapters 121, 122, and 238. The board shall adopt rules to provide for a coordinated, efficient systemwide program and shall delegate to the universities authority for implementing the program consistent with these coordinating rules so adopted and applicable collective bargaining agreements. The salary rate controls for positions in budgets under the Board of Regents shall separately delineate the general faculty and all other categories.

Section 100. Paragraph (a) of subsection (1) of section 240.2111, Florida Statutes, is amended to read:

240.2111 Employee recognition program.—

(1)(a) Notwithstanding the provisions of s. *109.1245* ~~110.1245~~, the Board of Regents and each university shall promulgate rules for an employee recognition program which provides for the following components:

1. A superior accomplishment component to recognize employees who have contributed outstanding and meritorious service in their fields, including those who have made exceptional contributions to efficiency, economy, or other improvement in State University System operations. No cash award under the superior accomplishment component of the program shall exceed $1,000, excluding applicable taxes.

2. A satisfactory service component to recognize employees who have achieved increments of 5 continuous years of satisfactory service to the Board of Regents, university, or state in appreciation and recognition of such service. No cash award granted under the satisfactory service component shall exceed $50, excluding applicable taxes.

Section 101. Section 240.507, Florida Statutes, is amended to read:

240.507 Extension personnel; federal health insurance programs notwithstanding the provisions of s. *109.123* ~~110.123~~.—The Institute of Food and Agricultural Sciences at the University of Florida is authorized to pay the employer's share of premiums to the Federal Health Benefits Insurance Program from its appropriated budget for any cooperative extension employee of the institute having both state and federal appointments and participating in the Federal Civil Service Retirement System.

Section 102. Subsection (9) of section 241.002, Florida Statutes, is amended to read:

241.002 Duties of the Department of Education.—The duties of the Department of Education concerning distance learning include, but are not limited to, the duty to:

(9) Hire appropriate staff which may include a position that shall be exempt from part II of chapter *109* ~~110~~ and is included in the Senior Management Service in accordance with s. *109.205* ~~110.205~~.

Nothing in ss. 241.001-241.004 shall be construed to abrogate, supersede, alter, or amend the powers and duties of any state agency, district school board, community college board of trustees, the State Board of Community Colleges, or the Board of Regents.

Section 103. Paragraph (b) of subsection (6) of section 242.331, Florida Statutes, is amended to read:

242.331 Florida School for the Deaf and the Blind; board of trustees.—

(6) The board of trustees shall:

(b) Administer and maintain personnel programs for all employees of the board of trustees and the Florida School for the Deaf and the Blind who shall be state employees, including the personnel classification and pay plan established in accordance with ss. *109.205(2)(d)* ~~110.205(2)(d)~~ and 216.251(2)(a)2. for academic and academic administrative personnel, the provisions of chapter *109* ~~110~~, and the provisions of law that grant authority to the Department of Management Services over such programs for state employees.

Section 104. Subsection (2) of section 260.0125, Florida Statutes, is amended to read:

260.0125 Limitation on liability of private landowners whose property is designated as part of the statewide system of greenways and trails.—

(2) Any private landowner who consents to designation of his or her land as part of the statewide system of greenways and trails pursuant to s. 260.016(2)(d) without compensation shall be considered a volunteer, as defined in s. *109.501* ~~110.501~~, and shall be covered by state liability protection pursuant to s. 768.28, including s. 768.28(9).

Section 105. Paragraph (a) of subsection (4) of section 281.02, Florida Statutes, is amended to read:

281.02 Powers and duties of the Department of Management Services, Florida Capitol Police.—The Department of Management Services, Florida Capitol Police, has the following powers and duties:

(4) To employ:

(a) Agents who hold certification as police officers in accordance with the minimum standards and qualifications as set forth in s. 943.13 and the provisions of chapter *109* ~~110~~, who shall have the authority to bear arms, make arrests, and apply for arrest warrants; and

Section 106. Section 287.175, Florida Statutes, is amended to read:

287.175 Penalties.—A violation of this part or a rule adopted hereunder, pursuant to applicable constitutional and statutory procedures, constitutes misuse of public position as defined in s. 112.313(6), and is punishable as provided in s. 112.317. The Comptroller shall report incidents of suspected misuse to the Commission on Ethics, and the commission shall investigate possible violations of this part or rules adopted hereunder when reported by the Comptroller, notwithstanding the provisions of s. 112.324. Any violation of this part or a rule adopted hereunder shall be presumed to have been committed with wrongful intent, but such presumption is rebuttable. Nothing in this section is intended to deny rights provided to career service employees by s. *109.227* ~~110.227~~.

Section 107. Subsection (2) of section 288.708, Florida Statutes, is amended to read:

288.708 Executive director; employees.—

(2) The executive director and all employees of the board shall be exempt from the provisions of part II of chapter *109* ~~110~~, and the executive director shall be subject to the provisions of part *III* ~~IV~~ of chapter *109* ~~110~~.

Section 108. Paragraph (a) of subsection (4) of section 295.07, Florida Statutes, is amended to read:

295.07 Preference in appointment and retention.—

(4) The following positions are exempt from this section:

(a) Those positions that are exempt from the state Career Service System under s. *109.205(2)* ~~110.205(2)~~; however, all positions under the University Support Personnel System of the State University System as well as all Career Service System positions under the Florida Community College System and the School for the Deaf and the Blind are included.

Section 109. Subsection (3) and paragraph (b) of subsection (4) of section 296.04, Florida Statutes, are amended to read:

296.04 Administrator; duties and qualifications; responsibilities.—

(3) The administrator shall be a resident of the state at the time of entering into employment in the position. The position shall be assigned to the Selected Exempt Service under part V of chapter *109* ~~110~~. The director shall afford applicants veterans' preference in appointment in accordance with ss. 295.07 and 295.085. In addition, the administrator must have at least a 4-year degree from an accredited university or college and 3 years of administrative experience in a health care facility, or any equivalent combination of experience, training, and education totaling 7 years in work relating to administration of a health care facility.

(4)

(b) All employees who fill authorized and established positions appropriated for the home shall be state employees. The department shall classify such employees in the manner prescribed in chapter *109* ~~110~~.

Section 110. Subsection (1) and paragraph (b) of subsection (4) of section 296.34, Florida Statutes, are amended to read:

296.34 Administrator; qualifications, duties, and responsibilities.—

(1) The director shall appoint an administrator of the home who shall be the chief executive of the home. The position shall be assigned to the Selected Exempt Service under part V of chapter *109* ~~110~~. The director shall give preference in appointment as provided in ss. 295.07 and 295.085 to applicants for the position of administrator.

(4)

(b) All employees who fill authorized and established positions appropriated for the home shall be state employees. The department shall classify such employees in the manner prescribed in chapter *109* ~~110~~.

Section 111. Subsection (5) of section 311.07, Florida Statutes, is amended to read:

311.07 Florida seaport transportation and economic development funding.—

(5) Any port which receives funding under the program shall institute procedures to ensure that jobs created as a result of the state funding shall be subject to equal opportunity hiring practices in the manner provided in s. *109.112* ~~110.112~~.

Section 112. Paragraph (c) of subsection (10) of section 339.175, Florida Statutes, is amended to read:

339.175 Metropolitan planning organization.—It is the intent of the Legislature to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight within and through urbanized areas of this state while minimizing transportation-related fuel consumption and air pollution. To accomplish these objectives, metropolitan planning organizations, referred to in this section as M.P.O.'s, shall develop, in cooperation with the state and public transit operators, transportation plans and programs for metropolitan areas. The plans and programs for each metropolitan area must provide for the development and integrated management and operation of transportation systems and facilities, including pedestrian walkways and bicycle transportation facilities that will function as an intermodal transportation system for the metropolitan area, based upon the prevailing principles provided in s. 334.046(1). The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive, to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(10) METROPOLITAN PLANNING ORGANIZATION ADVISORY COUNCIL.—

(c) The powers and duties of the Metropolitan Planning Organization Advisory Council are to:

1. Enter into contracts with individuals, private corporations, and public agencies.

2. Acquire, own, operate, maintain, sell, or lease personal property essential for the conduct of business.

3. Accept funds, grants, assistance, gifts, or bequests from private, local, state, or federal sources.

4. Establish bylaws and adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring powers or duties upon it.

5. Assist M.P.O.'s in carrying out the urbanized area transportation planning process by serving as the principal forum for collective policy discussion pursuant to law.

6. Serve as a clearinghouse for review and comment by M.P.O.'s on the Florida Transportation Plan and on other issues required to comply with federal or state law in carrying out the urbanized area transportation and systematic planning processes instituted pursuant to s. 339.155.

7. Employ an executive director and such other staff as necessary to perform adequately the functions of the council, within budgetary limitations. The executive director and staff are exempt from part II of chapter *109* ~~110~~ and serve at the direction and control of the council. The council is assigned to the Office of the Secretary of the Department of Transportation for fiscal and accountability purposes, but it shall otherwise function independently of the control and direction of the department.

8. Adopt an agency strategic plan that provides the priority directions the agency will take to carry out its mission within the context of the state comprehensive plan and any other statutory mandates and directions given to the agency.

Section 113. Subsection (4) of section 343.74, Florida Statutes, is amended to read:

343.74 Powers and duties.—

(4) The authority shall institute procedures to ensure that jobs created as a result of state funding pursuant to this section shall be subject to equal opportunity hiring practices as provided for in s. *109.112* ~~110.112~~.

Section 114. Paragraph (e) of subsection (3) of section 381.85, Florida Statutes, is amended to read:

381.85 Biomedical and social research.—

(3) REVIEW COUNCIL FOR BIOMEDICAL AND SOCIAL RESEARCH.—

(e) The council shall be staffed by an executive director and a secretary who shall be appointed by the council and who shall be exempt from the provisions of part II of chapter *109* ~~110~~ relating to the Career Service System.

Section 115. Section 393.0657, Florida Statutes, is amended to read:

393.0657 Persons not required to be refingerprinted or rescreened.—Any provision of law to the contrary notwithstanding, human resource personnel who have been fingerprinted or screened pursuant to chapters 393, 394, 397, 402, and 409, and teachers who have been fingerprinted pursuant to chapter 231, who have not been unemployed for more than 90 days thereafter, and who under the penalty of perjury attest to the completion of such fingerprinting or screening and to compliance with the provisions of this section and the standards for good moral character as contained in such provisions as ss. *109.1127(3)* ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and 409.175(4), shall not be required to be refingerprinted or rescreened in order to comply with any direct service provider screening or fingerprinting requirements.

Section 116. Subsection (3) of section 400.19, Florida Statutes, is amended to read:

400.19 Right of entry and inspection.—

(3) The agency shall every 15 months conduct at least one unannounced inspection to determine compliance by the licensee with statutes, and with rules promulgated under the provisions of those statutes, governing minimum standards of construction, quality and adequacy of care, and rights of residents. The agency shall verify through subsequent inspection that any deficiency identified during the annual inspection is corrected. However, the agency may verify the correction of a class III deficiency unrelated to resident rights or resident care without reinspecting the facility if adequate written documentation has been received from the facility, which provides assurance that the deficiency has been corrected. The giving or causing to be given of advance notice of such unannounced inspections by an employee of the agency to any unauthorized person shall constitute cause for suspension of not fewer than 5 working days according to the provisions of chapter *109* ~~110~~.

Section 117. Subsection (3) of section 400.953, Florida Statutes, is amended to read:

400.953 Background screening of home medical equipment provider personnel.—The agency shall require employment screening as provided in chapter 435, using the level 1 standards for screening set forth in that chapter, for home medical equipment provider personnel.

(3) Proof of compliance with the screening requirements of s. *109.1127* ~~110.1127~~, s. 393.0655, s. 394.4572, s. 397.451, s. 402.305, s. 402.313, s. 409.175, s. 464.008, or s. 985.407 or this part must be accepted in lieu of the requirements of this section if the person has been continuously employed in the same type of occupation for which he or she is seeking employment without a breach in service that exceeds 180 days, the proof of compliance is not more than 2 years old, and the person has been screened by the Department of Law Enforcement. An employer or contractor shall directly provide proof of compliance to another employer or contractor, and a potential employer or contractor may not accept any proof of compliance directly from the person requiring screening. Proof of compliance with the screening requirements of this section shall be provided, upon request, to the person screened by the home medical equipment provider.

Section 118. Section 402.3057, Florida Statutes, is amended to read:

402.3057 Persons not required to be refingerprinted or rescreened.—Any provision of law to the contrary notwithstanding, human resource personnel who have been fingerprinted or screened pursuant to chapters 393, 394, 397, 402, and 409, and teachers and noninstructional personnel who have been fingerprinted pursuant to chapter 231, who have not been unemployed for more than 90 days thereafter, and who under the penalty of perjury attest to the completion of such fingerprinting or screening and to compliance with the provisions of this section and the standards for good moral character as contained in such provisions as ss. *109.1127(3)* ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and 409.175(4), shall not be required to be refingerprinted or rescreened in order to comply with any caretaker screening or fingerprinting requirements.

Section 119. Subsection (4) of section 402.55, Florida Statutes, is amended to read:

402.55 Management fellows program.—

(4) Notwithstanding the provisions of chapter *109* ~~110~~, the departments may grant special pay increases to management fellows upon successful completion of the program.

Section 120. Subsection (2) of section 402.731, Florida Statutes, is amended to read:

402.731 Department of Children and Family Services certification programs for employees and service providers; employment provisions for transition to community-based care.—

(2) The department shall develop and implement employment programs to attract and retain competent staff to support and facilitate the transition to privatized community-based care. Such employment programs shall include lump-sum bonuses, salary incentives, relocation allowances, or severance pay. The department shall also contract for the delivery or administration of outplacement services. The department shall establish time-limited exempt positions as provided in s. *109.205(2)(h)* ~~110.205(2)(h)~~, in accordance with the authority provided in s. 216.262(1)(c)1. Employees appointed to fill such exempt positions shall have the same salaries and benefits as career service employees.

Section 121. Section 409.1757, Florida Statutes, is amended to read:

409.1757 Persons not required to be refingerprinted or rescreened.—Any provision of law to the contrary notwithstanding, human resource personnel who have been fingerprinted or screened pursuant to chapters 393, 394, 397, 402, and this chapter, and teachers who have been fingerprinted pursuant to chapter 231, who have not been unemployed for more than 90 days thereafter, and who under the penalty of perjury attest to the completion of such fingerprinting or screening and to compliance with the provisions of this section and the standards for good moral character as contained in such provisions as ss. *109.1127(3)* ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and 409.175(4), shall not be required to be refingerprinted or rescreened in order to comply with any caretaker screening or fingerprinting requirements.

Section 122. Paragraph (o) of subsection (1) of section 440.102, Florida Statutes, is amended to read:

440.102 Drug-free workplace program requirements.—The following provisions apply to a drug-free workplace program implemented pursuant to law or to rules adopted by the Agency for Health Care Administration:

(1) DEFINITIONS.—Except where the context otherwise requires, as used in this act:

(o) "Safety-sensitive position" means, with respect to a public employer, a position in which a drug impairment constitutes an immediate and direct threat to public health or safety, such as a position that requires the employee to carry a firearm, perform life-threatening procedures, work with confidential information or documents pertaining to criminal investigations, or work with controlled substances; a position subject to s. *109.1127* ~~110.1127~~; or a position in which a momentary lapse in attention could result in injury or death to another person.

Section 123. Paragraph (a) of subsection (3) of section 440.4416, Florida Statutes, is amended to read:

440.4416 Workers' Compensation Oversight Board.—

(3) EXECUTIVE DIRECTOR; EXPENSES.—

(a) The board shall appoint an executive director to direct and supervise the administrative affairs and general management of the board who shall be subject to the provisions of part *V* ~~IV~~ of chapter *109* ~~110~~. The executive director may employ persons and obtain technical assistance as authorized by the board and shall attend all meetings of the board. Board employees shall be exempt from part II of chapter *109* ~~110~~.

Section 124. Subsection (4) of section 443.171, Florida Statutes, is amended to read:

443.171 Division and commission; powers and duties; rules; advisory council; records and reports; proceedings; state-federal cooperation.—

(4) PERSONNEL.—Subject to chapter *109* ~~110~~ and the other provisions of this chapter, the division is authorized to appoint, fix the compensation of, and prescribe the duties and powers of such employees, accountants, attorneys, experts, and other persons as may be necessary in the performance of its duties under this chapter. The division may delegate to any such person such power and authority as it deems reasonable and proper for the effective administration of this chapter and may in its discretion bond any person handling moneys or signing checks hereunder; the cost of such bonds shall be paid from the Employment Security Administration Trust Fund.

Section 125. Paragraph (a) of subsection (9) of section 447.207, Florida Statutes, is amended to read:

447.207 Commission; powers and duties.—

(9) Pursuant to s. 447.208, the commission or its designated agent shall hear appeals, and enter such orders as it deems appropriate, arising out of:

(a) Section *109.124* ~~110.124~~, relating to termination or transfer of State Career Service System employees aged 65 or older.

Section 126. Paragraph (a) of subsection (2) of section 456.048, Florida Statutes, is amended to read:

456.048 Financial responsibility requirements for certain health care practitioners.—

(2) The board or department may grant exemptions upon application by practitioners meeting any of the following criteria:

(a) Any person licensed under chapter 457, chapter 460, chapter 461, s. 464.012, chapter 466, or chapter 467 who practices exclusively as an officer, employee, or agent of the Federal Government or of the state or its agencies or its subdivisions. For the purposes of this subsection, an agent of the state, its agencies, or its subdivisions is a person who is eligible for coverage under any self-insurance or insurance program authorized by the provisions of s. 768.28(15) or who is a volunteer under s. *109.501(1)* ~~110.501(1)~~.

Section 127. Subsection (3) of section 471.038, Florida Statutes, is amended to read:

471.038 Florida Engineers Management Corporation.—

(3) The Florida Engineers Management Corporation is created to provide administrative, investigative, and prosecutorial services to the board in accordance with the provisions of chapter 455 and this chapter. The management corporation may hire staff as necessary to carry out its functions. Such staff are not public employees for the purposes of chapter *109* ~~110~~ or chapter 112, except that the board of directors and the staff are subject to the provisions of s. 112.061. The provisions of s. 768.28 apply to the management corporation, which is deemed to be a corporation primarily acting as an instrumentality of the state, but which is not an agency within the meaning of s. 20.03(11). The management corporation shall:

(a) Be a Florida corporation not for profit, incorporated under the provisions of chapter 617.

(b) Provide administrative, investigative, and prosecutorial services to the board in accordance with the provisions of chapter 455, this chapter, and the contract required by this section.

(c) Receive, hold, and administer property and make only prudent expenditures directly related to the responsibilities of the board, and in accordance with the contract required by this section.

(d) Be approved by the board and the department to operate for the benefit of the board and in the best interest of the state.

(e) Operate under a fiscal year that begins on July 1 of each year and ends on June 30 of the following year.

(f) Have a seven-member board of directors, five of whom are to be appointed by the board and must be registrants regulated by the board and two of whom are to be appointed by the secretary and must be laypersons not regulated by the board. All initial appointments shall expire on October 31, 2000. Current members may be appointed to one additional term that complies with the provisions of this paragraph. Two members shall be appointed for 2 years, three members shall be appointed for 3 years, and two members shall be appointed for 4 years. One layperson shall be appointed to a 3-year term and one layperson shall be appointed to a 4-year term. Thereafter, all appointments shall be for 4-year terms. No new member shall serve more than two consecutive terms. Failure to attend three consecutive meetings shall be deemed a resignation from the board, and the vacancy shall be filled by a new appointment.

(g) Select its officers in accordance with its bylaws. The members of the board of directors may be removed by the board, with the concurrence of the department, for the same reasons that a board member may be removed.

(h) Use a portion of the interest derived from the management corporation account to offset the costs associated with the use of credit cards for payment of fees by applicants or licensees.

(i) Operate under an annual written contract with the department which is approved by the board. The contract must provide for, but is not limited to:

1. Approval of the articles of incorporation and bylaws of the management corporation by the department and the board.

2. Submission by the management corporation of an annual budget that complies with board rules for approval by the board and the department.

3. Annual certification by the board and the department that the management corporation is complying with the terms of the contract in a manner consistent with the goals and purposes of the board and in the best interest of the state. This certification must be reported in the board's minutes. The contract must also provide for methods and mechanisms to resolve any situation in which the certification process determines noncompliance.

4. Employment by the department of a contract administrator to actively supervise the administrative, investigative, and prosecutorial activities of the management corporation to ensure compliance with the contract and the provisions of chapter 455 and this chapter and to act as a liaison for the department, the board, and the management corporation to ensure the effective operation of the management corporation.

5. Funding of the management corporation through appropriations allocated to the regulation of professional engineers from the Professional Regulation Trust Fund.

6. The reversion to the board, or the state if the board ceases to exist, of moneys, records, data, and property held in trust by the management corporation for the benefit of the board, if the management corporation is no longer approved to operate for the board or the board ceases to exist. All records and data in a computerized database shall be returned to the department in a form that is compatible with the computerized database of the department.

7. The securing and maintaining by the management corporation, during the term of the contract and for all acts performed during the term of the contract, of all liability insurance coverages in an amount to be approved by the department to defend, indemnify, and hold harmless the management corporation and its officers and employees, the department and its employees, and the state against all claims arising from state and federal laws. Such insurance coverage must be with insurers qualified and doing business in the state. The management corporation must provide proof of insurance to the department. The

department and its employees and the state are exempt from and are not liable for any sum of money which represents a deductible, which sums shall be the sole responsibility of the management corporation. Violation of this subparagraph shall be grounds for terminating the contract.

8. Payment by the management corporation, out of its allocated budget, to the department of all costs of representation by the board counsel, including salary and benefits, travel, and any other compensation traditionally paid by the department to other board counsels.

9. Payment by the management corporation, out of its allocated budget, to the department of all costs incurred by the management corporation or the board for the Division of Administrative Hearings of the Department of Management Services and any other cost for utilization of these state services.

10. Payment by the management corporation, out of its allocated budget, to the department of all costs associated with the contract administrator of the department, including salary and benefits, travel, and other related costs traditionally paid to state employees.

(j) Provide for an annual financial and compliance audit of its financial accounts and records by an independent certified public accountant in accordance with generally accepted auditing standards. The annual audit report shall include a detailed supplemental schedule of expenditures for each expenditure category and a management letter. The annual audit report must be submitted to the board, the department, and the Auditor General for review. The Auditor General may, pursuant to his or her own authority or at the direction of the Legislative Auditing Committee, conduct an audit of the corporation.

(k) Provide for persons charged with the responsibility of receiving and depositing fee and fine revenues to have a faithful performance bond in such an amount and according to such terms as shall be determined in the contract.

(l) Submit to the secretary, the board, and the Legislature, on or before January 1 of each year, a report on the status of the corporation which includes, but is not limited to, information concerning the programs and funds that have been transferred to the corporation. The report must include: the number of license applications received; the number approved and denied and the number of licenses issued; the number of examinations administered and the number of applicants who passed or failed the examination; the number of complaints received; the number determined to be legally sufficient; the number dismissed; the number determined to have probable cause; the number of administrative complaints issued and the status of the complaints; and the number and nature of disciplinary actions taken by the board.

(m) Develop, with the department, performance standards and measurable outcomes for the board to adopt by rule in order to facilitate efficient and cost-effective regulation.

Section 128. Subsection (3) of section 509.036, Florida Statutes, is amended to read:

509.036 Public food service inspector standardization.—

(3) The division and its agent shall adopt rules in accordance with the provisions of chapter 120 to provide for disciplinary action in cases of inspector negligence. An inspector may be subject to suspension or dismissal for cause as set forth in s. *109.227* ~~110.227~~.

Section 129. Effective July 1, 2001, subsection (3) of section 509.036, Florida Statutes, as amended by this act, is amended to read:

509.036 Public food service inspector standardization.—

(3) The division and its agent shall adopt rules in accordance with the provisions of chapter 120 to provide for disciplinary action in cases of inspector negligence. An inspector may be subject to suspension or dismissal for *reasonable* cause as set forth in s. 109.227.

Section 130. Subsection (1) of section 570.073, Florida Statutes, is amended to read:

570.073 Department of Agriculture and Consumer Services, law enforcement officers.—

(1) The commissioner may create an Office of Agricultural Law Enforcement under the supervision of a senior manager exempt under s. *109.205* ~~110.205~~ in the Senior Management Service. The commissioner may designate law enforcement officers, as necessary, to enforce any criminal law or conduct any criminal investigation relating to any matter over which the department has jurisdiction or which occurs on property owned, managed, or occupied by the department. Those matters include laws relating to:

(a) Domesticated animals, including livestock, poultry, aquaculture products, and other wild or domesticated animals or animal products.

(b) Farms, farm equipment, livery tack, citrus or citrus products, or horticultural products.

(c) Trespass, littering, forests, forest fires, and open burning.

(d) Damage to or theft of forest products.

(e) Enforcement of a marketing order.

(f) Protection of consumers.

(g) Civil traffic offenses provided for in chapters 316, 320, and 322, subject to the provisions of chapter 318, relating to any matter over which the department has jurisdiction or committed on property owned, managed, or occupied by the department.

(h) The use of alcohol or drugs which occurs on property owned, managed, or occupied by the department.

(i) Any emergency situation in which the life, limb, or property of any person is placed in immediate and serious danger.

(j) Any crime incidental to or related to paragraphs (a)-(i).

Section 131. Section 570.074, Florida Statutes, is amended to read:

570.074 Department of Agriculture and Consumer Services; water policy coordination.—The commissioner may create an Office of Water Coordination under the supervision of a senior manager exempt under s. *109.205* ~~110.205~~ in the Senior Management Service. The commissioner may designate the bureaus and positions in the various organizational divisions of the department that report to this office relating to any matter over which the department has jurisdiction in matters relating to water policy affecting agriculture, application of such policies, and coordination of such matters with state and federal agencies.

Section 132. Subsection (6) of section 624.307, Florida Statutes, is amended to read:

624.307 General powers; duties.—

(6) The department may employ actuaries who shall be at-will employees and who shall serve at the pleasure of the Insurance Commissioner. Actuaries employed pursuant to this paragraph shall be members of the Society of Actuaries or the Casualty Actuarial Society and shall be exempt from the Career Service System established under chapter *109* ~~110~~. The salaries of the actuaries employed pursuant to this paragraph by the department shall be set in accordance with s. 216.251(2)(a)5. and shall be set at levels which are commensurate with salary levels paid to actuaries by the insurance industry.

Section 133. Subsection (4) of section 627.0623, Florida Statutes, is amended to read:

627.0623 Restrictions on expenditures and solicitations of insurers and affiliates.—

(4) No employee of the department may solicit a campaign contribution for the Treasurer or any candidate for the office of Treasurer from any insurer, affiliate, or officer of an insurer or affiliate, or any political committee or committee of continuous existence that represents such insurer, affiliate, or officer. For purposes of this section,

"employee of the department" means any person employed in the Department of Insurance or the Treasurer's office holding a position in the Senior Management Service as defined in s. *109.402* ~~110.402~~; any person holding a position in the Selected Exempt Service as defined in s. *109.602* ~~110.602~~; any person having authority over insurance policy, regulation, or supervision; or any person hired on a contractual basis, having the power normally conferred upon such person, by whatever title.

Section 134. Paragraph (h) of subsection (4) of section 627.6488, Florida Statutes, is amended to read:

627.6488 Florida Comprehensive Health Association.—

(4) The association shall:

(h) Contract with preferred provider organizations and health maintenance organizations giving due consideration to the preferred provider organizations and health maintenance organizations which have contracted with the state group health insurance program pursuant to s. *109.123* ~~110.123~~. If cost-effective and available in the county where the policyholder resides, the board, upon application or renewal of a policy, shall place a high-risk individual, as established under s. 627.6498(4)(a)4., with the plan case manager who shall determine the most cost-effective quality care system or health care provider and shall place the individual in such system or with such health care provider. If cost-effective and available in the county where the policyholder resides, the board, with the consent of the policyholder, may place a low-risk or medium-risk individual, as established under s. 627.6498(4)(a)4., with the plan case manager who may determine the most cost-effective quality care system or health care provider and shall place the individual in such system or with such health care provider. Prior to and during the implementation of case management, the plan case manager shall obtain input from the policyholder, parent, or guardian.

Section 135. Paragraph (a) of subsection (1) of section 627.649, Florida Statutes, is amended to read:

627.649 Administrator.—

(1) The board shall select an administrator, through a competitive bidding process, to administer the plan. The board shall evaluate bids submitted under this subsection based on criteria established by the board, which criteria shall include:

(a) The administrator's proven ability to handle large group accident and health insurance, and due consideration shall be given to any administrator who has acted as a third-party administrator for the state group health insurance program pursuant to s. *109.123* ~~110.123~~.

Section 136. Paragraph (a) of subsection (2) and subsection (3) of section 627.6498, Florida Statutes, are amended to read:

627.6498 Minimum benefits coverage; exclusions; premiums; deductibles.—

(2) BENEFITS.—

(a) The plan shall offer major medical expense coverage similar to that provided by the state group health insurance program as defined in s. *109.123* ~~110.123~~ except as specified in subsection (3) to every eligible person who is not eligible for Medicare. Major medical expense coverage offered under the plan shall pay an eligible person's covered expenses, subject to limits on the deductible and coinsurance payments authorized under subsection (4), up to a lifetime limit of $500,000 per covered individual. The maximum limit under this paragraph shall not be altered by the board, and no actuarially equivalent benefit may be substituted by the board.

(3) COVERED EXPENSES.—The coverage to be issued by the association shall be patterned after the state group health insurance program as defined in s. *109.123* ~~110.123~~, including its benefits, exclusions, and other limitations, except as otherwise provided in this act. The plan may cover the cost of experimental drugs which have been approved for use by the Food and Drug Administration on an experimental basis if the cost is less than the usual and customary treatment. Such coverage shall only apply to those insureds who are in the case management system upon the approval of the insured, the case manager, and the board.

Section 137. Subsection (4) of section 627.6617, Florida Statutes, is amended to read:

627.6617 Coverage for home health care services.—

(4) The provisions of this section shall not apply to a multiple-employer welfare arrangement as defined in s. 624.437(1) and in the State Health Plan as provided in s. *109.123* ~~110.123~~.

Section 138. Subsection (3) of section 655.019, Florida Statutes, is amended to read:

655.019 Campaign contributions; limitations.—

(3) No employee of the department may solicit a campaign contribution for the Comptroller or any candidate for the office of the Comptroller from any person who is licensed or otherwise authorized to do business by the department or who has an application pending for licensure or other authorization to do business pending with the department, or any director, officer, employee, agent, retained legal counsel, lobbyist, or partner or affiliate of that person or any political committee or committee of continuous existence that represents that person. For purposes of this section, "employee of the department" means any person employed in the department or the Comptroller's office holding a position in the Senior Management Service as defined in s. *109.402* ~~110.402~~; any person holding a position in the Selected Exempt Service as defined in s. *109.602* ~~110.602~~; any person having authority over institution policy, regulation, or supervision; or any person hired on a contractual basis, having the power normally conferred upon such person, by whatever title.

Section 139. Paragraph (a) of subsection (4) of section 943.0585, Florida Statutes, is amended to read:

943.0585 Court-ordered expunction of criminal history records.—The courts of this state have jurisdiction over their own procedures, including the maintenance, expunction, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to expunge the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to expunge a criminal history record until the person seeking to expunge a criminal history record has applied for and received a certificate of eligibility for expunction pursuant to subsection (2). A criminal history record that relates to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or a violation enumerated in s. 907.041 may not be expunged, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, the offense as a delinquent act. The court may only order expunction of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the expunction of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the expunction of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not expunge any record pertaining to such additional arrests if the order to expunge does not articulate the intention of the court to expunge a record pertaining to more than one arrest. This section does not prevent the court from ordering the expunction of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to expunction, correction, or confidential handling of criminal history records or information derived therefrom.

This section does not confer any right to the expunction of any criminal history record, and any request for expunction of a criminal history record may be denied at the sole discretion of the court.

(4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any criminal history record of a minor or an adult which is ordered expunged by a court of competent jurisdiction pursuant to this section must be physically destroyed or obliterated by any criminal justice agency having custody of such record; except that any criminal history record in the custody of the department must be retained in all cases. A criminal history record ordered expunged that is retained by the department is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and not available to any person or entity except upon order of a court of competent jurisdiction. A criminal justice agency may retain a notation indicating compliance with an order to expunge.

(a) The person who is the subject of a criminal history record that is expunged under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the expunged record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;

2. Is a defendant in a criminal prosecution;

3. Concurrently or subsequently petitions for relief under this section or s. 943.059;

4. Is a candidate for admission to The Florida Bar;

5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. *109.1127(3)* ~~110.1127(3)~~, s. 393.063(15), s. 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 985.407, or chapter 400; or

6. Is seeking to be employed or licensed by the Office of Teacher Education, Certification, Staff Development, and Professional Practices of the Department of Education, any district school board, or any local governmental entity that licenses child care facilities.

Section 140. Paragraph (a) of subsection (4) of section 943.059, Florida Statutes, is amended to read:

943.059 Court-ordered sealing of criminal history records.—The courts of this state shall continue to have jurisdiction over their own procedures, including the maintenance, sealing, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to seal the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to seal a criminal history record until the person seeking to seal a criminal history record has applied for and received a certificate of eligibility for sealing pursuant to subsection (2). A criminal history record that relates to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or a violation enumerated in s. 907.041 may not be sealed, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed or pled guilty or nolo contendere to committing the offense as a delinquent act. The court may only order sealing of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the sealing of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the sealing of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not seal any record pertaining to such additional arrests if the order to seal does not articulate the intention of the court to seal records pertaining to more than one arrest. This section does not prevent the court from ordering the sealing of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to sealing, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the sealing of any criminal history record, and any request for sealing a criminal history record may be denied at the sole discretion of the court.

(4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal history record of a minor or an adult which is ordered sealed by a court of competent jurisdiction pursuant to this section is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and is available only to the person who is the subject of the record, to the subject's attorney, to criminal justice agencies for their respective criminal justice purposes, or to those entities set forth in subparagraphs (a)1., 4., 5., and 6. for their respective licensing and employment purposes.

(a) The subject of a criminal history record sealed under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the sealed record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;

2. Is a defendant in a criminal prosecution;

3. Concurrently or subsequently petitions for relief under this section or s. 943.0585;

4. Is a candidate for admission to The Florida Bar;

5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. *109.1127(3)* ~~110.1127(3)~~, s. 393.063(15), s. 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 415.103, s. 985.407, or chapter 400; or

6. Is seeking to be employed or licensed by the Office of Teacher Education, Certification, Staff Development, and Professional Practices of the Department of Education, any district school board, or any local governmental entity which licenses child care facilities.

Section 141. Subsection (4) of section 943.22, Florida Statutes, is amended to read:

943.22 Salary incentive program for full-time officers.—

(4) No individual filling a position in the Senior Management Service as defined in s. *109.402* ~~110.402~~ is eligible to participate in the salary incentive program authorized by this section.

Section 142. Paragraph (c) of subsection (3) of section 944.35, Florida Statutes, is amended to read:

944.35 Authorized use of force; malicious battery and sexual misconduct prohibited; reporting required; penalties.—

(3)

(c) Notwithstanding prosecution, any violation of the provisions of this subsection, as determined by the Public Employees Relations Commission, shall constitute sufficient cause under s. *109.227* ~~110.227~~ for dismissal from employment with the department, and such person shall not again be employed in any capacity in connection with the correctional system.

Section 143. Subsection (2) of section 945.043, Florida Statutes, is amended to read:

945.043 Department-operated day care services.—

(2) The department is exempt from the requirements of s. *109.151* ~~110.151~~.

Section 144. Subsection (6) of section 957.03, Florida Statutes, is amended to read:

957.03 Correctional Privatization Commission.—

(6) SUPPORT BY DEPARTMENT OF MANAGEMENT SERVICES.—The commission shall be a separate budget entity, and the executive director shall be its chief administrative officer. The Department of Management Services shall provide administrative support and service to the commission to the extent requested by the executive director. The commission and its staff are not subject to control, supervision, or direction by the Department of Management Services in any manner, including, but not limited to, personnel, purchasing, and budgetary matters, except to the extent as provided in chapters *109* ~~110~~, 216, 255, 282, and 287 for agencies of the executive branch. The executive director may designate a maximum of two policymaking or managerial positions as being exempt from the Career Service System. These two positions may be provided for as members of the Senior Management Service.

Section 145. Subsection (2) of section 985.04, Florida Statutes, is amended to read:

985.04 Oaths; records; confidential information.—

(2) Records maintained by the Department of Juvenile Justice, including copies of records maintained by the court, which pertain to a child found to have committed a delinquent act which, if committed by an adult, would be a crime specified in ss. *109.1127* ~~110.1127~~, 393.0655, 394.457, 397.451, 402.305(2), 409.175, and 409.176 may not be destroyed pursuant to this section, except in cases of the death of the child. Such records, however, shall be sealed by the court for use only in meeting the screening requirements for personnel in s. 402.3055 and the other sections cited above, or pursuant to departmental rule; however, current criminal history information must be obtained from the Department of Law Enforcement in accordance with s. 943.053. The information shall be released to those persons specified in the above cited sections for the purposes of complying with those sections. The court may punish by contempt any person who releases or uses the records for any unauthorized purpose.

Section 146. Paragraph (e) of subsection (4) of section 985.05, Florida Statutes, is amended to read:

985.05 Court records.—

(4) A court record of proceedings under this part is not admissible in evidence in any other civil or criminal proceeding, except that:

(e) Records of proceedings under this part may be used to prove disqualification pursuant to ss. *109.1127* ~~110.1127~~, 393.0655, 394.457, 397.451, 402.305, 402.313, 409.175, 409.176, and 985.407.

Section 147. Paragraph (b) of subsection (1) of section 985.4045, Florida Statutes, is amended to read:

985.4045 Sexual misconduct prohibited; reporting required; penalties.—

(1)

(b) Notwithstanding prosecution, any violation of this subsection, as determined by the Public Employees Relations Commission, constitutes sufficient cause under s. *109.227* ~~110.227~~ for dismissal from employment with the department, and such person may not again be employed in any capacity in connection with the juvenile justice system.

Section 148. Paragraph (c) of subsection (1) of section 216.262, Florida Statutes, is amended to read:

216.262 Authorized positions.—

(1)

(c)1. The Executive Office of the Governor, under such procedures and qualifications as it deems appropriate, shall, upon agency request, delegate to any state agency authority to add and delete authorized positions or transfer authorized positions from one budget entity to another budget entity within the same division, and may approve additions and deletions of authorized positions or transfers of authorized positions within the state agency when such changes would enable the agency to administer more effectively its authorized and approved programs. The additions or deletions must be consistent with the intent of the approved operating budget, must be consistent with legislative policy and intent, and must not conflict with specific spending policies specified in the General Appropriations Act.

2. The Chief Justice of the Supreme Court shall have the authority to establish procedures for the judicial branch to add and delete authorized positions or transfer authorized positions from one budget entity to another budget entity, and to add and delete authorized positions within the same budget entity, when such changes are consistent with legislative policy and intent and do not conflict with spending policies specified in the General Appropriations Act.

3.a. A state agency may be eligible for an efficiency award based on changes to authorized positions. To be eligible, the agency must submit an application to the Legislative Budgeting Commission identifying the modification to an approved program resulting in efficiency and cost savings.

b. The amount of the efficiency award shall be determined by the Legislative Budgeting Commission but shall not exceed the actual savings of currently appropriated funds. In determining the amount of the award, the Legislative Budgeting Commission shall consider the actual savings for the current year and the annualized savings. The efficiency award may be used for nonrecurring purposes only.

c. Each state agency allowed to retain salary appropriations pursuant to this subparagraph shall submit in its next legislative budget request a schedule showing how the agency utilized such funds.

Section 149. Effective January 1, 2002, section 447.201, Florida Statutes, is amended to read:

447.201 Statement of policy.—~~It is declared that~~ The public policy of *this* ~~the~~ state, and the purpose of this part, is to provide statutory implementation of s. 6, Art. I of the State Constitution, with respect to public employees; to promote harmonious and cooperative relationships between government and its employees, both collectively and individually; and to protect the public by assuring, at all times, the orderly and uninterrupted operations and functions of government. ~~It is the intent of the Legislature that~~ Nothing herein shall be construed either to encourage or discourage organization of public employees. *This state's public policy is* ~~These policies are~~ best effectuated by:

(1) Granting to public employees the right of organization and representation;

(2) Requiring the state, local governments, and other political subdivisions to negotiate with bargaining agents duly certified to represent public employees;

(3) Creating a Public Employees Relations Commission to assist in resolving disputes between public employees and public employers; and

(4) Recognizing the constitutional prohibition against strikes by public employees and providing remedies for violations of such prohibition.

Section 150. Effective January 1, 2002, subsections (1), (3), and (4) of section 447.205, Florida Statutes, are amended to read:

447.205 Public Employees Relations Commission.—

(1) ~~There is hereby created within the Department of Labor and Employment Security~~ The Public Employees Relations Commission, hereinafter referred to as the "commission*,*." ~~The commission~~ shall be

composed of a chair and two full-time members to be appointed by the Governor, subject to confirmation by the Senate, from persons representative of the public and known for their objective and independent judgment, who shall not be employed by, or hold any commission with, any governmental unit in the state or any employee organization, as defined in this part, while in such office. In no event shall more than one appointee be a person who, on account of previous vocation, employment, or affiliation, is, or has been, classified as a representative of employers; and in no event shall more than one such appointee be a person who, on account of previous vocation, employment, or affiliation, is, or has been, classified as a representative of employees or employee organizations. The commissioners shall devote full time to commission duties and shall not engage in any other business, vocation, or employment while in such office. Beginning January 1, 1980, the chair shall be appointed for a term of 4 years, one commissioner for a term of 1 year, and one commissioner for a term of 2 years. Thereafter, every term of office shall be for 4 years; and each term of the office of chair shall commence on January 1 of the second year following each regularly scheduled general election at which a Governor is elected to a full term of office. In the event of a vacancy prior to the expiration of a term of office, an appointment shall be made for the unexpired term of that office. The chair shall be responsible for the administrative functions of the commission and shall have the authority to employ such personnel as may be necessary to carry out the provisions of this part. Once appointed to the office of chair, the chair shall serve as chair for the duration of the term of office of chair. Nothing contained herein prohibits a chair or commissioner from serving multiple terms.

(3) The commission, in the performance of its powers and duties under this part, shall not be subject to control, supervision, or direction by the Department of *Management Services* ~~Labor and Employment Security~~.

(4) The property, personnel, and appropriations related to the commission's specified authority, powers, duties, and responsibilities shall be provided to the commission by the Department of *Management Services* ~~Labor and Employment Security~~.

Section 151. *Effective January 1, 2002, subsections (8), (9), (10), and (11) of section 447.207, Florida Statutes, are repealed.*

Section 152. Effective July 1, 2001, section 447.208, Florida Statutes, is amended to read:

447.208 Procedure *for* ~~with respect to~~ certain appeals under s. 447.207.—

(1) Any person filing an appeal pursuant to subsection (8) or subsection (9) of s. 447.207 shall be entitled to a hearing pursuant to subsections (4) and (5) of s. 447.503 and in accordance with chapter 120; however, the hearing shall be conducted within 30 days of the filing of an appeal with the commission, unless an extension of time is granted by the commission for good cause. Discovery may be granted only upon a showing of extraordinary circumstances. A party requesting discovery shall demonstrate a substantial need for the information requested and an inability to obtain relevant information by other means. To the extent that chapter 120 is inconsistent with these provisions, the procedures contained in this section shall govern.

(2) This section does not prohibit any person from representing himself or herself in proceedings before the commission or from being represented by legal counsel or by any individual who qualifies as a representative pursuant to rules promulgated and adopted by the commission.

(3) With respect to hearings relating to demotions, suspensions, or dismissals pursuant to the provisions of this section:

(a)1. For an alleged adverse agency action against an employee, except a law enforcement or correctional officer or a firefighter, occurring on or after July 1, 2001, the burden of proof shall be on the employee requesting the appeal to establish by a preponderance of the evidence that the agency head abused his or her discretion in demoting, suspending, or dismissing the employee and that no reasonable cause existed for the alleged adverse action taken by the agency.

2.~~(a)~~ Upon a finding that *the adversely affected employee was unable to establish that the agency head abused his or her discretion and was unable to establish that no reasonable* ~~just~~ cause existed for the demotion, suspension, or dismissal, the commission shall affirm the demotion, suspension, or dismissal.

3.~~(b)~~ Upon a finding that *the adversely affected employee established that the agency head abused his or her discretion and that no reasonable* ~~just~~ cause *existed* ~~did not exist~~ for the demotion, suspension, or dismissal, the commission may order the reinstatement of the employee, with or without back pay.

(b) With regard to a law enforcement or correctional officer or a firefighter:

1. Upon a finding that just cause existed for the demotion, suspension, or dismissal, the commission shall affirm the demotion, suspension, or dismissal.

2. Upon a finding that just cause did not exist for the demotion, suspension, or dismissal, the commission may order the reinstatement of the law enforcement or correctional officer or firefighter, with or without back pay.

3.~~(c)~~ Upon a finding that just cause for disciplinary action existed, but did not justify the severity of the action taken, the commission may, in its limited discretion, reduce the penalty.

~~(d)~~ The commission is limited in its discretionary reduction of dismissals and suspensions to consider only the following circumstances:

a.~~1.~~ The seriousness of the conduct as it relates to the employee's duties and responsibilities.

b.~~2.~~ Action taken with respect to similar conduct by other employees.

c.~~3.~~ The previous employment record and disciplinary record of the employee.

d.~~4.~~ Extraordinary circumstances beyond the employee's control which temporarily diminished the employee's capacity to effectively perform his or her duties or which substantially contributed to the violation for which punishment is being considered.

The agency may present evidence to refute the existence of these circumstances.

(c)~~(e)~~ Any order of the commission issued pursuant to this subsection may include back pay, if applicable, and an amount, to be determined by the commission and paid by the agency, for reasonable attorney's fees, witness fees, and other out-of-pocket expenses incurred during the prosecution of an appeal against an agency in which the commission *finds* ~~sustains~~ the employee *met his or her burden of proof by establishing that the agency head abused his or her discretion and that no reasonable cause existed for the employee's demotion, suspension, or dismissal*. In determining the amount of an attorney's fee, the commission shall consider only the number of hours reasonably spent on the appeal, comparing the number of hours spent on similar Career Service System appeals and the reasonable hourly rate charged in the geographic area for similar appeals, but not including litigation over the amount of the attorney's fee. ~~This paragraph applies to future and pending cases.~~

Section 153. *Effective January 1, 2002, sections 447.208 and 447.2085, Florida Statutes, are repealed.*

Section 154. Paragraph (i) is added to subsection (4) of section 447.307, Florida Statutes, to read:

447.307 Certification of employee organization.—

(4) In defining a proposed bargaining unit, the commission shall take into consideration:

(i) Notwithstanding any other provision of law, administrative rule, or decision to the contrary, it is in the best interest of the state that all state law enforcement agencies with 1,200 or more officers shall be placed in a separate bargaining unit from officers in other state law enforcement agencies. Should application of this requirement result in the establishment or recomposition of more than one state law enforcement bargaining unit, a question concerning representation shall be deemed to have arisen for each affected bargaining unit and, upon appropriate petition, a representation election to determine the bargaining representative shall be conducted.

However, no unit shall be established or approved for purposes of collective bargaining which includes both professional and nonprofessional employees unless a majority of each group votes for inclusion in such unit.

Section 155. Effective July 1, 2001, paragraph (a) of subsection (6) of section 447.503, Florida Statutes, is amended to read:

447.503 Charges of unfair labor practices.—It is the intent of the Legislature that the commission act as expeditiously as possible to settle disputes regarding alleged unfair labor practices. To this end, violations of the provisions of s. 447.501 shall be remedied by the commission in accordance with the following procedures and in accordance with chapter 120; however, to the extent that chapter 120 is inconsistent with the provisions of this section, the procedures contained in this section shall govern:

(6)(a) If, upon consideration of the record in the case, the commission finds that an unfair labor practice has been committed, it shall issue and cause to be served an order requiring the appropriate party or parties to cease and desist from the unfair labor practice and take such positive action, including reinstatement of employees with or without back pay, as will best implement the general policies expressed in this part. However, no order of the commission shall require the reinstatement of any individual as an employee who has been suspended or discharged, or the payment of any back pay, if the individual was suspended or discharged *as otherwise provided by law* ~~for cause~~. The order may further require the party or parties to make periodic reports showing the extent to which it has complied with the order. If, upon consideration of the record in the case, the commission finds that an unfair labor practice has not been or is not being committed, it shall issue an order dismissing the case.

Section 156. Paragraph (a) of subsection (5) of section 447.507, Florida Statutes, is amended to read:

447.507 Violation of strike prohibition; penalties.—

(5) If the commission, after a hearing on notice conducted according to rules promulgated by the commission, determines that an employee has violated s. 447.505, it may order the termination of his or her employment by the public employer. Notwithstanding any other provision of law, a person knowingly violating the provision of said section may, subsequent to such violation, be appointed, reappointed, employed, or reemployed as a public employee, but only upon the following conditions:

(a) Such person shall be on probation for a period of *18* ~~6~~ months following his or her appointment, reappointment, employment, or reemployment, during which period he or she shall serve without *permanent status and at the pleasure of the agency head* ~~tenure~~. ~~During this period, the person may be discharged only upon a showing of just cause.~~

Section 157. Effective January 1, 2002, paragraph (m) of subsection (2) of section 39.202, Florida Statutes, is amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.—

(2) Access to such records, excluding the name of the reporter which shall be released only as provided in subsection (4), shall be granted only to the following persons, officials, and agencies:

(m) The *Office of Employee Relations within the Department of Management Services* ~~Public Employees Relations Commission~~ for the sole purpose of obtaining evidence for *voluntary binding arbitration conducted* ~~appeals filed~~ pursuant to s. *109.240* ~~447.207~~. Records may be released only after deletion of all information which specifically identifies persons other than the employee.

Section 158. Effective January 1, 2002, subsection (4) of section 112.044, Florida Statutes, as amended by this act, is amended to read:

112.044 Public employers, employment agencies, labor organizations; discrimination based on age prohibited; exceptions; remedy.—

(4) APPEAL; CIVIL SUIT AUTHORIZED.—Any employee of the state ~~who is within the Career Service System established by chapter 109 and~~ who is aggrieved by a violation of this act may ~~appeal to the Public Employees Relations Commission under the conditions and following the procedures prescribed in part II of chapter 447. Any person other than an employee who is within the Career Service System established by chapter 109, or any person employed by the Public Employees Relations Commission, who is aggrieved by a violation of this act may~~ bring a civil action in any court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this act*, unless voluntary binding arbitration is conducted pursuant to s. 109.240*.

Section 159. Effective January 1, 2002, paragraph (b) of subsection (6), subsection (14), and paragraph (a) of subsection (15) of section 112.0455, Florida Statutes, are amended to read:

112.0455 Drug-Free Workplace Act.—

(6) NOTICE TO EMPLOYEES.—

(b) Prior to testing, all employees and job applicants for employment shall be given a written policy statement from the employer which contains:

1. A general statement of the employer's policy on employee drug use, which shall identify:

a. The types of testing an employee or job applicant may be required to submit to, including reasonable suspicion or other basis; and

b. The actions the employer may take against an employee or job applicant on the basis of a positive confirmed drug test result.

2. A statement advising the employee or job applicant of the existence of this section.

3. A general statement concerning confidentiality.

4. Procedures for employees and job applicants to confidentially report the use of prescription or nonprescription medications both before and after being tested. Additionally, employees and job applicants shall receive notice of the most common medications by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test. A list of such medications shall be developed by the Agency for Health Care Administration.

5. The consequences of refusing to submit to a drug test.

6. Names, addresses, and telephone numbers of employee assistance programs and local alcohol and drug rehabilitation programs.

7. A statement that an employee or job applicant who receives a positive confirmed drug test result may contest or explain the result to the employer within 5 working days after written notification of the positive test result. If an employee or job applicant's explanation or challenge is unsatisfactory to the employer, the person may contest the drug test result as provided by subsections (14) and (15).

8. A statement informing the employee or job applicant of his or her responsibility to notify the laboratory of any administrative or civil actions brought pursuant to this section.

9. A list of all drugs for which the employer will test, described by brand names or common names, as applicable, as well as by chemical names.

10. A statement regarding any applicable collective bargaining agreement or contract and the right to appeal to the *circuit court or request voluntary binding arbitration, if applicable, as provided for by s. 109.240* ~~Public Employees Relations Commission~~.

11. A statement notifying employees and job applicants of their right to consult the testing laboratory for technical information regarding prescription and nonprescription medication.

(14) DISCIPLINE REMEDIES.—

(a) An executive branch employee who is disciplined or who is a job applicant for another position and is not hired pursuant to this section, may file an appeal with the *circuit court or request voluntary binding arbitration, if applicable, as provided for by s. 109.240* ~~Public Employees Relations Commission~~. Any appeal must be filed within 30 calendar days of receipt by the employee or job applicant of notice of discipline or refusal to hire. The notice shall inform the employee or job applicant of the right to file an appeal, or if available, the right to file a collective bargaining grievance pursuant to s. 447.401. ~~Such appeals shall be resolved pursuant to the procedures established in ss. 447.207(1)-(4), 447.208(2), and 447.503(4) and (5).~~ A hearing on the appeal shall be conducted within 30 days *after* ~~of~~ the filing of the appeal, unless an extension is requested by the employee or job applicant and granted by the *court* ~~commission~~ or *a collective bargaining grievance* ~~an~~ arbitrator.

~~(b) The commission shall promulgate rules concerning the receipt, processing, and resolution of appeals filed pursuant to this section.~~

~~(c) Appeals to the commission shall be the exclusive administrative remedy for any employee who is disciplined or any job applicant who is not hired pursuant to this section, notwithstanding the provisions of chapter 120. However,~~ Nothing in this subsection shall affect the right of an employee or job applicant to file a collective bargaining grievance pursuant to s. 447.401 provided that an employee or job applicant may not file both an appeal and a grievance.

~~(d) An employee or a job applicant who has been disciplined or who has not been hired pursuant to this section must exhaust either the administrative appeal process or collective bargaining grievance-arbitration process.~~

~~(e) Upon resolving an appeal filed pursuant to paragraph (c), and finding a violation of this section, the commission may order the following relief:~~

~~1. Rescind the disciplinary action, expunge related records from the personnel file of the employee or job applicant and reinstate the employee.~~

~~2. Order compliance with paragraph (10)(g).~~

~~3. Award back pay and benefits.~~

(b)~~4.~~ *The court may* award the prevailing employee or job applicant the necessary costs of the appeal, reasonable attorney's fees, and expert witness fees.

(15) NONDISCIPLINE REMEDIES.—

(a) Any person alleging a violation of the provisions of this section, that is not remediable ~~by the commission or an arbitrator~~ pursuant to subsection (14), must institute a civil action for injunctive relief or damages, or both, in a court of competent jurisdiction within 180 days of the alleged violation, or be barred from obtaining the following relief. Relief is limited to:

1. An order restraining the continued violation of this section.

2. An award of the costs of litigation, expert witness fees, reasonable attorney's fees, and noneconomic damages provided that damages shall be limited to the recovery of damages directly resulting from injury or loss caused by each violation of this section.

Section 160. Effective July 1, 2001, paragraph (a) of subsection (3) and subsection (4) of section 112.31895, Florida Statutes, are amended to read:

112.31895 Investigative procedures in response to prohibited personnel actions.—

(3) CORRECTIVE ACTION AND TERMINATION OF INVESTIGATION.—

(a) The Florida Commission on Human Relations, in accordance with this act and for the sole purpose of this act, is empowered to:

1. Receive and investigate complaints from employees alleging retaliation by state agencies, as the term "state agency" is defined in s. 216.011.

2. Protect employees and applicants for employment with such agencies from prohibited personnel practices under s. 112.3187.

3. Petition for stays and petition for corrective actions, including, but not limited to, temporary reinstatement.

4. Recommend disciplinary proceedings pursuant to investigation and appropriate agency rules and procedures.

5. Coordinate with the Chief Inspector General in the Executive Office of the Governor and the Florida Commission on Human Relations to receive, review, and forward to appropriate agencies, legislative entities, or the Department of Law Enforcement disclosures of a violation of any law, rule, or regulation, or disclosures of gross mismanagement, malfeasance, misfeasance, nonfeasance, neglect of duty, or gross waste of public funds.

6. Review rules pertaining to personnel matters issued or proposed by the Department of Management Services, *the Office of Employee Relations,* the Public Employees Relations Commission, and other agencies, and, if the Florida Commission on Human Relations finds that any rule or proposed rule, on its face or as implemented, requires the commission of a prohibited personnel practice, provide a written comment to the appropriate agency.

7. Investigate, request assistance from other governmental entities, and, if appropriate, bring actions concerning, allegations of retaliation by state agencies under subparagraph 1.

8. Administer oaths, examine witnesses, take statements, issue subpoenas, order the taking of depositions, order responses to written interrogatories, and make appropriate motions to limit discovery, pursuant to investigations under subparagraph 1.

9. Intervene or otherwise participate, as a matter of right, in any appeal or other proceeding arising under this section before *an* ~~the Public Employees Relations Commission or any other appropriate~~ agency, except that the Florida Commission on Human Relations must comply with the rules of *that* ~~the commission or other~~ agency and may not seek corrective action or intervene in an appeal or other proceeding without the consent of the person protected under ss. 112.3187-112.31895.

10. Conduct an investigation, in the absence of an allegation, to determine whether reasonable grounds exist to believe that a prohibited action or a pattern of prohibited action has occurred, is occurring, or is to be taken.

(4) RIGHT TO APPEAL.—

~~(a)~~ Not more than 60 days after receipt of a notice of termination of the investigation from the Florida Commission on Human Relations, the complainant may file *for judicial review of the notice of termination as provided for in s. 120.68. The notice of termination of the investigation, which shall contain a statement of facts, analysis, and conclusions, shall be considered final agency action for purposes of s. 120.68.*~~, with the Public Employees Relations Commission, a complaint against the hearings regarding the alleged prohibited personnel action. The Public Employees Relations Commission shall have jurisdiction over such complaints under ss. 112.3187 and 447.503(4) and (5).~~

~~(b) Judicial review of any final order of the commission shall be as provided in s. 120.68.~~

Section 161. Effective January 1, 2002, paragraph (a) of subsection (3) of section 112.31895, Florida Statutes, as amended by this act, is amended to read:

112.31895 Investigative procedures in response to prohibited personnel actions.—

(3) CORRECTIVE ACTION AND TERMINATION OF INVESTIGATION.—

(a) The Florida Commission on Human Relations, in accordance with this act and for the sole purpose of this act, is empowered to:

1. Receive and investigate complaints from employees alleging retaliation by state agencies, as the term "state agency" is defined in s. 216.011.

2. Protect employees and applicants for employment with such agencies from prohibited personnel practices under s. 112.3187.

3. Petition for stays and petition for corrective actions, including, but not limited to, temporary reinstatement.

4. Recommend disciplinary proceedings pursuant to investigation and appropriate agency rules and procedures.

5. Coordinate with the Chief Inspector General in the Executive Office of the Governor and the Florida Commission on Human Relations to receive, review, and forward to appropriate agencies, legislative entities, or the Department of Law Enforcement disclosures of a violation of any law, rule, or regulation, or disclosures of gross mismanagement, malfeasance, misfeasance, nonfeasance, neglect of duty, or gross waste of public funds.

6. Review rules pertaining to personnel matters issued or proposed by the Department of Management Services, the Office of Employee Relations, ~~the Public Employees Relations Commission,~~ and other agencies, and, if the Florida Commission on Human Relations finds that any rule or proposed rule, on its face or as implemented, requires the commission of a prohibited personnel practice, provide a written comment to the appropriate agency.

7. Investigate, request assistance from other governmental entities, and, if appropriate, bring actions concerning, allegations of retaliation by state agencies under subparagraph 1.

8. Administer oaths, examine witnesses, take statements, issue subpoenas, order the taking of depositions, order responses to written interrogatories, and make appropriate motions to limit discovery, pursuant to investigations under subparagraph 1.

9. Intervene or otherwise participate, as a matter of right, in any appeal or other proceeding arising under this section before an agency, except that the Florida Commission on Human Relations must comply with the rules of that agency and may not seek corrective action or intervene in an appeal or other proceeding without the consent of the person protected under ss. 112.3187-112.31895.

10. Conduct an investigation, in the absence of an allegation, to determine whether reasonable grounds exist to believe that a prohibited action or a pattern of prohibited action has occurred, is occurring, or is to be taken.

Section 162. Effective July 1, 2001, subsection (12) of section 120.80, Florida Statutes, is amended to read:

120.80 Exceptions and special requirements; agencies.—

(12) *OFFICE OF EMPLOYEE RELATIONS;* PUBLIC EMPLOYEES RELATIONS COMMISSION.—

(a) Notwithstanding s. 120.57(1)(a), hearings within the jurisdiction of the *Office of Employee Relations within the Department of Management Services or the* Public Employees Relations Commission need not be conducted by an administrative law judge assigned by the division.

(b) Section 120.60 does not apply to certification of employee organizations pursuant to s. 447.307.

Section 163. *Paragraph (d) of subsection (2) of section 125.0108, Florida Statutes, is repealed.*

Section 164. Paragraph (b) of subsection (9) of section 376.75, Florida Statutes, is amended to read:

376.75 Tax on production or importation of perchloroethylene.—

(9)

(b) ~~The Department of Revenue, under the applicable rules of the Public Employees Relations Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature.~~ The Department of Revenue is empowered to adopt such rules and shall prescribe and publish such forms as may be necessary to effectuate the purposes of this section.

Section 165. Paragraph (b) of subsection (3) of section 403.718, Florida Statutes, is amended to read:

403.718 Waste tire fees.—

(3)

(b) ~~The Department of Revenue, under the applicable rules of the Career Service Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature.~~ The department is empowered to adopt such rules and shall prescribe and publish such forms as may be necessary to effectuate the purposes of this section. The department is authorized to establish audit procedures and to assess delinquent fees.

Section 166. Section 538.11, Florida Statutes, is amended to read:

538.11 Powers and duties of department; rules.—The same duties and privileges imposed by chapter 212 upon dealers of tangible personal property respecting the keeping of books and records and accounts and compliance with rules of the department shall apply to and be binding upon all persons who are subject to the provisions of this chapter. The department shall administer, collect, and enforce the registration authorized under this chapter pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under chapter 212, except as provided in this section. The provisions of chapter 212 regarding the keeping of records and books shall apply. ~~The department, under the applicable rules of the Career Service Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature.~~ The department is empowered to adopt such rules, and shall prescribe and publish such forms, as may be necessary to effectuate the purposes of this chapter. The Legislature hereby finds that the failure to promptly implement the provisions of this chapter would present an immediate threat to the welfare of the state. Therefore, the executive director of the department is hereby authorized to adopt emergency rules pursuant to s. 120.54(4), for purposes of implementing this chapter. Notwithstanding any other provision of law, such emergency rules shall remain effective for 6 months from the date of adoption. Other rules of the department related to and in furtherance of the orderly implementation of the chapter shall not be subject to a rule challenge under s. 120.56(2) or a drawout proceeding under s. 120.54(3)(c)2. but, once adopted, shall be subject to an invalidity challenge under s. 120.56(3). Such rules shall be adopted by the Governor and Cabinet and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(3)(e)6.

Section 167. Effective July 1, 2001, section 284.30, Florida Statutes, is amended to read:

284.30 State Risk Management Trust Fund; coverages to be provided.—A state self-insurance fund, designated as the "State Risk Management Trust Fund," is created to be set up by the Department of

Insurance and administered with a program of risk management, which fund is to provide insurance, as authorized by s. 284.33, for workers' compensation, general liability, fleet automotive liability, federal civil rights actions under 42 U.S.C. s. 1983 or similar federal statutes, and court-awarded attorney's fees in other proceedings against the state except for such awards in eminent domain or for inverse condemnation or for awards by the Public Employees Relations Commission *or by the Office of Employee Relations*. A party to a suit in any court, to be entitled to have his or her attorney's fees paid by the state or any of its agencies, must serve a copy of the pleading claiming the fees on the Department of Insurance; and thereafter the department shall be entitled to participate with the agency in the defense of the suit and any appeal thereof with respect to such fees.

Section 168. Effective July 1, 2001, section 284.31, Florida Statutes, is amended to read:

284.31 Scope and types of coverages; separate accounts.—The insurance risk management trust fund shall, unless specifically excluded by the Department of Insurance, cover all departments of the State of Florida and their employees, agents, and volunteers and shall provide separate accounts for workers' compensation, general liability, fleet automotive liability, federal civil rights actions under 42 U.S.C. s. 1983 or similar federal statutes, and court-awarded attorney's fees in other proceedings against the state except for such awards in eminent domain or for inverse condemnation or for awards by the Public Employees Relations Commission *or by the Office of Employee Relations*. Unless specifically excluded by the Department of Insurance, the insurance risk management trust fund shall provide fleet automotive liability coverage to motor vehicles titled to the state, or to any department of the state, when such motor vehicles are used by community transportation coordinators performing, under contract to the appropriate department of the state, services for the transportation disadvantaged under part I of chapter 427. Such fleet automotive liability coverage shall be primary and shall be subject to the provisions of s. 768.28 and parts II and III of chapter 284, and applicable rules adopted thereunder, and the terms and conditions of the certificate of coverage issued by the Department of Insurance.

Section 169. Effective January 1, 2002, paragraph (k) of subsection (3) of section 415.107, Florida Statutes, is amended to read:

415.107 Confidentiality of reports and records.—

(3) Access to all records, excluding the name of the reporter which shall be released only as provided in subsection (6), shall be granted only to the following persons, officials, and agencies:

(k) The *Office of Employee Relations* ~~Public Employees Relations Commission~~ for the sole purpose of obtaining evidence for *voluntary binding arbitration conducted* ~~appeals filed~~ pursuant to *s. 109.240 and the Public Employees Relations Commission for the purpose of obtaining evidence for appeals filed pursuant to* s. 447.207. Records may be released only after deletion of all information that specifically identifies persons other than the employee.

Section 170. *Effective January 1, 2002, paragraph (c) of subsection (3) of section 944.35, Florida Statutes, and paragraph (b) of subsection (1) of section 985.4045, Florida Statutes, are repealed.*

Section 171. *The Office of Employee Relations within the Department of Management Services shall coordinate the development and implementation of a transition plan that supports the implementation of this act. The Department of Labor and Employment Security, the Public Employees Relations Commission, and all other state agencies identified by the office shall cooperate fully in developing and implementing the plan and shall dedicate the financial and staff resources that are necessary for such implementation.*

Section 172. *(1) Until July 1, 2001, the Public Employees Relations Commission shall continue to exercise its powers, duties, and functions pursuant to the authority granted it under the Florida Statutes 2000.*

(2) On and after July 1, 2001, the Public Employees Relations Commission shall continue to exercise its powers, duties, and functions pursuant to this act's amendments which take effect July 1, 2001. As to those cases within the Public Employees Relations Commission jurisdiction regarding the suspension, dismissal, reduction in pay, demotion, layoff, or transfer of a career service employee that are pending before the commission on January 1, 2002, the commission shall continue to exercise its authority in order to finalize those existing cases under review.

(3) After June 30, 2002, the jurisdiction of the Public Employees Relations Commission to hear appeals arising out of any suspension, dismissal, reduction in pay, demotion, layoff, or transfer of an employee in the Career Service System shall cease to exist.

Section 173. *There is appropriated to the Department of Management Services for fiscal year 2000-2001, $26,208 of nonrecurring general revenue for the purpose of establishing an administrative staff to implement the provisions of this act.*

Section 174. *Effective January 1, 2002, the Public Employees Relations Commission is transferred from the Department of Labor and Employment Security to the Department of Management Services. The Public Employees Relations Commission shall have all its statutory powers, duties, and functions, as otherwise provided for in this act, transferred to the Department of Management Services. All the Public Employees Relations Commission's records, personnel, property, and unexpended balances of appropriations, allocations, or other funds are transferred to the Department of Management Services as of January 1, 2002, except that such portion of the personnel, property, and unexpended balances of appropriations, allocations, or other funds shall be transferred to the Office of Employee Relations within the Department of Management Services as is sufficient for that office to accomplish its duties and responsibilities as provided for in this act. Accordingly, the Executive Office of the Governor shall process a budget amendment, or budget amendments, subject to legislative notice and review under s. 216.177, Florida Statutes, to transfer such records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Public Employees Relations Commission to the Office of Employee Relations as is sufficient for that office to perform its statutory duties and responsibilities. The Office of Employee Relations, the Public Employees Relations Commission, and the Department of Management Services shall work cooperatively in preparing and forwarding to the Executive Office of the Governor a recommended budget amendment, or amendments, no later than September 1, 2001.*

Section 175. *The Department of Management Services shall adopt, amend, or repeal rules as necessary to effectuate the provisions of chapter 109, Florida Statutes, as created by this act, and in accordance with the authority granted to the department in chapter 109, Florida Statutes.*

Section 176. Except as otherwise provided herein, this act shall take effect upon becoming a law.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to public employees; renumbering parts I, II, III, IV, and V of ch. 110, F.S., as parts I, II, III, IV, and V of ch. 109, F.S.; amending and renumbering s. 110.107, F.S.; revising definitions; repealing s. 110.108, F.S., relating to pilot projects for agencies seeking managerial flexibility for personnel programs, s. 110.109, F.S., relating to personnel audits of agencies, and s. 110.1095, F.S., relating to training programs for supervisors and managers; amending and renumbering s. 110.1099, F.S.; specifying duties of agency heads with respect to education and training opportunities for state employees; amending and renumbering s. 110.112, F.S.; providing policy relating to use of human resources; revising provisions relating to implementation of affirmative action plans by agency heads, state attorneys, and public defenders; amending and renumbering s. 110.113, F.S.; requiring all state employees to participate in the direct deposit program; revising conditions for requesting an exemption; amending and renumbering s. 110.124, F.S.; providing that an employee who is terminated solely because of attaining age 65 may request voluntary binding arbitration or apply to the circuit court for relief; amending and renumbering s. 110.1245, F.S.;

providing for a savings sharing program of awards for certain state agency and judicial branch employees; requiring a report; providing for annual bonus payments to employees; directing agency heads to develop a plan for awarding bonuses and providing requirements with respect thereto; authorizing department heads to incur expenditures for certain awards; repealing s. 110.1246, F.S., which provides for lump-sum bonus payments to employees; amending and renumbering s. 110.131, F.S.; revising the time limitation on employment of other-personal-services temporary employees; requiring approval of the Governor's Office of Policy and Budget for extensions of such limitations; revising exemptions from such limitation; amending and renumbering s. 110.203, F.S.; revising definitions; revising the definition of "layoff" to include outsourcing or privatization; creating s. 109.2035, F.S.; directing the Department of Management Services, in consultation with specified entities, to develop a civil service classification and compensation program and providing requirements with respect thereto; directing the department to establish guidelines regarding certain types of pay and providing duties of agencies with respect thereto; amending and renumbering s. 110.205, F.S.; providing additional positions that are exempt from the Career Service System and included in the Selected Exempt Service; providing that when an employee transfers from the Career Service System to the Selected Exempt Service, unused annual and sick leave, and, under certain conditions, unused compensatory leave, shall carry forward; repealing ss. 109.207 and 109.209, F.S., as renumbered by the act, relating to establishment and maintenance of a uniform classification plan and an equitable pay plan and related agency duties; amending and renumbering ss. 110.211 and 110.213, F.S.; revising requirements with respect to recruitment and selection; requiring completion of a probationary period before attainment of permanent status for new employees; amending and renumbering s. 110.219, F.S.; providing requirements regarding leave benefits for Senior Management Service employees; amending and renumbering s. 110.224, F.S.; revising requirements relating to a review and performance planning system and designating such system a public employee performance evaluation system; revising requirements relating to certain information furnished to employees and employee evaluation; amending and renumbering s. 110.227, F.S.; providing that a career service employee other than a law enforcement or correctional officer or a firefighter may be suspended or dismissed for reasonable cause; providing that reasonable cause shall be determined by the agency head and specifying actions included thereunder; specifying actions that constitute an abuse of the agency head's sound discretion; revising certain responsibilities of agency heads; providing that, except with regard to law enforcement or correctional officers or firefighters, rules regarding layoff shall not include "bumping"; deleting a requirement that a layoff be conducted within an identified competitive area with regard to employees other than law enforcement or correctional officers or firefighters; providing for appeal of reductions in pay, transfers, layoffs, or demotions to, and hearings regarding suspension or dismissal before, the circuit court, or for voluntary binding arbitration with respect thereto; providing that, for any alleged adverse agency action against an employee other than a law enforcement or correctional officer or a firefighter occurring after a specified date, the employee bears the burden of proof to establish that the agency head abused his or her discretion; creating s. 109.237, F.S.; creating an Office of Employee Relations within the Department of Management Services; providing for an executive director, a general counsel, and an administrative assistant, and their qualifications and duties; providing for additional personnel; providing duties of the department; providing powers and duties of the office; creating s. 109.240, F.S.; providing that any permanent career service employee may request voluntary binding arbitration administered by the Office of Employee Relations upon notice of an adverse agency action; providing definitions; providing requirements for such requests; providing for notice to the agency; specifying the employee's burden of proof; providing for arbitrators and their qualifications and authority; providing for employee panels and their qualifications and authority; providing duties of the office; providing for records; providing procedural requirements for arbitration proceedings; providing for rules; providing for application to the circuit court for an order confirming, vacating, or modifying the arbitration decision; providing for immunity; amending and renumbering s. 110.403, F.S.; increasing the limit on the number of Senior Management Service positions; amending and renumbering s. 110.602, F.S.; removing the limit on the number of Selected Exempt Service positions; amending and renumbering ss. 110.1091, 110.1127, 110.117, 110.1227, 110.123, 110.12312, 110.1232, 110.129, 110.152, 110.1521, 110.1522, 110.1523, 110.161, 110.171, 110.191, 110.233, 110.235, 110.401, 110.402, 110.406, 110.502, 110.601, 110.605, and 110.606, F.S.; clarifying and conforming language and correcting cross references; amending ss. 20.171, 20.18, 20.21, 20.23, 20.255, 20.315, 24.105, 24.122, 68.087, 104.31, 106.082, 106.24, 112.044, 112.0805, 112.313, 112.3189, 112.363, 121.021, 121.0515, 121.055, 121.35, 215.94, 216.011, 216.251, 231.381, 235.217, 240.209, 240.2111, 240.507, 241.002, 242.331, 260.0125, 281.02, 287.175, 288.708, 295.07, 296.04, 296.34, 311.07, 339.175, 343.74, 381.85, 393.0657, 400.19, 400.953, 402.3057, 402.55, 402.731, 409.1757, 440.102, 440.4416, 443.171, 456.048, 471.038, 509.036, 570.073, 570.074, 624.307, 627.0623, 627.6488, 627.649, 627.6498, 627.6617, 655.019, 943.0585, 943.059, 943.22, 944.35, 945.043, 957.03, 985.04, 985.05, and 985.4045, F.S.; conforming language and correcting cross references; amending s. 216.262, F.S.; authorizing efficiency awards to state agencies based on changes to authorized positions and providing requirements with respect thereto; amending s. 447.201, F.S., relating to the statement of public policy regarding public employees; amending s. 447.205, F.S., relating to creation of the Public Employees Relations Commission; repealing s. 447.207(8), (9), (10), and (11), F.S., which provide for appeals to the commission with regard to adverse agency actions against career service employees; amending s. 447.208, F.S.; providing the employee's burden of proof for alleged adverse agency actions occurring on or after July 1, 2001; repealing s. 447.208, F.S., which provides procedures for appeals to the commission regarding certain adverse agency actions, and s. 447.2085, F.S., which provides for rules with respect thereto, effective January 1, 2002; amending s. 447.307, F.S.; providing requirements with respect to bargaining units for certain law enforcement agencies; amending s. 447.503, F.S.; conforming language; amending s. 447.507, F.S.; revising conditions under which a person who violates the strike prohibition may be employed or appointed; amending s. 39.202, F.S.; providing for access to certain records by the office; amending s. 112.044, F.S., which prohibits age discrimination against public employees; providing for court action by an aggrieved employee if voluntary binding arbitration is not conducted; amending s. 112.0455, F.S., the Drug-Free Workplace Act; providing for appeals with respect to discipline or not being hired under said act to the circuit court rather than the commission, or for voluntary binding arbitration; amending s. 112.31895, F.S.; providing for judicial review of notice of termination of an investigation in connection with the Whistle-blower's Act rather than commission review; conforming language; amending s. 120.80, F.S.; conforming language; repealing s. 125.0108(2)(d), F.S., and amending ss. 376.75, 403.718, and 538.11, F.S.; removing provisions which authorize certain actions by the Department of Revenue pursuant to rules of the commission or the Career Service Commission; amending ss. 284.30 and 284.31, F.S.; conforming language; amending s. 415.107, F.S.; providing for access to certain records by the office; repealing ss. 944.35(3)(c) and 985.4045(1)(b), F.S., which provide that violations by Department of Corrections employees of prohibitions against malicious battery and sexual misconduct, and violations by Department of Juvenile Justice employees of the prohibition against sexual misconduct, as determined by the commission, constitute cause for dismissal; directing the office to coordinate a transition plan; specifying transitional powers and duties of the commission and providing that it shall cease to hear certain appeals after June 30, 2002; providing an appropriation; transferring the commission to the Department of Management Services and certain of its property and personnel to the office; providing for budget amendments; providing for rules; providing effective dates.

Rep. Diaz-Balart moved the adoption of the amendment.

On motion by Rep. Diaz-Balart, further consideration of **CS for SB 466**, with pending amendment, was temporarily postponed under Rule 11.10.

Continuation of Bills and Joint Resolutions on Third Reading

CS for SB 252—A bill to be entitled An act relating to release of employee information by employers; providing specified requirements of employers with respect to a background investigation of an applicant for employment or appointment as a full-time, part-time, or auxiliary law enforcement officer, correctional officer, or correctional probation officer; providing requirements relating to an authorization to release information; defining the terms "employing agency" and "employment information"; providing for injunctive relief; providing qualified immunity from civil liability for release; providing for fees to cover certain costs incurred by the employer; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 364

Yeas—115

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

Nays—None

Votes after roll call:
Yeas—Kendrick, Stansel

So the bill passed and was immediately certified to the Senate.

Consideration of **SB 272** was temporarily postponed under Rule 11.10.

SB 654—A bill to be entitled An act relating to pharmacy practice; creating s. 465.0075, F.S.; authorizing licensure of pharmacists by endorsement and providing requirements therefor, including a fee; providing for legislative review; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 365

Yeas—118

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

Nays—None

So the bill passed and was immediately certified to the Senate.

HB 1867—A bill to be entitled An act relating to health care practitioner regulation; providing legislative intent and findings with respect to the Medical Quality Assurance Trust Fund and function administered by the Department of Health; requiring the Auditor General to do a followup Medical Quality Assurance audit and issue a report to the Legislature; requiring the Department of Health to reimburse the Agency for Health Care Administration for certain costs; requiring the Office of Program Policy Analysis and Government Accountability to study the feasibility of maintaining the Medical Quality Assurance function within a single department and issue a report to the Legislature; amending s. 456.004, F.S.; providing requirements for rules relating to biennial renewal of licenses; amending s. 456.025, F.S.; revising requirements relating to the setting and use of fees for the regulation of health care professions and practitioners, including continuing education fees; providing for an electronic continuing education tracking system; repealing s. 458.31151, F.S.; relating to development of the examination for foreign-trained physicians and the fees therefor; amending s. 457.107, F.S.; for clarification of acupuncture fees; amending s. 483.807, F.S.; relating to clinical laboratory personnel fees; amending s. 456.011, F.S.; requiring board meetings to be conducted through teleconferencing or other technological means except under certain circumstances; amending s. 456.013, F.S.; requiring the department to charge initial license fees; amending s. 456.017, F.S.; providing for administration of national examinations and termination of state-administered written examinations; providing for administration of state-administered practical or clinical examinations if paid for in advance by the examination candidates; providing legislative intent with respect to the use of national examinations and the removal of state-administered examinations as a barrier to licensure; providing for electronic access to and posting of examination scores under certain conditions; providing for the sharing of examinations or examination item banks with certain entities; clarifying circumstances under which candidates may bring a challenge; providing for electronic administration of certain laws and rules examinations; amending s. 456.035, F.S.; providing for electronic notification of a licensee's current mailing address and place of practice; amending s. 456.073, F.S.; authorizing a letter of guidance in lieu of a finding of probable cause under certain conditions; amending s. 456.081, F.S.; providing for the posting of newsletters on the department's website; amending s. 456.072, F.S.; revising and providing grounds for discipline of licensees; revising and providing disciplinary actions;

amending s. 456.079, F.S.; requiring mitigating or aggravating circumstances to be in the final order to be considered in the imposition of penalties; amending ss. 457.109, 458.320, 458.331, 458.345, 458.347, 459.0085, 459.015, 459.022, 460.413, 461.013, 462.14, 463.016, 464.018, 465.008, 465.016, 466.028, 466.037, 467.203, 468.1295, 468.1755, 468.217, 468.365, 468.518, 468.719, 468.811, 478.52, 480.046, 483.825, 483.901, 484.014, 484.056, 486.125, 490.009, and 491.009, F.S.; revising and conforming provisions relating to disciplinary grounds and penalties; amending s. 456.065, F.S.; requiring the unlicensed activity fee to be in addition to all other fees collected from each licensee; amending s. 456.074, F.S.; providing for immediate suspension of license for convictions relating to fraudulent practices; amending s. 464.005, F.S.; providing for future relocation of the headquarters of the Board of Nursing; providing effective dates.

—was read the third time by title.

The Procedural & Redistricting Council offered the following:

(Amendment Bar Code: 800269)

Technical Amendment 2—On page 1, line 19,

after the first semicolon insert: requiring the department to set an examination fee and providing requirements therefor;

On page 3, line 16,

after the first semicolon insert: repealing s. 483.827, F.S., relating to administrative penalties applicable to clinical laboratory personnel;

On page 6, lines 17 and 19,
remove from the bill: %

and insert in lieu thereof: *percent*

On page 6, line 25,
remove from the bill: ,

On page 11, line 11,
remove from the bill: Subsections

and insert in lieu thereof: Subsection

On page 18, lines 19-20,
remove from the bill: all of said lines

and insert in lieu thereof: *Notwithstanding any other provision of law, only candidates who fail an examination by less than 10 percent shall be entitled to*

On page 47, line 15,
remove from the bill: Subsection

and insert in lieu thereof: Paragraph (g) of subsection

On page 87, lines 10-15,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 31. Subsections (3) and (4) of section 465.008, Florida Statutes, are amended to read:

465.008 Renewal of license.—

~~(3) Sixty days prior to the end of the biennium the department shall mail a notice of renewal to the last known address of the licensee.~~

(3)~~(4)~~ Any person licensed under this chapter for 50 years or more is exempt from the payment of the renewal or delinquent fee, and the department shall issue a lifetime license to such a person.

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

Representative(s) Farkas offered the following:

(Amendment Bar Code: 390469)

Amendment 3 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. *It is the intent of the Legislature that the Medical Quality Assurance Trust Fund should be administered in a fiscally responsible manner. It is also the intent of the Legislature that the Department of Health reduce expenses wherever possible to ensure that the cost of regulation is reasonable and fair and does not serve as a barrier to licensure in this state. The Legislature adopts findings 1, 2, 4, 5, and 8 and the recommendations of the Auditor General's Medical Quality Assurance Operational Audit Report Number 01-063. In addition, the Legislature adopts recommendations 1, 2, 4, 5, and 7 of the Florida Senate Committee on Fiscal Policy Interim Project Report 2001-016.*

Section 2. *The Auditor General shall conduct a followup audit to the Medical Quality Assurance Operational Audit Report Number 01-063 to determine if the Department of Health has implemented the recommendations of that report. The Auditor General shall complete the followup audit and issue a report to the President of the Senate and the Speaker of the House of Representatives no later than January 31, 2002.*

Section 3. *The contract between the Department of Health and the Agency for Health Care Administration pursuant to section 20.43(3), Florida Statutes, is not subject to the provisions of section 216.346, Florida Statutes. The Department of Health shall reimburse the Agency for Health Care Administration for the agency's actual direct costs and the agency's indirect costs incurred as a result of the contract, subject to appropriated funds. The agency shall provide to the department documentation, explanation, and justification of all direct and indirect costs incurred, by budget entity.*

Section 4. *The Office of Program Policy Analysis and Government Accountability shall study the feasibility of maintaining the entire Medical Quality Assurance function, including enforcement, within a single department. The study shall be completed and a report issued to the President of the Senate and the Speaker of the House of Representatives no later than November 30, 2001.*

Section 5. Subsection (1) of section 456.004, Florida Statutes, is amended, and subsection (10) is added to that section, to read:

456.004 Department; powers and duties.—The department, for the professions under its jurisdiction, shall:

(1) Adopt rules establishing a procedure for the biennial renewal of licenses; however, the department may issue up to a 4-year license to selected licensees notwithstanding any other provisions of law to the contrary. *The rules shall specify the expiration dates of licenses and the process for tracking compliance with continuing education requirements, financial responsibility requirements, and any other conditions of renewal set forth in statute or rule.* Fees for such renewal shall not exceed the fee caps for individual professions on an annualized basis as authorized by law.

(10) Set an examination fee that includes all costs to develop, purchase, validate, administer, and defend the examination and is an amount certain to cover all administrative costs plus the actual per-applicant cost of the examination.

Section 6. Section 456.025, Florida Statutes, is amended to read:

456.025 Fees; receipts; disposition.—

(1) It is the intent of the Legislature that all costs of regulating health care professions and practitioners shall be borne solely by licensees and licensure applicants. It is also the intent of the Legislature that fees should be reasonable and not serve as a barrier to licensure. Moreover, it is the intent of the Legislature that the department operate as efficiently as possible and regularly report to the Legislature additional methods to streamline operational costs. Therefore, the boards in consultation with the department, or the department if there is no board, shall, by rule, set renewal fees which:

(a) Shall be based on revenue projections prepared using generally accepted accounting procedures;

(b) Shall be adequate to cover all expenses relating to that board identified in the department's long-range policy plan, as required by s. 456.005;

(c) Shall be reasonable, fair, and not serve as a barrier to licensure;

(d) Shall be based on potential earnings from working under the scope of the license;

(e) Shall be similar to fees imposed on similar licensure types;

(f) Shall not be more than 10 percent greater than the fee imposed for the previous biennium;

(g) Shall not be more than 10 percent greater than the actual cost to regulate that profession for the previous biennium; and

(h) Shall be subject to challenge pursuant to chapter 120.

(2) The chairpersons of the boards and councils listed in s. 20.43(3)(g) shall meet annually at division headquarters to review the long-range policy plan required by s. 456.005 and current and proposed fee schedules. The chairpersons shall make recommendations for any necessary statutory changes relating to fees and fee caps. Such recommendations shall be compiled by the Department of Health and be included in the annual report to the Legislature required by s. 456.026 as well as be included in the long-range policy plan required by s. 456.005.

(2)~~(1)~~ Each board within the jurisdiction of the department, or the department when there is no board, shall determine by rule the amount of license fees for the profession it regulates, based upon long-range estimates prepared by the department of the revenue required to implement laws relating to the regulation of professions by the department and the board. Each board, or the department if there is no board, shall ensure that license fees are adequate to cover all anticipated costs and to maintain a reasonable cash balance, as determined by rule of the agency, with advice of the applicable board. If sufficient action is not taken by a board within 1 year after notification by the department that license fees are projected to be inadequate, the department shall set license fees on behalf of the applicable board to cover anticipated costs and to maintain the required cash balance. The department shall include recommended fee cap increases in its annual report to the Legislature. Further, it is the legislative intent that no regulated profession operate with a negative cash balance. The department may provide by rule for advancing sufficient funds to any profession operating with a negative cash balance. The advancement may be for a period not to exceed 2 consecutive years, and the regulated profession must pay interest. Interest shall be calculated at the current rate earned on investments of a trust fund used by the department to implement this chapter. Interest earned shall be allocated to the various funds in accordance with the allocation of investment earnings during the period of the advance.

(3)~~(2)~~ Each board, or the department if there is no board, may charge a fee not to exceed $25, as determined by rule, for the issuance of a wall certificate pursuant to s. 456.013(2) requested by a licensee who was licensed prior to July 1, 1998, or for the issuance of a duplicate wall certificate requested by any licensee.

(4)~~(3)~~ Each board, or the department if there is no board, may, by rule, assess and collect a one-time fee from each active status licensee and each inactive status licensee in an amount necessary to eliminate a cash deficit or, if there is not a cash deficit, in an amount sufficient to maintain the financial integrity of the professions as required in this section. Not more than one such assessment may be made in any 4-year period without specific legislative authorization.

(5) If the cash balance of the trust fund at the end of any fiscal year exceeds the total appropriation provided for the regulation of the health care professions in the prior fiscal year, the boards, in consultation with the department, may lower the license renewal fees.

(6)~~(4)~~ Each board ~~authorized to approve continuing education providers~~, or the department if there is no board, *shall* ~~may~~ establish, by rule, a fee not to exceed $250 for anyone seeking approval to provide continuing education courses *or programs* and *shall* ~~may~~ establish by rule a biennial renewal fee not to exceed $250 for the renewal of providership of such courses. *The fees collected from continuing education providers shall be used for the purposes of reviewing course provider applications, monitoring the integrity of the courses provided, covering legal expenses incurred as a result of not granting or renewing a providership, and developing and maintaining an electronic continuing education tracking system. The department shall implement an electronic continuing education tracking system for each new biennial renewal cycle for which electronic renewals are implemented after the effective date of this act and shall integrate such system into the licensure and renewal system. All approved continuing education providers shall provide information on course attendance to the department necessary to implement the electronic tracking system. The department shall, by rule, specify the form and procedures by which the information is to be submitted.* ~~This subsection does not apply to continuing education courses or providers approved by the board under chapter 465.~~

(7)~~(5)~~ All moneys collected by the department from fees or fines or from costs awarded to the agency by a court shall be paid into a trust fund used by the department to implement this chapter. The Legislature shall appropriate funds from this trust fund sufficient to carry out this chapter and the provisions of law with respect to professions regulated by the Division of Medical Quality Assurance within the department and the boards. The department may contract with public and private entities to receive and deposit revenue pursuant to this section. The department shall maintain separate accounts in the trust fund used by the department to implement this chapter for every profession within the department. To the maximum extent possible, the department shall directly charge all expenses to the account of each regulated profession. For the purpose of this subsection, direct charge expenses include, but are not limited to, costs for investigations, examinations, and legal services. For expenses that cannot be charged directly, the department shall provide for the proportionate allocation among the accounts of expenses incurred by the department in the performance of its duties with respect to each regulated profession. The regulation by the department of professions, as defined in this chapter, shall be financed solely from revenue collected by it from fees and other charges and deposited in the Medical Quality Assurance Trust Fund, and all such revenue is hereby appropriated to the department. However, it is legislative intent that each profession shall operate within its anticipated fees. The department may not expend funds from the account of a profession to pay for the expenses incurred on behalf of another profession, except that the Board of Nursing must pay for any costs incurred in the regulation of certified nursing assistants. The department shall maintain adequate records to support its allocation of agency expenses. The department shall provide any board with reasonable access to these records upon request. *On or before October 1 of each year,* the department shall provide each board an annual report of revenue and direct and allocated expenses related to the operation of that profession. The board shall use these reports and the department's adopted long-range plan to determine the amount of license fees. A condensed version of this information, with the department's recommendations, shall be included in the annual report to the Legislature prepared under s. 456.026.

(8)~~(6)~~ The department shall provide a condensed management report of budgets, finances, performance statistics, and recommendations to each board at least once a quarter. The department shall identify and include in such presentations any changes, or projected changes, made to the board's budget since the last presentation.

(9)~~(7)~~ If a duplicate license is required or requested by the licensee, the board or, if there is no board, the department may charge a fee as determined by rule not to exceed $25 before issuance of the duplicate license.

(10)~~(8)~~ The department or the appropriate board shall charge a fee not to exceed $25 for the certification of a public record. The fee shall be determined by rule of the department. The department or the

appropriate board shall assess a fee for duplicating a public record as provided in s. 119.07(1)(a) and (b).

Section 7. Subsection (1) of section 457.107, Florida Statutes, is amended to read:

457.107 Renewal of licenses; continuing education.—

(1) The department shall renew a license upon receipt of the renewal application and the *required* fee set by the board by rule, not to exceed $500.

Section 8. *Section 458.31151, Florida Statutes, is repealed.*

Section 9. Subsection (1) of section 483.807, Florida Statutes, is amended to read:

483.807 Fees; establishment; disposition.—

(1) The board, by rule, shall establish fees to be paid for application, examination, reexamination, licensing and renewal, *registration, laboratory training program application,* reinstatement, and recordmaking and recordkeeping. The board may also establish, by rule, a delinquency fee. The board shall establish fees that are adequate to ensure the continued operation of the board and to fund the proportionate expenses incurred by the department in carrying out its licensure and other related responsibilities under this part. Fees shall be based on departmental estimates of the revenue required to implement this part and the provisions of law with respect to the regulation of clinical laboratory personnel.

Section 10. Subsections (1), (3), and (4) of section 456.011, Florida Statutes, are amended to read:

456.011 Boards; organization; meetings; compensation and travel expenses.—

(1) Each board within the department shall comply with the provisions of this *chapter* ~~section~~.

(3) The board shall meet at least once annually and may meet as often as is necessary. *Meetings shall be conducted through teleconferencing or other technological means, unless disciplinary hearings involving standard of care, sexual misconduct, fraud, impairment, or felony convictions; licensure denial hearings; or controversial rule hearings are being conducted; or unless otherwise approved in advance of the meeting by the director of the Division of Medical Quality Assurance.* The chairperson or a quorum of the board shall have the authority to call ~~other~~ meetings*, except as provided above relating to in-person meetings*. A quorum shall be necessary for the conduct of official business by the board or any committee thereof. Unless otherwise provided by law, 51 percent or more of the appointed members of the board or any committee, when applicable, shall constitute a quorum. The membership of committees of the board, except as otherwise authorized pursuant to this chapter or the applicable practice act, shall be composed of currently appointed members of the board. The vote of a majority of the members of the quorum shall be necessary for any official action by the board or committee. Three consecutive unexcused absences or absences constituting 50 percent or more of the board's meetings within any 12-month period shall cause the board membership of the member in question to become void, and the position shall be considered vacant. The board, or the department when there is no board, shall, by rule, define unexcused absences.

(4) Unless otherwise provided by law, a board member or former board member serving on a probable cause panel shall be compensated $50 for each day in attendance at an official meeting of the board and for each day of participation in any other business involving the board. Each board shall adopt rules defining the phrase "other business involving the board," but the phrase may not routinely be defined to include telephone conference calls *that last less than 4 hours*. A board member also shall be entitled to reimbursement for expenses pursuant to s. 112.061. Travel out of state shall require the prior approval of the secretary.

Section 11. Subsection (2) of section 456.013, Florida Statutes, is amended to read:

456.013 Department; general licensing provisions.—

(2) Before the issuance of any license, the department *shall* ~~may~~ charge an initial license fee as determined by ~~rule of~~ the applicable board or, if no such board exists, by rule of the department. Upon receipt of the appropriate license fee, the department shall issue a license to any person certified by the appropriate board, or its designee, as having met the licensure requirements imposed by law or rule. The license shall consist of a wallet-size identification card and a wall card measuring 6½ inches by 5 inches. In addition to the two-part license, the department, at the time of initial licensure, shall issue a wall certificate suitable for conspicuous display, which shall be no smaller than 8½ inches by 14 inches. The licensee shall surrender to the department the wallet-size identification card, the wall card, and the wall certificate, if one has been issued by the department, if the licensee's license is revoked.

Section 12. Section 456.017, Florida Statutes, is amended to read:

456.017 Department of Health; examinations.—

(1)(a) The department shall provide, contract, or approve services for the development, preparation, administration, scoring, score reporting, and evaluation of all examinations, in consultation with the appropriate board. The department shall certify that examinations developed and approved by the department adequately and reliably measure an applicant's ability to practice the profession regulated by the department. After an examination developed or approved by the department has been administered, the board, or the department when there is no board, may reject any question which does not reliably measure the general areas of competency specified in the rules of the board. The department may contract for the preparation, administration, scoring, score reporting, and evaluation of examinations, when such services are available and approved by the board.

(b) For each examination developed by the department or contracted vendor, to the extent not otherwise specified by statute, the board, or the department when there is no board, shall by rule specify the general areas of competency to be covered by each examination, the relative weight to be assigned in grading each area tested, and the score necessary to achieve a passing grade. *The department shall assess*~~, and~~ fees~~, where applicable,~~ to cover the actual cost for any purchase, development, *validation,* ~~and~~ administration*, and defense* of required examinations. This subsection does not apply to national examinations approved and administered pursuant to paragraph (c). If a practical examination is deemed to be necessary, the rules shall specify the criteria by which examiners are to be selected, the grading criteria to be used by the examiner, the relative weight to be assigned in grading each criterion, and the score necessary to achieve a passing grade. When a mandatory standardization exercise for a practical examination is required by law, the board, or the department when there is no board, may conduct such exercise. Therefore, board members, or employees of the department when there is no board, may serve as examiners at a practical examination with the consent of the board or department, as appropriate.

(c)*1.* The board, or the department when there is no board, *shall* ~~may~~ approve by rule the use of *one or more* ~~any~~ national *examinations* ~~examination~~ which the department has certified as meeting requirements of national examinations and generally accepted testing standards pursuant to department rules. Providers of examinations seeking certification by the department shall pay the actual costs incurred by the department in making a determination regarding the certification. The name and number of a candidate may be provided to a national contractor for the limited purpose of preparing the grade tape and information to be returned to the board or department; or, to the extent otherwise specified by rule, the candidate may apply directly to the vendor of the national examination and supply test score information to the department. The department may delegate to the board the duty to provide and administer the examination. Any national examination approved by a board, or the department when there is no

board, prior to October 1, 1997, is deemed certified under this paragraph.

2. The board, or the department when there is no board, shall approve and begin administering a national examination no later than December 31, 2001. Neither the board nor the department may administer a state-developed written examination after December 31, 2001, notwithstanding any other provision of law. The examination may be administered electronically if adequate security measures are used, as determined by rule of the department.

3. The board, or the department when there is no board, may administer a state-developed practical or clinical examination, as required by the applicable practice act, if all costs of development, purchase, validation, administration, review, and defense are paid by the examination candidate prior to the administration of the examination. If a national practical or clinical examination is available and certified by the department pursuant to this section, the board, or the department when there is no board, may administer the national examination.

4. It is the intent of the Legislature to reduce the costs associated with state examinations and to encourage the use of national examinations whenever possible.

(d) Each board, or the department when there is no board, shall adopt rules regarding the security and monitoring of examinations. The department shall implement those rules adopted by the respective boards. In order to maintain the security of examinations, the department may employ the procedures set forth in s. 456.065 to seek fines and injunctive relief against an examinee who violates the provisions of s. 456.018 or the rules adopted pursuant to this paragraph. The department, or any agent thereof, may, for the purposes of investigation, confiscate any written, photographic, or recording material or device in the possession of the examinee at the examination site which the department deems necessary to enforce such provisions or rules. *The scores of candidates who have taken state-developed examinations shall be provided to the candidates electronically using a candidate identification number, and the department shall post the aggregate scores on the department's website without identifying the names of the candidates.*

(e) If the professional board with jurisdiction over an examination concurs, the department may, for a fee, share with any other state's licensing authority *or a national testing entity* an examination *or examination item bank* developed by or for the department unless prohibited by a contract entered into by the department for development or purchase of the examination. The department, with the concurrence of the appropriate board, shall establish guidelines that ensure security of a shared exam and shall require that any other state's licensing authority comply with those guidelines. Those guidelines shall be approved by the appropriate professional board. All fees paid by the user shall be applied to the department's examination and development program for professions regulated by this chapter.

(f) The department may adopt rules necessary to administer this subsection.

(2) For each examination developed by the department or a contracted vendor, the board, or the department when there is no board, shall adopt rules providing for reexamination of any applicants who failed an examination developed by the department or a contracted vendor. If both a written and a practical examination are given, an applicant shall be required to retake only the portion of the examination on which the applicant failed to achieve a passing grade, if the applicant successfully passes that portion within a reasonable time, as determined by rule of the board, or the department when there is no board, of passing the other portion. Except for national examinations approved and administered pursuant to this section, the department shall provide procedures for applicants who fail an examination developed by the department or a contracted vendor to review their examination questions, answers, papers, grades, and grading key for the questions the candidate answered incorrectly or, if not feasible, the parts of the examination failed. Applicants shall bear the actual cost for the department to provide examination review pursuant to this subsection. An applicant may waive in writing the confidentiality of the applicant's examination grades. *Notwithstanding any other provision of law, only candidates who fail an examination by less than 10 percent shall be entitled to challenge the validity of the examination at hearing.*

(3) For each examination developed or administered by the department or a contracted vendor, an accurate record of each applicant's examination questions, answers, papers, grades, and grading key shall be kept for a period of not less than 2 years immediately following the examination, and such record shall thereafter be maintained or destroyed as provided in chapters 119 and 257. This subsection does not apply to national examinations approved and administered pursuant to this section.

(4) Meetings of any member of the department or of any board within the department held for the exclusive purpose of creating or reviewing licensure examination questions or proposed examination questions are exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution. Any public records, such as tape recordings, minutes, or notes, generated during or as a result of such meetings are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, these exemptions shall not affect the right of any person to review an examination as provided in subsection (2).

(5) For examinations developed by the department or a contracted vendor, each board, or the department when there is no board, may provide licensure examinations in an applicant's native language. *Notwithstanding any other provision of law,* applicants for examination or reexamination pursuant to this subsection shall bear the full cost for the department's development, preparation, *validation,* administration, grading, and evaluation of any examination in a language other than English *prior to the examination being administered*. Requests for translated examinations must be on file in the board office at least 6 months prior to the scheduled examination. When determining whether it is in the public interest to allow the examination to be translated into a language other than English, the board shall consider the percentage of the population who speak the applicant's native language. Applicants must apply for translation to the applicable board at least 6 months prior to the scheduled examination.

(6) In addition to meeting any other requirements for licensure by examination or by endorsement, *and notwithstanding the provisions in paragraph (1)(c),* an applicant may be required by a board, or the department when there is no board, to certify competency in state laws and rules relating to the applicable practice act. *Beginning October 1, 2001, all laws and rules examinations shall be administered electronically unless the laws and rules examination is administered concurrently with another written examination for that profession or unless the electronic administration would be substantially more expensive.*

Section 13. Subsection (1) of section 456.035, Florida Statutes, is amended to read:

456.035 Address of record.—

(1) Each licensee of the department is solely responsible for notifying the department in writing of the licensee's current mailing address and place of practice, as defined by rule of the board or the department if there is no board. *Electronic notification shall be allowed by the department; however, it shall be the responsibility of the licensee to ensure that the electronic notification was received by the department.* A licensee's failure to notify the department of a change of address constitutes a violation of this section, and the licensee may be disciplined by the board or the department if there is no board.

Section 14. Subsections (2), (4), and (10) of section 456.073, Florida Statutes, are amended to read:

456.073 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(2) The department shall allocate sufficient and adequately trained staff to expeditiously and thoroughly determine legal sufficiency and investigate all legally sufficient complaints. For purposes of this section,

it is the intent of the Legislature that the term "expeditiously" means that the department complete the report of its initial investigative findings and recommendations concerning the existence of probable cause within 6 months after its receipt of the complaint. The failure of the department, for disciplinary cases under its jurisdiction, to comply with the time limits of this section while investigating a complaint against a licensee constitutes harmless error in any subsequent disciplinary action unless a court finds that either the fairness of the proceeding or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure. When its investigation is complete and legally sufficient, the department shall prepare and submit to the probable cause panel of the appropriate regulatory board the investigative report of the department. The report shall contain the investigative findings and the recommendations of the department concerning the existence of probable cause. *The department shall not recommend a letter of guidance in lieu of finding probable cause if the subject has already been issued a letter of guidance for a related offense.* At any time after legal sufficiency is found, the department may dismiss any case, or any part thereof, if the department determines that there is insufficient evidence to support the prosecution of allegations contained therein. The department shall provide a detailed report to the appropriate probable cause panel prior to dismissal of any case or part thereof, and to the subject of the complaint after dismissal of any case or part thereof, under this section. For cases dismissed prior to a finding of probable cause, such report is confidential and exempt from s. 119.07(1). The probable cause panel shall have access, upon request, to the investigative files pertaining to a case prior to dismissal of such case. If the department dismisses a case, the probable cause panel may retain independent legal counsel, employ investigators, and continue the investigation and prosecution of the case as it deems necessary.

(4) The determination as to whether probable cause exists shall be made by majority vote of a probable cause panel of the board, or by the department, as appropriate. Each regulatory board shall provide by rule that the determination of probable cause shall be made by a panel of its members or by the department. Each board may provide by rule for multiple probable cause panels composed of at least two members. Each board may provide by rule that one or more members of the panel or panels may be a former board member. The length of term or repetition of service of any such former board member on a probable cause panel may vary according to the direction of the board when authorized by board rule. Any probable cause panel must include one of the board's former or present consumer members, if one is available, is willing to serve, and is authorized to do so by the board chair. Any probable cause panel must include a present board member. Any probable cause panel must include a former or present professional board member. However, any former professional board member serving on the probable cause panel must hold an active valid license for that profession. All proceedings of the panel are exempt from s. 286.011 until 10 days after probable cause has been found to exist by the panel or until the subject of the investigation waives his or her privilege of confidentiality. The probable cause panel may make a reasonable request, and upon such request the department shall provide such additional investigative information as is necessary to the determination of probable cause. A request for additional investigative information shall be made within 15 days from the date of receipt by the probable cause panel of the investigative report of the department or the agency. The probable cause panel or the department, as may be appropriate, shall make its determination of probable cause within 30 days after receipt by it of the final investigative report of the department. The secretary may grant extensions of the 15-day and the 30-day time limits. In lieu of a finding of probable cause, the probable cause panel, or the department if there is no board, may issue a letter of guidance to the subject. If, within the 30-day time limit, as may be extended, the probable cause panel does not make a determination regarding the existence of probable cause or does not issue a letter of guidance in lieu of a finding of probable cause, the department must make a determination regarding the existence of probable cause within 10 days after the expiration of the time limit. If the probable cause panel finds that probable cause exists, it shall direct the department to file a formal complaint against the licensee. The department shall follow the directions of the probable cause panel regarding the filing of a formal complaint. If directed to do so, the department shall file a formal complaint against the subject of the investigation and prosecute that complaint pursuant to chapter 120. However, the department may decide not to prosecute the complaint if it finds that probable cause has been improvidently found by the panel. In such cases, the department shall refer the matter to the board. The board may then file a formal complaint and prosecute the complaint pursuant to chapter 120. The department shall also refer to the board any investigation or disciplinary proceeding not before the Division of Administrative Hearings pursuant to chapter 120 or otherwise completed by the department within 1 year after the filing of a complaint. The department, for disciplinary cases under its jurisdiction, must establish a uniform reporting system to quarterly refer to each board the status of any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after the filing of the complaint. Annually, the department*, in consultation with the applicable probable cause panel,* ~~if there is no board, or each board~~ must establish a plan to *expedite* ~~reduce~~ or otherwise close any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after the filing of the complaint. A probable cause panel or a board may retain independent legal counsel, employ investigators, and continue the investigation as it deems necessary; all costs thereof shall be paid from a trust fund used by the department to implement this chapter. All proceedings of the probable cause panel are exempt from s. 120.525.

(10) The complaint and all information obtained pursuant to the investigation by the department are confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department, or until the regulated professional or subject of the investigation waives his or her privilege of confidentiality, whichever occurs first. Upon completion of the investigation *and a recommendation by the department to find probable cause,* and pursuant to a written request by the subject *or the subject's attorney*, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. Notwithstanding s. 456.057, the subject may inspect or receive a copy of any expert witness report or patient record connected with the investigation if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 456.057. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days *of mailing by the department*, unless an extension of time has been granted by the department. This subsection does not prohibit the department from providing such information to any law enforcement agency or to any other regulatory agency.

Section 15. Section 456.081, Florida Statutes, is amended to read:

456.081 Publication of information.—The department and the boards shall have the authority to advise licensees periodically, through the publication of a newsletter *on the department's website*, about information that the department or the board determines is of interest to the industry. Unless otherwise prohibited by law, the department and the boards shall publish a summary of final orders resulting in *disciplinary action* ~~fines, suspensions, or revocations,~~ and any other information the department or the board determines is of interest to the public.

Section 16. Subsection (3) of section 456.079, Florida Statutes, is amended to read:

456.079 Disciplinary guidelines.—

(3) A specific finding *in the final order* of mitigating or aggravating circumstances shall allow the board to impose a penalty other than that provided for in such guidelines. If applicable, the board, or the department if there is no board, shall adopt by rule disciplinary guidelines to designate possible mitigating and aggravating circumstances and the variation and range of penalties permitted for such circumstances.

Section 17. Subsections (1) and (2) of section 457.109, Florida Statutes, are amended to read:

457.109 Disciplinary actions; grounds; action by the board.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license to practice acupuncture by bribery, by fraudulent misrepresentations, or through an error of the department.

(b) Having a license to practice acupuncture revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, in any jurisdiction of a crime which directly relates to the practice of acupuncture or to the ability to practice acupuncture. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising or advertising which claims that acupuncture is useful in curing any disease.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department.

(g) Aiding, assisting, procuring, employing, or advising any unlicensed person to practice acupuncture contrary to this chapter or to a rule of the department.

(h) Failing to perform any statutory or legal obligation placed upon a licensed acupuncturist.

(i) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensed acupuncturist.

(j) Exercising influence within a patient-acupuncturist relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her acupuncturist.

(k) Making deceptive, untrue, or fraudulent representations in the practice of acupuncture or employing a trick or scheme in the practice of acupuncture when such scheme or trick fails to conform to the generally prevailing standards of treatment in the community.

(l) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct. A solicitation is any communication which directly or implicitly requests an immediate oral response from the recipient.

(m) Failing to keep written medical records justifying the course of treatment of the patient.

(n) Exercising influence on the patient to exploit the patient for the financial gain of the licensee or of a third party.

(o) Being unable to practice acupuncture with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, upon a finding of the secretary or the secretary's designee that probable cause exists to believe that the licensee is unable to serve as an acupuncturist due to the reasons stated in this paragraph, the department shall have the authority to issue an order to compel the licensee to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or serves as an acupuncturist. The licensee against whom the petition is filed shall not be named or identified by initials in any public court record or document, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. An acupuncturist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of acupuncture with reasonable skill and safety to patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the department shall be used against an acupuncturist in any other proceeding.

(p) Gross or repeated malpractice or the failure to practice acupuncture with that level of care, skill, and treatment which is recognized by a reasonably prudent similar acupuncturist as being acceptable under similar conditions and circumstances.

(q) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.

(r) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(s) Violating ~~any provision of this chapter, a rule of the department, or~~ a lawful order of the *board* ~~department~~ previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(t) Conspiring with another to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services.

(u) Fraud or deceit or gross negligence, incompetence, or misconduct in the operation of a course of study.

(v) Failing to comply with state, county, or municipal regulations or reporting requirements relating to public health and the control of contagious and infectious diseases.

(w) Failing to comply with any rule of the board relating to health and safety, including, but not limited to, the sterilization of needles and equipment and the disposal of potentially infectious materials.

(x) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the acts set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Restriction of practice.~~

~~(d) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(e) Issuance of a reprimand.~~

~~(f) Placement of the acupuncturist on probation for a period of time and subject to such conditions as the board may specify.~~

Section 18. Subsection (6) of section 458.320, Florida Statutes, is amended to read:

458.320 Financial responsibility.—

(6) Any deceptive, untrue, or fraudulent representation by the licensee with respect to any provision of this section shall result in

permanent disqualification from any exemption to mandated financial responsibility as provided in this section and shall constitute grounds for disciplinary action *under* ~~as specified in~~ s. 458.331.

Section 19. Subsections (1) and (2) of section 458.331, Florida Statutes, are amended to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license to practice medicine by bribery, by fraudulent misrepresentations, or through an error of the department or the board.

(b) Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician's license, shall be construed as action against the physician's license.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice medicine.

(d) False, deceptive, or misleading advertising.

(e) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department or the board. A treatment provider approved pursuant to s. 456.076 shall provide the department or consultant with information in accordance with the requirements of s. 456.076(3), (4), (5), and (6).

(f) Aiding, assisting, procuring, or advising any unlicensed person to practice medicine contrary to this chapter or to a rule of the department or the board.

(g) Failing to perform any statutory or legal obligation placed upon a licensed physician.

(h) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensed physician.

(i) Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent a physician from receiving a fee for professional consultation services.

(j) Exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her physician.

(k) Making deceptive, untrue, or fraudulent representations in or related to the practice of medicine or employing a trick or scheme in the practice of medicine.

(l) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct. A solicitation is any communication which directly or implicitly requests an immediate oral response from the recipient.

(m) Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

(n) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party, which shall include, but not be limited to, the promoting or selling of services, goods, appliances, or drugs.

(o) Promoting or advertising on any prescription form of a community pharmacy unless the form shall also state "This prescription may be filled at any pharmacy of your choice."

(p) Performing professional services which have not been duly authorized by the patient or client, or his or her legal representative, except as provided in s. 743.064, s. 766.103, or s. 768.13.

(q) Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent.

(r) Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893 by the physician to himself or herself, except one prescribed, dispensed, or administered to the physician by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.

(s) Being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the secretary or the secretary's designee that probable cause exists to believe that the licensee is unable to practice medicine because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed may not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of medicine with reasonable skill and safety to patients.

(t) Gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. As used in this paragraph, "repeated malpractice" includes, but is not limited to, three or more claims for medical malpractice within the previous 5-year period resulting in indemnities being paid in excess of $25,000 each to the claimant in a judgment or settlement and which incidents involved negligent conduct by the physician. As used in this paragraph, "gross malpractice" or "the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances," shall not be construed so as to require more than one instance, event, or act. Nothing in this paragraph shall be construed to

require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph.

(u) Performing any procedure or prescribing any therapy which, by the prevailing standards of medical practice in the community, would constitute experimentation on a human subject, without first obtaining full, informed, and written consent.

(v) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform. The board may establish by rule standards of practice and standards of care for particular practice settings, including, but not limited to, education and training, equipment and supplies, medications including anesthetics, assistance of and delegation to other personnel, transfer agreements, sterilization, records, performance of complex or multiple procedures, informed consent, and policy and procedure manuals.

(w) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(x) Violating ~~any provision of this chapter, a rule of the board or department, or~~ a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(y) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services.

(z) Procuring, or aiding or abetting in the procuring of, an unlawful termination of pregnancy.

(aa) Presigning blank prescription forms.

(bb) Prescribing any medicinal drug appearing on Schedule II in chapter 893 by the physician for office use.

(cc) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any drug which is a Schedule II amphetamine or a Schedule II sympathomimetic amine drug or any compound thereof, pursuant to chapter 893, to or for any person except for:

1. The treatment of narcolepsy; hyperkinesis; behavioral syndrome characterized by the developmentally inappropriate symptoms of moderate to severe distractability, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction;

2. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities; or

3. The clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, reviewed, and approved by the board before such investigation is begun.

(dd) Failing to supervise adequately the activities of those physician assistants, paramedics, emergency medical technicians, or advanced registered nurse practitioners acting under the supervision of the physician.

(ee) Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products listed above may be dispensed by the pharmacist with the presumption that the prescription is for legitimate medical use.

(ff) Prescribing, ordering, dispensing, administering, supplying, selling, or giving amygdalin (laetrile) to any person.

(gg) Misrepresenting or concealing a material fact at any time during any phase of a licensing or disciplinary process or procedure.

(hh) Improperly interfering with an investigation or with any disciplinary proceeding.

(ii) Failing to report to the department any licensee under this chapter or under chapter 459 who the physician or physician assistant knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the physician or physician assistant also provides services.

(jj) Being found by any court in this state to have provided corroborating written medical expert opinion attached to any statutorily required notice of claim or intent or to any statutorily required response rejecting a claim, without reasonable investigation.

(kk) Failing to report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken against one's license to practice medicine in another state, territory, or country.

(ll) Advertising or holding oneself out as a board-certified specialist, if not qualified under s. 458.3312, in violation of this chapter.

(mm) Failing to comply with the requirements of ss. 381.026 and 381.0261 to provide patients with information about their patient rights and how to file a patient complaint.

(nn) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), including conduct that would constitute a substantial violation of subsection (1) which occurred prior to licensure, it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify, or certification with restrictions, to the department an application for licensure, certification, or registration.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Restriction of practice.~~

~~(d) Imposition of an administrative fine not to exceed $10,000 for each count or separate offense.~~

~~(e) Issuance of a reprimand.~~

~~(f) Placement of the physician on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the physician to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another physician.~~

~~(g) Issuance of a letter of concern.~~

~~(h) Corrective action.~~

~~(i) Refund of fees billed to and collected from the patient.~~

~~(j) Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights.~~

In determining what action is appropriate, the board must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the physician. All costs associated with compliance with orders issued under this subsection are the obligation of the physician.

Section 20. Subsection (2) of section 458.345, Florida Statutes, is amended to read:

458.345 Registration of resident physicians, interns, and fellows; list of hospital employees; prescribing of medicinal drugs; penalty.—

(2) The board shall not certify to the department for registration any applicant who is under investigation in any state or jurisdiction for an act which would constitute *grounds* ~~the basis~~ for ~~imposing a~~ disciplinary *action under* ~~penalty specified in~~ s. 458.331~~(2)(b)~~ until such time as the investigation is completed, at which time the provisions of s. 458.331 shall apply.

Section 21. Paragraph (g) of subsection (7) of section 458.347, Florida Statutes, is amended to read:

458.347 Physician assistants.—

(7) PHYSICIAN ASSISTANT LICENSURE.—

(g) The Board of Medicine may impose any of the penalties *authorized under* ~~specified in~~ ss. 456.072 and 458.331(2) upon a physician assistant if the physician assistant or the supervising physician has been found guilty of or is being investigated for any act that constitutes a violation of this chapter or chapter 456.

Section 22. Subsection (6) of section 459.0085, Florida Statutes, is amended to read:

459.0085 Financial responsibility.—

(6) Any deceptive, untrue, or fraudulent representation by the licensee with respect to any provision of this section shall result in permanent disqualification from any exemption to mandated financial responsibility as provided in this section and shall constitute grounds for disciplinary action *under* ~~as specified in~~ s. 459.015.

Section 23. Subsections (1) and (2) of section 459.015, Florida Statutes, are amended to read:

459.015 Grounds for disciplinary action; action by the board and department.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license to practice osteopathic medicine or a certificate issued under this chapter by bribery, by fraudulent misrepresentations, or through an error of the department or the board.

(b) Having a license or the authority to practice osteopathic medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority's acceptance of a physician's relinquishment of license, stipulation, consent order, or other settlement offered in response to or in anticipation of the filing of administrative charges against the physician shall be construed as action against the physician's license.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of osteopathic medicine or to the ability to practice osteopathic medicine. A plea of nolo contendere shall create a rebuttable presumption of guilt to the underlying criminal charges.

(d) False, deceptive, or misleading advertising.

(e) Failing to report to the department or the department's impaired professional consultant any person who the licensee or certificateholder knows is in violation of this chapter or of the rules of the department or the board. A treatment provider, approved pursuant to s. 456.076, shall provide the department or consultant with information in accordance with the requirements of s. 456.076(3), (4), (5), and (6).

(f) Aiding, assisting, procuring, or advising any unlicensed person to practice osteopathic medicine contrary to this chapter or to a rule of the department or the board.

(g) Failing to perform any statutory or legal obligation placed upon a licensed osteopathic physician.

(h) Giving false testimony in the course of any legal or administrative proceedings relating to the practice of medicine or the delivery of health care services.

(i) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensed osteopathic physician.

(j) Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, person, partnership, firm, corporation, or other business entity, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent an osteopathic physician from receiving a fee for professional consultation services.

(k) Refusing to provide health care based on a patient's participation in pending or past litigation or participation in any disciplinary action conducted pursuant to this chapter, unless such litigation or disciplinary action directly involves the osteopathic physician requested to provide services.

(l) Exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her physician.

(m) Making deceptive, untrue, or fraudulent representations in or related to the practice of osteopathic medicine or employing a trick or scheme in the practice of osteopathic medicine.

(n) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or forms of overreaching or vexatious conduct. A solicitation is any communication which directly or implicitly requests an immediate oral response from the recipient.

(o) Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed osteopathic physician or the osteopathic physician extender and supervising osteopathic physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

(p) Fraudulently altering or destroying records relating to patient care or treatment, including, but not limited to, patient histories, examination results, and test results.

(q) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which shall include, but not be limited to, the promotion or sale of services, goods, appliances, or drugs.

(r) Promoting or advertising on any prescription form of a community pharmacy, unless the form shall also state "This prescription may be filled at any pharmacy of your choice."

(s) Performing professional services which have not been duly authorized by the patient or client or his or her legal representative except as provided in s. 743.064, s. 766.103, or s. 768.13.

(t) Prescribing, dispensing, administering, supplying, selling, giving, mixing, or otherwise preparing a legend drug, including all controlled substances, other than in the course of the osteopathic physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, supplying, selling, giving, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or

inappropriate quantities is not in the best interest of the patient and is not in the course of the osteopathic physician's professional practice, without regard to his or her intent.

(u) Prescribing or dispensing any medicinal drug appearing on any schedule set forth in chapter 893 by the osteopathic physician for himself or herself or administering any such drug by the osteopathic physician to himself or herself unless such drug is prescribed for the osteopathic physician by another practitioner authorized to prescribe medicinal drugs.

(v) Prescribing, ordering, dispensing, administering, supplying, selling, or giving amygdalin (laetrile) to any person.

(w) Being unable to practice osteopathic medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall, upon a finding of the secretary or the secretary's designee that probable cause exists to believe that the licensee is unable to practice medicine because of the reasons stated in this paragraph, have the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of medicine with reasonable skill and safety to patients.

(x) Gross or repeated malpractice or the failure to practice osteopathic medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar osteopathic physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. As used in this paragraph, "repeated malpractice" includes, but is not limited to, three or more claims for medical malpractice within the previous 5-year period resulting in indemnities being paid in excess of $25,000 each to the claimant in a judgment or settlement and which incidents involved negligent conduct by the osteopathic physician. As used in this paragraph, "gross malpractice" or "the failure to practice osteopathic medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar osteopathic physician as being acceptable under similar conditions and circumstances" shall not be construed so as to require more than one instance, event, or act. Nothing in this paragraph shall be construed to require that an osteopathic physician be incompetent to practice osteopathic medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed "gross malpractice," "repeated malpractice," or "failure to practice osteopathic medicine with that level of care, skill, and treatment which is recognized as being acceptable under similar conditions and circumstances," or any combination thereof, and any publication by the board shall so specify.

(y) Performing any procedure or prescribing any therapy which, by the prevailing standards of medical practice in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(z) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform. The board may establish by rule standards of practice and standards of care for particular practice settings, including, but not limited to, education and training, equipment and supplies, medications including anesthetics, assistance of and delegation to other personnel, transfer agreements, sterilization, records, performance of complex or multiple procedures, informed consent, and policy and procedure manuals.

(aa) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(bb) Violating ~~any provision of this chapter, a rule of the board or department, or~~ a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the board or department.

(cc) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services.

(dd) Procuring, or aiding or abetting in the procuring of, an unlawful termination of pregnancy.

(ee) Presigning blank prescription forms.

(ff) Prescribing any medicinal drug appearing on Schedule II in chapter 893 by the osteopathic physician for office use.

(gg) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any drug which is a Schedule II amphetamine or Schedule II sympathomimetic amine drug or any compound thereof, pursuant to chapter 893, to or for any person except for:

1. The treatment of narcolepsy; hyperkinesis; behavioral syndrome characterized by the developmentally inappropriate symptoms of moderate to severe distractability, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction;

2. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities; or

3. The clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, reviewed, and approved by the board before such investigation is begun.

(hh) Failing to supervise adequately the activities of those physician assistants, paramedics, emergency medical technicians, advanced registered nurse practitioners, or other persons acting under the supervision of the osteopathic physician.

(ii) Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products listed above may be dispensed by the pharmacist with the presumption that the prescription is for legitimate medical use.

(jj) Misrepresenting or concealing a material fact at any time during any phase of a licensing or disciplinary process or procedure.

(kk) Improperly interfering with an investigation or with any disciplinary proceeding.

(ll) Failing to report to the department any licensee under chapter 458 or under this chapter who the osteopathic physician or physician assistant knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the osteopathic physician or physician assistant also provides services.

(mm) Being found by any court in this state to have provided corroborating written medical expert opinion attached to any statutorily required notice of claim or intent or to any statutorily required response rejecting a claim, without reasonable investigation.

(nn) Advertising or holding oneself out as a board-certified specialist in violation of this chapter.

(oo) Failing to comply with the requirements of ss. 381.026 and 381.0261 to provide patients with information about their patient rights and how to file a patient complaint.

(pp) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify, or certify with restrictions, to the department an application for certification, licensure, renewal, or reactivation.~~

~~(b) Revocation or suspension of a license or certificate.~~

~~(c) Restriction of practice.~~

~~(d) Imposition of an administrative fine not to exceed $10,000 for each count or separate offense.~~

~~(e) Issuance of a reprimand.~~

~~(f) Issuance of a letter of concern.~~

~~(g) Placement of the osteopathic physician on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the osteopathic physician to submit to treatment, attend continuing education courses, submit to reexamination, or work under the supervision of another osteopathic physician.~~

~~(h) Corrective action.~~

~~(i) Refund of fees billed to and collected from the patient.~~

~~(j) Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights.~~

In determining what action is appropriate, the board must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the physician. All costs associated with compliance with orders issued under this subsection are the obligation of the physician.

Section 24. Paragraph (f) of subsection (7) of section 459.022, Florida Statutes, is amended to read:

459.022 Physician assistants.—

(7) PHYSICIAN ASSISTANT LICENSURE.—

(f) The Board of Osteopathic Medicine may impose any of the penalties *authorized under* ~~specified in~~ ss. 456.072 and 459.015(2) upon a physician assistant if the physician assistant or the supervising physician has been found guilty of or is being investigated for any act that constitutes a violation of this chapter or chapter 456.

Section 25. Subsections (1) and (2) of section 460.413, Florida Statutes, are amended to read:

460.413 Grounds for disciplinary action; action by board or department.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license to practice chiropractic medicine by bribery, by fraudulent misrepresentations, or through an error of the department or the board.

(b) Having a license to practice chiropractic medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of chiropractic medicine or to the ability to practice chiropractic medicine. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising.

(e) Causing to be advertised, by any means whatsoever, any advertisement which does not contain an assertion or statement which would identify herself or himself as a chiropractic physician or identify such chiropractic clinic or related institution in which she or he practices or in which she or he is owner, in whole or in part, as a chiropractic institution.

(f) Advertising, practicing, or attempting to practice under a name other than one's own.

(g) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department or the board.

(h) Aiding, assisting, procuring, or advising any unlicensed person to practice chiropractic medicine contrary to this chapter or to a rule of the department or the board.

(i) Failing to perform any statutory or legal obligation placed upon a licensed chiropractic physician.

(j) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity of a licensed chiropractic physician.

(k) Making misleading, deceptive, untrue, or fraudulent representations in the practice of chiropractic medicine or employing a trick or scheme in the practice of chiropractic medicine when such trick or scheme fails to conform to the generally prevailing standards of treatment in the chiropractic medical community.

(l) Soliciting patients either personally or through an agent, unless such solicitation falls into a category of solicitations approved by rule of the board.

(m) Failing to keep legibly written chiropractic medical records that identify clearly by name and credentials the licensed chiropractic physician rendering, ordering, supervising, or billing for each examination or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories, examination results, test results, X rays, and diagnosis of a disease, condition, or injury. X rays need not be retained for more than 4 years.

(n) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which shall include, but not be limited to, the promotion or sale of services, goods or appliances, or drugs.

(o) Performing professional services which have not been duly authorized by the patient or client or her or his legal representative except as provided in ss. 743.064, 766.103, and 768.13.

(p) Prescribing, dispensing, or administering any medicinal drug except as authorized by s. 460.403(9)(c)2., performing any surgery, or practicing obstetrics.

(q) Being unable to practice chiropractic medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, upon a finding by the secretary of the department, or his or her designee, or the probable cause panel of the board that probable cause exists to believe

that the licensee is unable to practice the profession because of reasons stated in this paragraph, the department shall have the authority to compel a licensee to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses to comply with the department's order, the department may file a petition for enforcement in the circuit court of the circuit in which the licensee resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. The record of proceedings to obtain a compelled mental or physical examination shall not be used against a licensee in any other proceedings. A chiropractic physician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of chiropractic medicine with reasonable skill and safety to patients.

(r) Gross or repeated malpractice or the failure to practice chiropractic medicine at a level of care, skill, and treatment which is recognized by a reasonably prudent chiropractic physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the standards for malpractice in s. 766.102 in interpreting this provision. A recommended order by an administrative law judge, or a final order of the board finding a violation under this section shall specify whether the licensee was found to have committed "gross malpractice," "repeated malpractice," or "failure to practice chiropractic medicine with that level of care, skill, and treatment which is recognized as being acceptable under similar conditions and circumstances" or any combination thereof, and any publication by the board shall so specify.

(s) Performing any procedure or prescribing any therapy which, by the prevailing standards of chiropractic medical practice in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(t) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(u) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(v) Violating ~~any provision of this chapter, any rule of the board or department, or~~ a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(w) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(x) Submitting to any third-party payor a claim for a service or treatment which was not actually provided to a patient.

(y) Failing to preserve identity of funds and property of a patient. As provided by rule of the board, money or other property entrusted to a chiropractic physician for a specific purpose, including advances for costs and expenses of examination or treatment, is to be held in trust and must be applied only to that purpose. Money and other property of patients coming into the hands of a chiropractic physician are not subject to counterclaim or setoff for chiropractic physician's fees, and a refusal to account for and deliver over such money and property upon demand shall be deemed a conversion. This is not to preclude the retention of money or other property upon which the chiropractic physician has a valid lien for services or to preclude the payment of agreed fees from the proceeds of transactions for examinations or treatments. Controversies as to the amount of the fees are not grounds for disciplinary proceedings unless the amount demanded is clearly excessive or extortionate, or the demand is fraudulent. All funds of patients paid to a chiropractic physician, other than advances for costs and expenses, shall be deposited in one or more identifiable bank accounts maintained in the state in which the chiropractic physician's office is situated, and no funds belonging to the chiropractic physician shall be deposited therein except as follows:

1. Funds reasonably sufficient to pay bank charges may be deposited therein.

2. Funds belonging in part to a patient and in part presently or potentially to the physician must be deposited therein, but the portion belonging to the physician may be withdrawn when due unless the right of the physician to receive it is disputed by the patient, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

Every chiropractic physician shall maintain complete records of all funds, securities, and other properties of a patient coming into the possession of the physician and render appropriate accounts to the patient regarding them. In addition, every chiropractic physician shall promptly pay or deliver to the patient, as requested by the patient, the funds, securities, or other properties in the possession of the physician which the patient is entitled to receive.

(z) Offering to accept or accepting payment for services rendered by assignment from any third-party payor after offering to accept or accepting whatever the third-party payor covers as payment in full, if the effect of the offering or acceptance is to eliminate or give the impression of eliminating the need for payment by an insured of any required deductions applicable in the policy of the insured.

(aa) Failing to provide, upon request of the insured, a copy of a claim submitted to any third-party payor for service or treatment of the insured.

(bb) Advertising a fee or charge for a service or treatment which is different from the fee or charge the licensee submits to third-party payors for that service or treatment.

(cc) Advertising any reduced or discounted fees for services or treatments, or advertising any free services or treatments, without prominently stating in the advertisement the usual fee of the licensee for the service or treatment which is the subject of the discount, rebate, or free offering.

(dd) Using acupuncture without being certified pursuant to s. 460.403(9)(f).

(ee) Failing to report to the department any licensee under chapter 458 or under chapter 459 who the chiropractic physician or chiropractic physician's assistant knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the chiropractic physician or chiropractic physician's assistant also provides services.

(ff) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Restriction of practice.~~

~~(d) Imposition of an administrative fine not to exceed $10,000 for each count or separate offense.~~

~~(e) Issuance of a reprimand.~~

~~(f) Placement of the chiropractic physician on probation for a period of time and subject to such conditions as the board may specify, including requiring the chiropractic physician to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another chiropractic physician.~~

~~(g) Imposition of costs of the investigation and prosecution.~~

~~(h) Requirement that the chiropractic physician undergo remedial education.~~

~~(i) Issuance of a letter of concern.~~

~~(j) Corrective action.~~

~~(k) Refund of fees billed to and collected from the patient or a third party.~~

In determining what action is appropriate, the board must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the chiropractic physician. All costs associated with compliance with orders issued under this subsection are the obligation of the chiropractic physician.

Section 26. Subsections (1) and (2) of section 461.013, Florida Statutes, are amended to read:

461.013 Grounds for disciplinary action; action by the board; investigations by department.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license to practice podiatric medicine by bribery, by fraudulent misrepresentations, or through an error of the department or the board.

(b) Having a license to practice podiatric medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of podiatric medicine or to the ability to practice podiatric medicine. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department or the board.

(g) Aiding, assisting, procuring, permitting, or advising any unlicensed person to practice podiatric medicine contrary to this chapter or to rule of the department or the board.

(h) Failing to perform any statutory or legal obligation placed upon a licensed podiatric physician.

(i) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such report or records shall include only those which are signed in the capacity of a licensed podiatric physician.

(j) Making misleading, deceptive, untrue, or fraudulent representations in the practice of podiatric medicine or employing a trick or scheme in the practice of podiatric medicine when such scheme or trick fails to conform to the generally prevailing standards of treatment in the podiatric community.

(k) Soliciting patients either personally or through an agent, unless such solicitation falls into a category of solicitations approved by rule of the board.

(l) Failing to keep written medical records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results, and test results.

(m) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which shall include, but not be limited to, the promotion or sale of services, goods, appliances, or drugs and the promoting or advertising on any prescription form of a community pharmacy unless the form shall also state "This prescription may be filled at any pharmacy of your choice."

(n) Performing professional services which have not been duly authorized by the patient or client or her or his legal representative except as provided in ss. 743.064, 766.103, and 768.13.

(o) Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including all controlled substances, other than in the course of the podiatric physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the podiatric physician's professional practice, without regard to her or his intent.

(p) Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893 by the podiatric physician to herself or himself except those prescribed, dispensed, or administered to the podiatric physician by another practitioner authorized to prescribe, dispense, or administer them.

(q) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any amphetamine or sympathomimetic amine drug or compound designated as a Schedule II controlled substance pursuant to chapter 893.

(r) Being unable to practice podiatric medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph the department shall, upon probable cause, have authority to compel a podiatric physician to submit to a mental or physical examination by physicians designated by the department. Failure of a podiatric physician to submit to such examination when directed shall constitute an admission of the allegations against her or him, unless the failure was due to circumstances beyond her or his control, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A podiatric physician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of podiatric medicine with reasonable skill and safety to patients.

(s) Gross or repeated malpractice or the failure to practice podiatric medicine at a level of care, skill, and treatment which is recognized by a reasonably prudent podiatric physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the standards for malpractice in s. 766.102 in interpreting this section. As used in this paragraph, "repeated malpractice" includes, but is not limited to, three or more claims for medical malpractice within the previous 5-year period resulting in indemnities being paid in excess of $10,000 each to the claimant in a judgment or settlement and which incidents involved negligent conduct by the podiatric physicians. As used in this paragraph, "gross malpractice" or "the failure to practice podiatric medicine with the level of care, skill, and treatment which is recognized by a reasonably prudent similar podiatric physician as being acceptable under similar conditions and circumstances" shall not be construed so as to require more than one instance, event, or act.

(t) Performing any procedure or prescribing any therapy which, by the prevailing standards of podiatric medical practice in the community, would constitute experimentation on human subjects without first obtaining full, informed, and written consent.

(u) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(v) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(w) Violating ~~any provision of this chapter or chapter 456, any rule of the board or department, or~~ a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the board or department.

(x) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(y) Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term "muscle building" does not include the treatment of injured muscle. A prescription written for any of the drug products listed above may be dispensed by the pharmacist with the presumption that the prescription is for legitimate medical use.

(z) Fraud, deceit, or misconduct in the practice of podiatric medicine.

(aa) Failing to report to the department any licensee under chapter 458 or chapter 459 who the podiatric physician knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the podiatric physician also provides services.

(bb) Failing to comply with the requirements of ss. 381.026 and 381.0261 to provide patients with information about their patient rights and how to file a patient complaint.

(cc) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Restriction of practice.~~

~~(d) Imposition of an administrative fine not to exceed $10,000 for each count or separate offense.~~

~~(e) Issuance of a reprimand.~~

~~(f) Placing the podiatric physician on probation for a period of time and subject to such conditions as the board may specify, including requiring the podiatric physician to submit to treatment, to attend continuing education courses, to submit to reexamination, and to work under the supervision of another podiatric physician.~~

~~(g) Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights.~~

Section 27. Subsections (1) and (2) of section 462.14, Florida Statutes, are amended to read:

462.14 Grounds for disciplinary action; action by the department.—

(1) The following acts constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license to practice naturopathic medicine by bribery, by fraudulent misrepresentation, or through an error of the department.

(b) Having a license to practice naturopathic medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of naturopathic medicine or to the ability to practice naturopathic medicine. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department.

(g) Aiding, assisting, procuring, or advising any unlicensed person to practice naturopathic medicine contrary to this chapter or to a rule of the department.

(h) Failing to perform any statutory or legal obligation placed upon a licensed naturopathic physician.

(i) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensed naturopathic physician.

(j) Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent a naturopathic physician from receiving a fee for professional consultation services.

(k) Exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with her or his physician.

(l) Making deceptive, untrue, or fraudulent representations in the practice of naturopathic medicine or employing a trick or scheme in the practice of naturopathic medicine when such scheme or trick fails to conform to the generally prevailing standards of treatment in the medical community.

(m) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct. A "solicitation" is any communication which directly or implicitly requests an immediate oral response from the recipient.

(n) Failing to keep written medical records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results, test results, X rays, and records of the prescribing, dispensing and administering of drugs.

(o) Exercising influence on the patient or client in such a manner as to exploit the patient or client for the financial gain of the licensee or of a third party, which shall include, but not be limited to, the promoting or selling of services, goods, appliances, or drugs and the promoting or advertising on any prescription form of a community pharmacy unless the form also states "This prescription may be filled at any pharmacy of your choice."

(p) Performing professional services which have not been duly authorized by the patient or client, or her or his legal representative, except as provided in s. 743.064, s. 766.103, or s. 768.13.

(q) Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the naturopathic physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the naturopathic physician's professional practice, without regard to her or his intent.

(r) Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893 by the naturopathic physician to herself or himself, except one prescribed, dispensed, or administered to the naturopathic physician by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.

(s) Being unable to practice naturopathic medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon probable cause, authority to compel a naturopathic physician to submit to a mental or physical examination by physicians designated by the department. The failure of a naturopathic physician to submit to such an examination when so directed shall constitute an admission of the allegations against her or him upon which a default and final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond the naturopathic physician's control. A naturopathic physician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of naturopathic medicine with reasonable skill and safety to patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the department may be used against a naturopathic physician in any other proceeding.

(t) Gross or repeated malpractice or the failure to practice naturopathic medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances. The department shall give great weight to the provisions of s. 766.102 when enforcing this paragraph.

(u) Performing any procedure or prescribing any therapy which, by the prevailing standards of medical practice in the community, constitutes experimentation on a human subject, without first obtaining full, informed, and written consent.

(v) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(w) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(x) Violating ~~any provision of this chapter, any rule of the department, or~~ a lawful order of the department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(y) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(z) Procuring, or aiding or abetting in the procuring of, an unlawful termination of pregnancy.

(aa) Presigning blank prescription forms.

(bb) Prescribing by the naturopathic physician for office use any medicinal drug appearing on Schedule II in chapter 893.

(cc) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any drug which is an amphetamine or sympathomimetic amine drug, or a compound designated pursuant to chapter 893 as a Schedule II controlled substance to or for any person except for:

1. The treatment of narcolepsy; hyperkinesis; behavioral syndrome in children characterized by the developmentally inappropriate symptoms of moderate to severe distractability, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction.

2. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities.

3. The clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, reviewed, and approved by the department before such investigation is begun.

(dd) Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products listed above may be dispensed by the pharmacist with the presumption that the prescription is for legitimate medical use.

(ee) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The department may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the department finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Restriction of practice.~~

~~(d) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(e) Issuance of a reprimand.~~

~~(f) Placement of the naturopathic physician on probation for a period of time and subject to such conditions as the department may specify, including, but not limited to, requiring the naturopathic physician to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another naturopathic physician.~~

Section 28. Subsections (1) and (2) of section 463.016, Florida Statutes, are amended to read:

463.016 Grounds for disciplinary action; action by the board.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Procuring or attempting to procure a license to practice optometry by bribery, by fraudulent misrepresentations, or through an error of the department or board.

(b) Procuring or attempting to procure a license for any other person by making or causing to be made any false representation.

(c) Having a license to practice optometry revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another jurisdiction.

(d) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of optometry or to the ability to practice optometry. Any plea of nolo contendere shall be considered a conviction for the purposes of this chapter.

(e) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records shall include only those which are signed by the licensee in her or his capacity as a licensed practitioner.

(f) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(g) Fraud or deceit, negligence or incompetency, or misconduct in the practice of optometry.

(h) A violation or repeated violations of provisions of this chapter, or of chapter 456, and any rules promulgated pursuant thereto.

(i) Conspiring with another licensee or with any person to commit an act, or committing an act, which would coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(j) Willfully submitting to any third-party payor a claim for services which were not provided to a patient.

(k) Failing to keep written optometric records about the examinations, treatments, and prescriptions for patients.

(l) Willfully failing to report any person who the licensee knows is in violation of this chapter or of rules of the department or the board.

(m) Gross or repeated malpractice.

(n) Practicing with a revoked, suspended, inactive, or delinquent license.

(o) Being unable to practice optometry with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. A licensed practitioner affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of optometry with reasonable skill and safety to patients.

(p) Having been disciplined by a regulatory agency in another state for any offense that would constitute a violation of Florida laws or rules regulating optometry.

(q) Violating any provision of s. 463.014 or s. 463.015.

(r) Violating any lawful order of the board or department, previously entered in a disciplinary hearing, or failing to comply with a lawfully issued subpoena of the board or department.

(s) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensed practitioner knows or has reason to know she or he is not competent to perform.

(t) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The department may enter an order imposing any of the penalties in s. 456.072(2) against any licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Imposition of an administrative fine not to exceed $5,000 for each count or separate offense.~~

~~(d) Issuance of a reprimand.~~

~~(e) Placement of the licensed practitioner on probation for a period of time and subject to such conditions as the board may specify, including requiring the licensed practitioner to submit to treatment, to attend continuing education courses, or to work under the supervision of another licensed practitioner.~~

Section 29. Subsections (1) and (2) of section 464.018, Florida Statutes, are amended to read:

464.018 Disciplinary actions.—

(1) The following acts *constitute* ~~shall be~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~disciplinary action set forth in this section~~:

(a) Procuring, attempting to procure, or renewing a license to practice nursing by bribery, by knowing misrepresentations, or through an error of the department or the board.

(b) Having a license to practice nursing revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of nursing or to the ability to practice nursing.

(d) Being found guilty, regardless of adjudication, of any of the following offenses:

1. A forcible felony as defined in chapter 776.

2. A violation of chapter 812, relating to theft, robbery, and related crimes.

3. A violation of chapter 817, relating to fraudulent practices.

4. A violation of chapter 800, relating to lewdness and indecent exposure.

5. A violation of chapter 784, relating to assault, battery, and culpable negligence.

6. A violation of chapter 827, relating to child abuse.

7. A violation of chapter 415, relating to protection from abuse, neglect, and exploitation.

8. A violation of chapter 39, relating to child abuse, abandonment, and neglect.

(e) Having been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under s. 435.03 or under any similar statute of another jurisdiction; or having committed an act which constitutes domestic violence as defined in s. 741.28.

(f) Making or filing a false report or record, which the licensee knows to be false, intentionally or negligently failing to file a report or record

required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the nurse's capacity as a licensed nurse.

(g) False, misleading, or deceptive advertising.

(h) Unprofessional conduct, which shall include, but not be limited to, any departure from, or the failure to conform to, the minimal standards of acceptable and prevailing nursing practice, in which case actual injury need not be established.

(i) Engaging or attempting to engage in the possession, sale, or distribution of controlled substances as set forth in chapter 893, for any other than legitimate purposes authorized by this part.

(j) Being unable to practice nursing with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, or chemicals or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the secretary or the secretary's designee that probable cause exists to believe that the licensee is unable to practice nursing because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A nurse affected by the provisions of this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of nursing with reasonable skill and safety to patients.

(k) Failing to report to the department any person who the licensee knows is in violation of this part or of the rules of the department or the board; however, if the licensee verifies that such person is actively participating in a board-approved program for the treatment of a physical or mental condition, the licensee is required to report such person only to an impaired professionals consultant.

(l) Knowingly violating any provision of this part, a rule of the board or the department, or a lawful order of the board or department previously entered in a disciplinary proceeding or failing to comply with a lawfully issued subpoena of the department.

(m) Failing to report to the department any licensee under chapter 458 or under chapter 459 who the nurse knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the nurse also provides services.

(n) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license with reinstatement subject to the provisions of subsection (3).~~

~~(c) Permanent revocation of a license.~~

~~(d) Restriction of practice.~~

~~(e) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(f) Issuance of a reprimand.~~

~~(g) Placement of the nurse on probation for a period of time and subject to such conditions as the board may specify, including requiring the nurse to submit to treatment, to attend continuing education courses, to take an examination, or to work under the supervision of another nurse.~~

Section 30. Subsections (3) and (4) of section 465.008, Florida Statutes, are amended to read:

465.008 Renewal of license.—

~~(3) Sixty days prior to the end of the biennium the department shall mail a notice of renewal to the last known address of the licensee.~~

(3)~~(4)~~ Any person licensed under this chapter for 50 years or more is exempt from the payment of the renewal or delinquent fee, and the department shall issue a lifetime license to such a person.

Section 31. Subsections (1) and (2) of section 465.016, Florida Statutes, are amended to read:

465.016 Disciplinary actions.—

(1) The following acts *constitute* ~~shall be~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~disciplinary action set forth in this section~~:

(a) Obtaining a license by misrepresentation or fraud or through an error of the department or the board.

(b) Procuring or attempting to procure a license for any other person by making or causing to be made any false representation.

(c) Permitting any person not licensed as a pharmacist in this state or not registered as an intern in this state, or permitting a registered intern who is not acting under the direct and immediate personal supervision of a licensed pharmacist, to fill, compound, or dispense any prescriptions in a pharmacy owned and operated by such pharmacist or in a pharmacy where such pharmacist is employed or on duty.

(d) Being unfit or incompetent to practice pharmacy by reason of:

1. Habitual intoxication.

2. The misuse or abuse of any medicinal drug appearing in any schedule set forth in chapter 893.

3. Any abnormal physical or mental condition which threatens the safety of persons to whom she or he might sell or dispense prescriptions, drugs, or medical supplies or for whom she or he might manufacture, prepare, or package, or supervise the manufacturing, preparation, or packaging of, prescriptions, drugs, or medical supplies.

(e) Violating ~~any of the requirements of this chapter; or if licensed as a practitioner in this or any other state, violating any of the requirements of their respective practice act or violating~~ chapter 499; 21 U.S.C. ss. 301-392, known as the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq., known as the Comprehensive Drug Abuse Prevention and Control Act; or chapter 893.

(f) Having been convicted or found guilty, regardless of adjudication, in a court of this state or other jurisdiction, of a crime which directly relates to the ability to practice pharmacy or to the practice of pharmacy. A plea of nolo contendere constitutes a conviction for purposes of this provision.

(g) Using in the compounding of a prescription, or furnishing upon prescription, an ingredient or article different in any manner from the ingredient or article prescribed, except as authorized in s. 465.019(6) or s. 465.025.

(h) Having been disciplined by a regulatory agency in another state for any offense that would constitute a violation of this chapter.

(i) Compounding, dispensing, or distributing a legend drug, including any controlled substance, other than in the course of the

professional practice of pharmacy. For purposes of this paragraph, it shall be legally presumed that the compounding, dispensing, or distributing of legend drugs in excessive or inappropriate quantities is not in the best interests of the patient and is not in the course of the professional practice of pharmacy.

(j) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by federal or state law, willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records include only those which the licensee is required to make or file in her or his capacity as a licensed pharmacist.

(k) Failing to make prescription fee or price information readily available by failing to provide such information upon request and upon the presentation of a prescription for pricing or dispensing. Nothing in this section shall be construed to prohibit the quotation of price information on a prescription drug to a potential consumer by telephone.

(l) Placing in the stock of any pharmacy any part of any prescription compounded or dispensed which is returned by a patient; however, in a hospital, nursing home, correctional facility, or extended care facility in which unit-dose medication is dispensed to inpatients, each dose being individually sealed and the individual unit dose or unit-dose system labeled with the name of the drug, dosage strength, manufacturer's control number, and expiration date, if any, the unused unit dose of medication may be returned to the pharmacy for redispensing. Each pharmacist shall maintain appropriate records for any unused or returned medicinal drugs.

(m) Being unable to practice pharmacy with reasonable skill and safety by reason of illness, use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. A pharmacist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of pharmacy with reasonable skill and safety to her or his customers.

(n) Violating a rule of the board or department or violating an order of the board or department previously entered in a disciplinary hearing.

(o) Failing to report to the department any licensee under chapter 458 or under chapter 459 who the pharmacist knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the pharmacist also provides services.

(p) Failing to notify the Board of Pharmacy in writing within 20 days of the commencement or cessation of the practice of the profession of pharmacy in Florida when such commencement or cessation of the practice of the profession of pharmacy in Florida was a result of a pending or completed disciplinary action or investigation in another jurisdiction.

(q) Using or releasing a patient's records except as authorized by this chapter and chapter 456.

(r) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Imposition of an administrative fine not to exceed $5,000 for each count or separate offense.~~

~~(d) Issuance of a reprimand.~~

~~(e) Placement of the pharmacist on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the pharmacist to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another pharmacist.~~

Section 32. Subsections (1) and (2) of section 466.028, Florida Statutes, are amended to read:

466.028 Grounds for disciplinary action; action by the board.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license under this chapter by bribery, fraudulent misrepresentations, or through an error of the department or the board.

(b) Having a license to practice dentistry or dental hygiene revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty of or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of dentistry or dental hygiene. A plea of nolo contendere shall create a rebuttable presumption of guilt to the underlying criminal charges.

(d) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content contrary to s. 466.019 or rules of the board adopted pursuant thereto.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Failing to report to the department any person who the licensee knows, or has reason to believe, is clearly in violation of this chapter or of the rules of the department or the board.

(g) Aiding, assisting, procuring, or advising any unlicensed person to practice dentistry or dental hygiene contrary to this chapter or to a rule of the department or the board.

(h) Being employed by any corporation, organization, group, or person other than a dentist or a professional corporation or limited liability company composed of dentists to practice dentistry.

(i) Failing to perform any statutory or legal obligation placed upon a licensee.

(j) Making or filing a report which the licensee knows to be false, failing to file a report or record required by state or federal law, knowingly impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensee.

(k) Committing any act which would constitute sexual battery, as defined in chapter 794, upon a patient or intentionally touching the sexual organ of a patient.

(l) Making deceptive, untrue, or fraudulent representations in or related to the practice of dentistry.

(m) Failing to keep written dental records and medical history records justifying the course of treatment of the patient including, but not limited to, patient histories, examination results, test results, and X rays, if taken.

(n) Failing to make available to a patient or client, or to her or his legal representative or to the department if authorized in writing by the patient, copies of documents in the possession or under control of the licensee which relate to the patient or client.

(o) Performing professional services which have not been duly authorized by the patient or client, or her or his legal representative, except as provided in ss. 766.103 and 768.13.

(p) Prescribing, procuring, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the professional practice of the dentist. For the purposes of this paragraph, it shall be legally presumed that prescribing, procuring, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the professional practice of the dentist, without regard to her or his intent.

(q) Prescribing, procuring, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893, by a dentist to herself or himself, except those prescribed, dispensed, or administered to the dentist by another practitioner authorized to prescribe them.

(r) Prescribing, procuring, ordering, dispensing, administering, supplying, selling, or giving any drug which is a Schedule II amphetamine or a Schedule II sympathomimetic amine drug or a compound thereof, pursuant to chapter 893, to or for any person except for the clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, and reviewed and approved by, the board before such investigation is begun.

(s) Being unable to practice her or his profession with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the secretary or her or his designee that probable cause exists to believe that the licensee is unable to practice dentistry or dental hygiene because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of her or his profession with reasonable skill and safety to patients.

(t) Fraud, deceit, or misconduct in the practice of dentistry or dental hygiene.

(u) Failure to provide and maintain reasonable sanitary facilities and conditions.

(v) Failure to provide adequate radiation safeguards.

(w) Performing any procedure or prescribing any therapy which, by the prevailing standards of dental practice in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(x) Being guilty of incompetence or negligence by failing to meet the minimum standards of performance in diagnosis and treatment when measured against generally prevailing peer performance, including, but not limited to, the undertaking of diagnosis and treatment for which the dentist is not qualified by training or experience or being guilty of dental malpractice. For purposes of this paragraph, it shall be legally presumed that a dentist is not guilty of incompetence or negligence by declining to treat an individual if, in the dentist's professional judgment, the dentist or a member of her or his clinical staff is not qualified by training and experience, or the dentist's treatment facility is not clinically satisfactory or properly equipped to treat the unique characteristics and health status of the dental patient, provided the dentist refers the patient to a qualified dentist or facility for appropriate treatment. As used in this paragraph, "dental malpractice" includes, but is not limited to, three or more claims within the previous 5-year period which resulted in indemnity being paid, or any single indemnity paid in excess of $5,000 in a judgment or settlement, as a result of negligent conduct on the part of the dentist.

(y) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(z) Delegating professional responsibilities to a person who is not qualified by training, experience, or licensure to perform them.

(aa) The violation ~~or the repeated violation of this chapter, chapter 456, or any rule promulgated pursuant to chapter 456 or this chapter; the violation~~ of a lawful order of the board or department previously entered in a disciplinary hearing; or failure to comply with a lawfully issued subpoena of the board or department.

(bb) Conspiring with another licensee or with any person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(cc) Being adjudged mentally incompetent in this or any other state, the discipline for which shall last only so long as the adjudication.

(dd) Presigning blank prescription or laboratory work order forms.

(ee) Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products listed above may be dispensed by the pharmacist with the presumption that the prescription is for legitimate medical use.

(ff) Operating or causing to be operated a dental office in such a manner as to result in dental treatment that is below minimum acceptable standards of performance for the community. This includes, but is not limited to, the use of substandard materials or equipment, the imposition of time limitations within which dental procedures are to be performed, or the failure to maintain patient records as required by this chapter.

(gg) Administering anesthesia in a manner which violates rules of the board adopted pursuant to s. 466.017.

(hh) Failing to report to the department any licensee under chapter 458 or chapter 459 who the dentist knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the dentist also provides services.

(ii) Failing to report to the board, in writing, within 30 days if action has been taken against one's license to practice dentistry in another state, territory, or country.

(jj) Advertising specialty services in violation of this chapter.

(kk) Allowing any person other than another dentist or a professional corporation or limited liability company composed of dentists to direct, control, or interfere with a dentist's clinical judgment; however, this paragraph may not be construed to limit a patient's right of informed consent. To direct, control, or interfere with a dentist's clinical judgment may not be interpreted to mean dental services contractually excluded, the application of alternative benefits that may be appropriate given the dentist's prescribed course of treatment, or the application of contractual provisions and scope of coverage determinations in comparison with a dentist's prescribed treatment on behalf of a covered person by an insurer, health maintenance organization, or a prepaid limited health service organization.

(ll) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or*

licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1). ~~When the board finds any applicant or licensee guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Denial of an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Imposition of an administrative fine not to exceed $3,000 for each count or separate offense.~~

~~(d) Issuance of a reprimand.~~

~~(e) Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify, including requiring the licensee to attend continuing education courses or demonstrate competency through a written or practical examination or to work under the supervision of another licensee.~~

~~(f) Restricting the authorized scope of practice.~~

Section 33. Section 466.037, Florida Statutes, is amended to read:

466.037 Suspension and revocation; administrative fine.—The department may suspend or revoke the certificate of any dental laboratory registered under s. 466.032, for failing to comply with the provisions of this chapter or rules adopted by the department under this chapter. The department may impose an administrative fine ~~not to exceed $500 for each count or separate offense~~.

Section 34. Subsections (1) and (2) of section 467.203, Florida Statutes, are amended to read:

467.203 Disciplinary actions; penalties.—

(1) The following acts *constitute* ~~shall be~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~disciplinary action as set forth in this section~~:

(a) Procuring, attempting to procure, or renewing a license to practice midwifery by bribery, by fraudulent misrepresentation, or through an error of the department.

(b) Having a license to practice midwifery revoked, suspended, or otherwise acted against, including being denied licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, in any jurisdiction of a crime which directly relates to the practice of midwifery or to the ability to practice midwifery. A plea of nolo contendere shall be considered a conviction for purposes of this provision.

(d) Making or filing a false report or record, which the licensee knows to be false; intentionally or negligently failing to file a report or record required by state or federal law; or willfully impeding or obstructing such filing or inducing another to do so. Such reports or records shall include only those which are signed in the midwife's capacity as a licensed midwife.

(e) Advertising falsely, misleadingly, or deceptively.

(f) Engaging in unprofessional conduct, which includes, but is not limited to, any departure from, or the failure to conform to, the standards of practice of midwifery as established by the department, in which case actual injury need not be established.

(g) Being unable to practice midwifery with reasonable skill and safety to patients by reason of illness; drunkenness; or use of drugs, narcotics, chemicals, or other materials or as a result of any mental or physical condition. A midwife affected under this paragraph shall, at reasonable intervals, be afforded an opportunity to demonstrate that he or she can resume the competent practice of midwifery with reasonable skill and safety.

(h) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department.

(i) ~~Willfully or repeatedly~~ Violating ~~any provision of this chapter, any rule of the department, or~~ any lawful order of the department previously entered in a disciplinary proceeding or failing to comply with a lawfully issued subpoena of the department.

(j) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The department may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the department finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to approve an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(d) Issuance of a reprimand.~~

~~(e) Placement of the midwife on probation for such period of time and subject to such conditions as the department may specify, including requiring the midwife to submit to treatment; undertake further relevant education or training; take an examination; or work under the supervision of another licensed midwife, a physician, or a nurse midwife licensed under part I of chapter 464.~~

Section 35. Subsections (1) and (2) of section 468.1295, Florida Statutes, are amended to read:

468.1295 Disciplinary proceedings.—

(1) The following acts constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~both disciplinary actions as set forth in subsection (2) and cease and desist or other related actions by the department as set forth in s. 456.065~~:

(a) Procuring or attempting to procure a license by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(b) Having a license revoked, suspended, or otherwise acted against, including denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of speech-language pathology or audiology.

(d) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or records required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such report or record shall include only those reports or records which are signed in one's capacity as a licensed speech-language pathologist or audiologist.

(e) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(f) Being proven guilty of fraud or deceit or of negligence, incompetency, or misconduct in the practice of speech-language pathology or audiology.

(g) Violating a lawful order of the board or department previously entered in a disciplinary hearing, or failing to comply with a lawfully issued subpoena of the board or department.

(h) Practicing with a revoked, suspended, inactive, or delinquent license.

(i) Using, or causing or promoting the use of, any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand,

insignia, or other representation, however disseminated or published, which is misleading, deceiving, or untruthful.

(j) Showing or demonstrating or, in the event of sale, delivery of a product unusable or impractical for the purpose represented or implied by such action.

(k) Failing to submit to the board on an annual basis, or such other basis as may be provided by rule, certification of testing and calibration of such equipment as designated by the board and on the form approved by the board.

(l) Aiding, assisting, procuring, employing, or advising any licensee or business entity to practice speech-language pathology or audiology contrary to this part, chapter 456, or any rule adopted pursuant thereto.

~~(m) Violating any provision of this part or chapter 456 or any rule adopted pursuant thereto.~~

(m)~~(n)~~ Misrepresenting the professional services available in the fitting, sale, adjustment, service, or repair of a hearing aid, or using any other term or title which might connote the availability of professional services when such use is not accurate.

(n)~~(o)~~ Representing, advertising, or implying that a hearing aid or its repair is guaranteed without providing full disclosure of the identity of the guarantor; the nature, extent, and duration of the guarantee; and the existence of conditions or limitations imposed upon the guarantee.

(o)~~(p)~~ Representing, directly or by implication, that a hearing aid utilizing bone conduction has certain specified features, such as the absence of anything in the ear or leading to the ear, or the like, without disclosing clearly and conspicuously that the instrument operates on the bone conduction principle and that in many cases of hearing loss this type of instrument may not be suitable.

(p)~~(q)~~ Stating or implying that the use of any hearing aid will improve or preserve hearing or prevent or retard the progression of a hearing impairment or that it will have any similar or opposite effect.

(q)~~(r)~~ Making any statement regarding the cure of the cause of a hearing impairment by the use of a hearing aid.

(r)~~(s)~~ Representing or implying that a hearing aid is or will be "custom-made," "made to order," or "prescription-made," or in any other sense specially fabricated for an individual, when such is not the case.

(s)~~(t)~~ Canvassing from house to house or by telephone, either in person or by an agent, for the purpose of selling a hearing aid, except that contacting persons who have evidenced an interest in hearing aids, or have been referred as in need of hearing aids, shall not be considered canvassing.

(t)~~(u)~~ Failing to notify the department in writing of a change in current mailing and place-of-practice address within 30 days after such change.

(u)~~(v)~~ Failing to provide all information as described in ss. 468.1225(5)(b), 468.1245(1), and 468.1246.

(v)~~(w)~~ Exercising influence on a client in such a manner as to exploit the client for financial gain of the licensee or of a third party.

(w)~~(x)~~ Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee or certificateholder knows, or has reason to know, the licensee or certificateholder is not competent to perform.

(x)~~(y)~~ Aiding, assisting, procuring, or employing any unlicensed person to practice speech-language pathology or audiology.

(y)~~(z)~~ Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization to perform them.

(z)~~(aa)~~ Committing any act upon a patient or client which would constitute sexual battery or which would constitute sexual misconduct as defined pursuant to s. 468.1296.

(aa)~~(bb)~~ Being unable to practice the profession for which he or she is licensed or certified under this chapter with reasonable skill or competence as a result of any mental or physical condition or by reason of illness, drunkenness, or use of drugs, narcotics, chemicals, or any other substance. In enforcing this paragraph, upon a finding by the secretary, his or her designee, or the board that probable cause exists to believe that the licensee or certificateholder is unable to practice the profession because of the reasons stated in this paragraph, the department shall have the authority to compel a licensee or certificateholder to submit to a mental or physical examination by a physician, psychologist, clinical social worker, marriage and family therapist, or mental health counselor designated by the department or board. If the licensee or certificateholder refuses to comply with the department's order directing the examination, such order may be enforced by filing a petition for enforcement in the circuit court in the circuit in which the licensee or certificateholder resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice for which he or she is licensed or certified with reasonable skill and safety to patients.

(bb) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the acts set forth in subsection (1), it may issue an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify, or to certify with restrictions, an application for licensure.~~

~~(b) Suspension or permanent revocation of a license.~~

~~(c) Issuance of a reprimand.~~

~~(d) Restriction of the authorized scope of practice.~~

~~(e) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(f) Placement of the licensee or certificateholder on probation for a period of time and subject to such conditions as the board may specify. Those conditions may include, but are not limited to, requiring the licensee or certificateholder to undergo treatment, attend continuing education courses, submit to be reexamined, work under the supervision of another licensee, or satisfy any terms which are reasonably tailored to the violation found.~~

~~(g) Corrective action.~~

Section 36. Subsections (1) and (2) of section 468.1755, Florida Statutes, are amended to read:

468.1755 Disciplinary proceedings.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions in subsection (2) may be taken~~:

(a) Violation of any provision of s. 456.072(1) or s. 468.1745(1).

(b) Attempting to procure a license to practice nursing home administration by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(c) Having a license to practice nursing home administration revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(d) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which relates to the practice of nursing home administration or the ability to practice nursing home administration. Any plea of nolo contendere shall be considered a conviction for purposes of this part.

(e) Making or filing a report or record which the licensee knows to be false, intentionally failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records shall include only those which are signed in the capacity of a licensed nursing home administrator.

(f) Authorizing the discharge or transfer of a resident for a reason other than those provided in ss. 400.022 and 400.0255.

(g) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(h) Fraud or deceit, negligence, incompetence, or misconduct in the practice of nursing home administration.

~~(i) A violation or repeated violations of this part, chapter 456, or any rules promulgated pursuant thereto.~~

(i)~~(j)~~ Violation of a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the board or department.

(j)~~(k)~~ Practicing with a revoked, suspended, inactive, or delinquent license.

(k)~~(l)~~ Repeatedly acting in a manner inconsistent with the health, safety, or welfare of the patients of the facility in which he or she is the administrator.

(l)~~(m)~~ Being unable to practice nursing home administration with reasonable skill and safety to patients by reason of illness, drunkenness, use of drugs, narcotics, chemicals, or any other material or substance or as a result of any mental or physical condition. In enforcing this paragraph, upon a finding of the secretary or his or her designee that probable cause exists to believe that the licensee is unable to serve as a nursing home administrator due to the reasons stated in this paragraph, the department shall have the authority to issue an order to compel the licensee to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or serves as a nursing home administrator. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall have the opportunity, at reasonable intervals, to demonstrate that he or she can resume the competent practice of nursing home administration with reasonable skill and safety to patients.

(m)~~(n)~~ Willfully or repeatedly violating any of the provisions of the law, code, or rules of the licensing or supervising authority or agency of the state or political subdivision thereof having jurisdiction of the operation and licensing of nursing homes.

(n)~~(o)~~ Paying, giving, causing to be paid or given, or offering to pay or to give to any person a commission or other valuable consideration for the solicitation or procurement, either directly or indirectly, of nursing home usage.

(o)~~(p)~~ Willfully permitting unauthorized disclosure of information relating to a patient or his or her records.

(p)~~(q)~~ Discriminating with respect to patients, employees, or staff on account of race, religion, color, sex, or national origin.

(q) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any nursing home administrator guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Denial of an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(d) Issuance of a reprimand.~~

~~(e) Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify, including requiring the licensee to attend continuing education courses or to work under the supervision of another licensee.~~

~~(f) Restriction of the authorized scope of practice.~~

Section 37. Section 468.217, Florida Statutes, is amended to read:

468.217 Denial of or refusal to renew license; suspension and revocation of license and other disciplinary measures.—

(1) *The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~The board may deny or refuse to renew a license, suspend or revoke a license, issue a reprimand, impose a fine, or impose probationary conditions upon a licensee, when the licensee or applicant for license has been guilty of unprofessional conduct which has endangered, or is likely to endanger, the health, welfare, or safety of the public. Such unprofessional conduct includes~~:

(a) Attempting to obtain, obtaining, or renewing a license to practice occupational therapy by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(b) Having a license to practice occupational therapy revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of occupational therapy or to the ability to practice occupational therapy. A plea of nolo contendere shall be considered a conviction for the purposes of this part.

(d) False, deceptive, or misleading advertising.

(e) Advertising, practicing, or attempting to practice under a name other than one's own name.

(f) Failing to report to the department any person who the licensee knows is in violation of this part or of the rules of the department or of the board.

(g) Aiding, assisting, procuring, or advising any unlicensed person to practice occupational therapy contrary to this part or to a rule of the department or the board.

(h) Failing to perform any statutory or legal obligation placed upon a licensed occupational therapist or occupational therapy assistant.

(i) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records include only those which are signed in the capacity as a licensed occupational therapist or occupational therapy assistant.

(j) Paying or receiving any commission, bonus, kickback, or rebate to or from, or engaging in any split-fee arrangement in any form whatsoever with, a physician, organization, agency, or person, either

directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent an occupational therapist or occupational therapy assistant from receiving a fee for professional consultation services.

(k) Exercising influence within a patient-therapist relationship for purposes of engaging a patient in sexual activity. A patient is presumed to be incapable of giving free, full, and informed consent to sexual activity with the patient's occupational therapist or occupational therapy assistant.

(l) Making deceptive, untrue, or fraudulent representations in the practice of occupational therapy or employing a trick or scheme in the practice of occupational therapy if such scheme or trick fails to conform to the generally prevailing standards of treatment in the occupational therapy community.

(m) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct. A "solicitation" is any communication which directly or implicitly requests an immediate oral response from the recipient.

(n) Failing to keep written records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results, and test results.

(o) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which includes, but is not limited to, the promoting or selling of services, goods, appliances, or drugs.

(p) Performing professional services which have not been duly authorized by the patient or client, or his or her legal representative, except as provided in s. 768.13.

(q) Gross or repeated malpractice or the failure to practice occupational therapy with that level of care, skill, and treatment which is recognized by a reasonably prudent similar occupational therapist or occupational therapy assistant as being acceptable under similar conditions and circumstances.

(r) Performing any procedure which, by the prevailing standards of occupational therapy practice in the community, would constitute experimentation on a human subject without first obtaining full, informed, and written consent.

(s) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.

(t) Being unable to practice occupational therapy with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon probable cause, authority to compel an occupational therapist or occupational therapy assistant to submit to a mental or physical examination by physicians designated by the department. The failure of an occupational therapist or occupational therapy assistant to submit to such examination when so directed constitutes an admission of the allegations against him or her, upon which a default and final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond his or her control. An occupational therapist or occupational therapy assistant affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of occupational therapy with reasonable skill and safety to patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the board shall be used against an occupational therapist or occupational therapy assistant in any other proceeding.

(u) Delegating professional responsibilities to a person when the licensee who is delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(v) Violating ~~any provision of this part, a rule of the board or department, or~~ a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(w) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services.

(x) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

(3)~~(2)~~ The board may not reinstate the license of an occupational therapist or occupational therapy assistant, or cause a license to be issued to a person it has deemed unqualified, until such time as the board is satisfied that such person has complied with all the terms and conditions set forth in the final order and is capable of safely engaging in the practice of occupational therapy.

Section 38. Subsections (1) and (2) of section 468.365, Florida Statutes, are amended to read:

468.365 Disciplinary grounds and actions.—

(1) The following acts constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions in subsection (2) may be taken~~:

(a) Procuring, attempting to procure, or renewing a license as provided by this part by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(b) Having licensure, certification, registration, or other authority, by whatever name known, to deliver respiratory care services revoked, suspended, or otherwise acted against, including the denial of licensure, certification, registration, or other authority to deliver respiratory care services by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to respiratory care services or to the ability to deliver such services.

(d) Willfully making or filing a false report or record, willfully failing to file a report or record required by state or federal law, or willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records include only those reports or records which require the signature of a respiratory care practitioner or respiratory therapist licensed pursuant to this part.

(e) Circulating false, misleading, or deceptive advertising.

(f) Unprofessional conduct, which includes, but is not limited to, any departure from, or failure to conform to, acceptable standards related to the delivery of respiratory care services, as set forth by the board in rules adopted pursuant to this part.

(g) Engaging or attempting to engage in the possession, sale, or distribution of controlled substances, as set forth by law, for any purpose other than a legitimate purpose.

(h) Willfully failing to report any violation of this part.

(i) ~~Willfully or repeatedly~~ Violating ~~a rule of the board or the department or~~ a lawful order of the board or department previously entered in a disciplinary hearing.

~~(j) Violation of any rule adopted pursuant to this part or chapter 456.~~

(j)~~(k)~~ Engaging in the delivery of respiratory care services with a revoked, suspended, or inactive license.

(k)~~(l)~~ Permitting, aiding, assisting, procuring, or advising any person who is not licensed pursuant to this part, contrary to this part or to any rule of the department or the board.

(l)~~(m)~~ Failing to perform any statutory or legal obligation placed upon a respiratory care practitioner or respiratory therapist licensed pursuant to this part.

(m)~~(n)~~ Accepting and performing professional responsibilities which the licensee knows, or has reason to know, she or he is not competent to perform.

(n)~~(o)~~ Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, experience, or licensure to perform them.

(o)~~(p)~~ Gross or repeated malpractice or the failure to deliver respiratory care services with that level of care, skill, and treatment which is recognized by a reasonably prudent respiratory care practitioner or respiratory therapist with similar professional training as being acceptable under similar conditions and circumstances.

(p)~~(q)~~ Paying or receiving any commission, bonus, kickback, or rebate to or from, or engaging in any split-fee arrangement in any form whatsoever with, a person, organization, or agency, either directly or indirectly, for goods or services rendered to patients referred by or to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent the licensee from receiving a fee for professional consultation services.

(q)~~(r)~~ Exercising influence within a respiratory care relationship for the purpose of engaging a patient in sexual activity. A patient is presumed to be incapable of giving free, full, and informed consent to sexual activity with the patient's respiratory care practitioner or respiratory therapist.

(r)~~(s)~~ Making deceptive, untrue, or fraudulent representations in the delivery of respiratory care services or employing a trick or scheme in the delivery of respiratory care services if such a scheme or trick fails to conform to the generally prevailing standards of other licensees within the community.

(s)~~(t)~~ Soliciting patients, either personally or through an agent, through the use of fraud, deception, or otherwise misleading statements or through the exercise of intimidation or undue influence.

(t)~~(u)~~ Failing to keep written respiratory care records justifying the reason for the action taken by the licensee.

(u)~~(v)~~ Exercising influence on the patient in such a manner as to exploit the patient for the financial gain of the licensee or a third party, which includes, but is not limited to, the promoting or selling of services, goods, appliances, or drugs.

(v)~~(w)~~ Performing professional services which have not been duly ordered by a physician licensed pursuant to chapter 458 or chapter 459 and which are not in accordance with protocols established by the hospital, other health care provider, or the board, except as provided in ss. 743.064, 766.103, and 768.13.

(w)~~(x)~~ Being unable to deliver respiratory care services with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material as a result of any mental or physical condition. In enforcing this paragraph, the department shall, upon probable cause, have authority to compel a respiratory care practitioner or respiratory therapist to submit to a mental or physical examination by physicians designated by the department. The cost of examination shall be borne by the licensee being examined. The failure of a respiratory care practitioner or respiratory therapist to submit to such an examination when so directed constitutes an admission of the allegations against her or him, upon which a default and a final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond her or his control. A respiratory care practitioner or respiratory therapist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent delivery of respiratory care services with reasonable skill and safety to her or his patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the board shall be used against a respiratory care practitioner or respiratory therapist in any other proceeding.

(x) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~If the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Denial of an application for licensure.~~

~~(b) Revocation or suspension of licensure.~~

~~(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(d) Placement of the respiratory care practitioner or respiratory therapist on probation for such period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the respiratory care practitioner or respiratory therapist to submit to treatment, to attend continuing education courses, or to work under the supervision of another respiratory care practitioner or respiratory therapist.~~

~~(e) Issuance of a reprimand.~~

Section 39. Subsections (1) and (2) of section 468.518, Florida Statutes, are amended to read:

468.518 Grounds for disciplinary action.—

(1) The following acts constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions in subsection (2) may be taken~~:

(a) Violating any provision of this part, any board or agency rule adopted pursuant thereto, or any lawful order of the board or agency previously entered in a disciplinary hearing held pursuant to this part, or failing to comply with a lawfully issued subpoena of the agency. The provisions of this paragraph also apply to any order or subpoena previously issued by the Department of Health during its period of regulatory control over this part.

(b) Being unable to engage in dietetics and nutrition practice or nutrition counseling with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

1. A licensee whose license is suspended or revoked pursuant to this paragraph shall, at reasonable intervals, be given an opportunity to demonstrate that he or she can resume the competent practice of dietetics and nutrition or nutrition counseling with reasonable skill and safety to patients.

2. Neither the record of the proceeding nor the orders entered by the board in any proceeding under this paragraph may be used against a licensee in any other proceeding.

(c) Attempting to procure or procuring a license to practice dietetics and nutrition or nutrition counseling by fraud or material misrepresentation of material fact.

(d) Having a license to practice dietetics and nutrition or nutrition counseling revoked, suspended, or otherwise acted against, including the denial of licensure by the licensing authority of another state, district, territory, or country.

(e) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of dietetics and nutrition or nutrition counseling or the ability to practice dietetics and nutrition or nutrition counseling.

(f) Making or filing a report or record that the licensee knows to be false, willfully failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records include only those that are signed in the capacity of a licensed dietitian/nutritionist or licensed nutrition counselor.

(g) Advertising goods or services in a manner that is fraudulent, false, deceptive, or misleading in form or content.

(h) Committing an act of fraud or deceit, or of negligence, incompetency, or misconduct in the practice of dietetics and nutrition or nutrition counseling.

(i) Practicing with a revoked, suspended, inactive, or delinquent license.

(j) Treating or undertaking to treat human ailments by means other than by dietetics and nutrition practice or nutrition counseling.

(k) Failing to maintain acceptable standards of practice as set forth by the board and the council in rules adopted pursuant to this part.

(l) Engaging directly or indirectly in the dividing, transferring, assigning, rebating, or refunding of fees received for professional services, or profiting by means of a credit or other valuable consideration, such as an unearned commission, discount, or gratuity, with any person referring a patient or with any relative or business associate of the referring person. Nothing in this part prohibits the members of any regularly and properly organized business entity that is composed of licensees under this part and recognized under the laws of this state from making any division of their total fees among themselves as they determine necessary.

(m) Advertising, by or on behalf of a licensee under this part, any method of assessment or treatment which is experimental or without generally accepted scientific validation.

(n) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any licensee guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Denial of an application for licensure;~~

~~(b) Revocation or suspension of a license;~~

~~(c) Imposition of an administrative fine not to exceed $1,000 for each violation;~~

~~(d) Issuance of a reprimand or letter of guidance;~~

~~(e) Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify, including requiring the licensee to attend continuing education courses or to work under the supervision of a licensed dietitian/nutritionist or licensed nutrition counselor; or~~

~~(f) Restriction of the authorized scope of practice of the licensee.~~

Section 40. Section 468.719, Florida Statutes, is amended to read:

468.719 Disciplinary actions.—

(1) The following acts *constitute* ~~shall be~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~disciplinary actions provided for in subsection (2)~~:

~~(a) A violation of any law relating to the practice of athletic training, including, but not limited to, any violation of this part, s. 456.072, or any rule adopted pursuant thereto.~~

(a)~~(b)~~ Failing to include the athletic trainer's name and license number in any advertising, including, but not limited to, business cards and letterhead, related to the practice of athletic training. Advertising shall not include clothing or other novelty items.

(b)~~(c)~~ Committing incompetency or misconduct in the practice of athletic training.

(c)~~(d)~~ Committing fraud or deceit in the practice of athletic training.

(d)~~(e)~~ Committing negligence, gross negligence, or repeated negligence in the practice of athletic training.

(e)~~(f)~~ While practicing athletic training, being unable to practice athletic training with reasonable skill and safety to athletes by reason of illness or use of alcohol or drugs or as a result of any mental or physical condition.

(f) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the acts set forth in subsection (1), the board may enter an order imposing one or more of the penalties provided in s. 456.072.~~

Section 41. Section 468.811, Florida Statutes, is amended to read:

468.811 Disciplinary proceedings.—

(1) The following acts *constitute* ~~are~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2):* ~~disciplinary action against a licensee and the issuance of cease and desist orders or other related action by the department, pursuant to s. 456.072, against any person who engages in or aids in a violation.~~

(a) Attempting to procure a license by fraudulent misrepresentation.

(b) Having a license to practice orthotics, prosthetics, or pedorthics revoked, suspended, or otherwise acted against, including the denial of licensure in another jurisdiction.

(c) Being convicted or found guilty of or pleading nolo contendere to, regardless of adjudication, in any jurisdiction, a crime that directly relates to the practice of orthotics, prosthetics, or pedorthics, including violations of federal laws or regulations regarding orthotics, prosthetics, or pedorthics.

(d) Filing a report or record that the licensee knows is false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records include only reports or records that are signed in a person's capacity as a licensee under this act.

(e) Advertising goods or services in a fraudulent, false, deceptive, or misleading manner.

~~(f) Violation of this act or chapter 456, or any rules adopted thereunder.~~

(f)~~(g)~~ Violation of an order of the board, agency, or department previously entered in a disciplinary hearing or failure to comply with a subpoena issued by the board, agency, or department.

(g)~~(h)~~ Practicing with a revoked, suspended, or inactive license.

(h)~~(i)~~ Gross or repeated malpractice or the failure to deliver orthotic, prosthetic, or pedorthic services with that level of care and skill which is recognized by a reasonably prudent licensed practitioner with similar professional training as being acceptable under similar conditions and circumstances.

(i)~~(j)~~ Failing to provide written notice of any applicable warranty for an orthosis, prosthesis, or pedorthic device that is provided to a patient.

(j) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~The board may enter an order imposing one or more of the penalties in s. 456.072(2) against any person who violates any provision of subsection (1).~~

Section 42. Subsections (1) and (2) of section 478.52, Florida Statutes, are amended to read:

478.52 Disciplinary proceedings.—

(1) The following acts *constitute* ~~are~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions in subsection (2) may be taken~~:

(a) Obtaining or attempting to obtain a license by bribery, fraud, or knowing misrepresentation.

(b) Having a license or other authority to deliver electrolysis services revoked, suspended, or otherwise acted against, including denial of licensure, in another jurisdiction.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime, in any jurisdiction, which directly relates to the practice of electrology.

(d) Willfully making or filing a false report or record, willfully failing to file a report or record required for electrologists, or willfully impeding or obstructing the filing of a report or record required by this act or inducing another person to do so.

(e) Circulating false, misleading, or deceptive advertising.

(f) Unprofessional conduct, including any departure from, or failure to conform to, acceptable standards related to the delivery of electrolysis services.

(g) Engaging or attempting to engage in the illegal possession, sale, or distribution of any illegal or controlled substance.

(h) Willfully failing to report any known violation of this chapter.

(i) Willfully or repeatedly violating a rule adopted under this chapter, or an order of the board or department previously entered in a disciplinary hearing.

(j) Engaging in the delivery of electrolysis services without an active license.

(k) Employing an unlicensed person to practice electrology.

(l) Failing to perform any statutory or legal obligation placed upon an electrologist.

(m) Accepting and performing professional responsibilities which the licensee knows, or has reason to know, she or he is not competent to perform.

(n) Delegating professional responsibilities to a person the licensee knows, or has reason to know, is unqualified by training, experience, or licensure to perform.

(o) Gross or repeated malpractice or the inability to practice electrology with reasonable skill and safety.

(p) Judicially determined mental incompetency.

(q) Practicing or attempting to practice electrology under a name other than her or his own.

(r) Being unable to practice electrology with reasonable skill and safety because of a mental or physical condition or illness, or the use of alcohol, controlled substances, or any other substance which impairs one's ability to practice.

1. The department may, upon probable cause, compel a licensee to submit to a mental or physical examination by physicians designated by the department. The cost of an examination shall be borne by the licensee, and her or his failure to submit to such an examination constitutes an admission of the allegations against her or him, consequent upon which a default and a final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond her or his control.

2. A licensee who is disciplined under this paragraph shall, at reasonable intervals, be afforded an opportunity to demonstrate that she or he can resume the practice of electrology with reasonable skill and safety.

3. In any proceeding under this paragraph, the record of proceedings or the orders entered by the board may not be used against a licensee in any other proceeding.

(s) Disclosing the identity of or information about a patient without written permission, except for information which does not identify a patient and which is used for training purposes in an approved electrolysis training program.

(t) Practicing or attempting to practice any permanent hair removal except as described in s. 478.42(5).

(u) Operating any electrolysis facility unless it has been duly licensed as provided in this chapter.

(v) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), including conduct that would constitute a substantial violation of subsection (1) which occurred prior to licensure, it may enter an order imposing one or more of the following penalties:~~

~~(a) Deny the application for licensure.~~

~~(b) Revoke or suspend the license.~~

~~(c) Impose an administrative fine not to exceed $5,000 for each count or separate offense.~~

~~(d) Place the licensee on probation for a specified time and subject the licensee to such conditions as the board determines necessary, including, but not limited to, requiring treatment, continuing education courses, reexamination, or working under the supervision of another licensee.~~

~~(e) Issue a reprimand to the licensee.~~

~~(f) Restriction of a licensee's practice.~~

Section 43. Subsections (1) and (2) of section 480.046, Florida Statutes, are amended to read:

480.046 Grounds for disciplinary action by the board.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which disciplinary actions specified in subsection (2) may be taken against a massage therapist or massage establishment licensed under this act~~:

(a) Attempting to procure a license to practice massage by bribery or fraudulent misrepresentation.

(b) Having a license to practice massage revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of massage or to the ability to practice massage. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising.

(e) Aiding, assisting, procuring, or advising any unlicensed person to practice massage contrary to the provisions of this chapter or to a rule of the department or the board.

(f) Making deceptive, untrue, or fraudulent representations in the practice of massage.

(g) Being unable to practice massage with reasonable skill and safety by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon probable cause, authority to compel a massage therapist to submit to a mental or physical examination by physicians designated by the department. Failure of a massage therapist to submit to such examination when so directed, unless the failure was due to circumstances beyond her or his control, shall constitute an admission of the allegations against her or him, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A massage therapist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of massage with reasonable skill and safety to clients.

(h) Gross or repeated malpractice or the failure to practice massage with that level of care, skill, and treatment which is recognized by a reasonably prudent massage therapist as being acceptable under similar conditions and circumstances.

(i) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(j) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform.

(k) Violating ~~any provision of this chapter, a rule of the board or department, or~~ a lawful order of the board or department previously entered in a disciplinary hearing, or failing to comply with a lawfully issued subpoena of the department.

(l) Refusing to permit the department to inspect the business premises of the licensee during regular business hours.

(m) Failing to keep the equipment and premises of the massage establishment in a clean and sanitary condition.

(n) Practicing massage at a site, location, or place which is not duly licensed as a massage establishment, except that a massage therapist, as provided by rules adopted by the board, may provide massage services, excluding colonic irrigation, at the residence of a client, at the office of the client, at a sports event, at a convention, or at a trade show.

(o) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to license an applicant.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Issuance of a reprimand or censure.~~

~~(d) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

Section 44. Section 483.825, Florida Statutes, is amended to read:

483.825 Grounds for disciplinary action.—

(1) The following acts constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which disciplinary actions specified in s. 483.827 may be taken against applicants, registrants, and licensees under this part~~:

(a)~~(1)~~ Attempting to obtain, obtaining, or renewing a license or registration under this part by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(b)~~(2)~~ Engaging in or attempting to engage in, or representing herself or himself as entitled to perform, any clinical laboratory procedure or category of procedures not authorized pursuant to her or his license.

(c)~~(3)~~ Demonstrating incompetence or making consistent errors in the performance of clinical laboratory examinations or procedures or erroneous reporting.

(d)~~(4)~~ Performing a test and rendering a report thereon to a person not authorized by law to receive such services.

(e)~~(5)~~ Has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the activities of clinical laboratory personnel or involves moral turpitude or fraudulent or dishonest dealing. The record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the state shall be admissible as prima facie evidence of such guilt.

(f)~~(6)~~ Having been adjudged mentally or physically incompetent.

(g)~~(7)~~ ~~Violating or~~ Aiding and abetting in the violation of any provision of this part or the rules adopted hereunder.

(h)~~(8)~~ Reporting a test result when no laboratory test was performed on a clinical specimen.

(i)~~(9)~~ Knowingly advertising false services or credentials.

(j)~~(10)~~ Having a license revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another jurisdiction. The licensing authority's acceptance of a relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the licensee, shall be construed as action against the licensee.

(k)~~(11)~~ Failing to report to the board, in writing, within 30 days that an action under subsection (5), subsection (6), or subsection (10) has been taken against the licensee or one's license to practice as clinical laboratory personnel in another state, territory, country, or other jurisdiction.

(l)~~(12)~~ Being unable to perform or report clinical laboratory examinations with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this subsection, the department shall have, upon a finding of the secretary or his or her designee that probable cause exists to believe that the licensee is unable to practice because of the reasons stated in this subsection, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by

the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this subsection shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume competent practice with reasonable skill and safety to patients.

(m)~~(13)~~ Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, experience, or licensure to perform them.

(n)~~(14)~~ Violating a previous order of the board entered in a disciplinary proceeding.

(o)~~(15)~~ Failing to report to the department a person or other licensee who the licensee knows is in violation of this chapter or the rules of the department or board adopted hereunder.

(p)~~(16)~~ Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so, including, but not limited to, impeding an agent of the state from obtaining a report or record for investigative purposes. Such reports or records shall include only those generated in the capacity as a licensed clinical laboratory personnel.

(q)~~(17)~~ Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, or person, either directly or indirectly for patients referred to providers of health care goods and services including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this subsection shall not be construed to prevent a clinical laboratory professional from receiving a fee for professional consultation services.

(r)~~(18)~~ Exercising influence on a patient or client in such a manner as to exploit the patient or client for the financial gain of the licensee or other third party, which shall include, but not be limited to, the promoting, selling, or withholding of services, goods, appliances, referrals, or drugs.

(s)~~(19)~~ Practicing or offering to practice beyond the scope permitted by law or rule, or accepting or performing professional services or responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.

(t)~~(20)~~ Misrepresenting or concealing a material fact at any time during any phase of the licensing, investigative, or disciplinary process, procedure, or proceeding.

(u)~~(21)~~ Improperly interfering with an investigation or any disciplinary proceeding.

(v)~~(22)~~ Engaging in or attempting to engage in sexual misconduct, causing undue embarrassment or using disparaging language or language of a sexual nature towards a patient, exploiting superior/subordinate, professional/patient, instructor/student relationships for personal gain, sexual gratification, or advantage.

(w) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

(3) In determining the amount of the fine to be levied for a violation, as provided in subsection (1), the following factors shall be considered:

(a) The severity of the violation, including the probability that death or serious harm to the health or safety of any person will result or has resulted, the severity of the actual or potential harm, and the extent to which the provisions of this part were violated.

(b) Actions taken by the licensee to correct the violation or to remedy complaints.

(c) Any previous violation by the licensee.

(d) The financial benefit to the licensee of committing or continuing the violation.

Section 45. *Section 483.827, Florida Statutes, is repealed.*

Section 46. Subsection (6) of section 483.901, Florida Statutes, is amended to read:

483.901 Medical physicists; definitions; licensure.—

(6) LICENSE REQUIRED.—An individual may not engage in the practice of medical physics, including the specialties of diagnostic radiological physics, therapeutic radiological physics, medical nuclear radiological physics, or medical health physics, without a license issued by the department for the appropriate specialty.

(a) The department shall adopt rules to administer this section which specify license application and renewal fees, continuing education requirements, and standards for practicing medical physics. The council shall recommend to the department continuing education requirements that shall be a condition of license renewal. The department shall require a minimum of 24 hours per biennium of continuing education offered by an organization recommended by the council and approved by the department. The department, upon recommendation of the council, may adopt rules to specify continuing education requirements for persons who hold a license in more than one specialty.

(b) In order to apply for a medical physicist license in one or more specialties, a person must file an individual application for each specialty with the department. The application must be on a form prescribed by the department and must be accompanied by a nonrefundable application fee for each specialty.

(c) The department may issue a license to an eligible applicant if the applicant meets all license requirements. At any time before the department issues a license, the applicant may request in writing that the application be withdrawn. To reapply, the applicant must submit a new application and an additional nonrefundable application fee and must meet all current licensure requirements.

(d) The department shall review each completed application for a license which the department receives.

(e) On receipt of an application and fee as specified in this section, the department may issue a license to practice medical physics in this state on or after October 1, 1997, to a person who is board certified in the medical physics specialty in which the applicant applies to practice by the American Board of Radiology for diagnostic radiological physics, therapeutic radiological physics, or medical nuclear radiological physics; by the American Board of Medical Physics for diagnostic radiological physics, therapeutic radiological physics, or medical nuclear radiological physics; or by the American Board of Health Physics or an equivalent certifying body approved by the department.

(f) A licensee shall:

1. Display the license in a place accessible to the public; and

2. Report immediately any change in the licensee's address or name to the department.

(g) The following acts *constitute* ~~are~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions in paragraph (h) may be taken~~:

1. Obtaining or attempting to obtain a license by bribery, fraud, knowing misrepresentation, or concealment of material fact or through an error of the department.

2. Having a license denied, revoked, suspended, or otherwise acted against in another jurisdiction.

3. Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, the profession of medical physics.

4. Willfully failing to file a report or record required for medical physics or willfully impeding or obstructing the filing of a report or record required by this section or inducing another person to do so.

5. Making misleading, deceptive, or fraudulent representations in or related to the practice of medical physics.

6. Willfully failing to report any known violation of this section or any rule adopted thereunder.

~~7. Willfully or repeatedly violating a rule adopted under this section or an order of the department.~~

7.~~8.~~ Failing to perform any statutory or legal obligation placed upon a licensee.

8.~~9.~~ Aiding, assisting, procuring, employing, or advising any unlicensed person to practice medical physics contrary to this section or any rule adopted thereunder.

9.~~10.~~ Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization to perform them.

10.~~11.~~ Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

11.~~12.~~ Gross or repeated malpractice or the inability to practice medical physics with reasonable skill and safety.

12.~~13.~~ Judicially determined mental incompetency.

13.~~14.~~ Being unable to practice medical physics with reasonable skill and safety because of a mental or physical condition or illness or the use of alcohol, controlled substances, or any other substance which impairs one's ability to practice.

a. The department may, upon probable cause, compel a licensee to submit to a mental or physical examination by physicians designated by the department. The cost of an examination shall be borne by the licensee, and the licensee's failure to submit to such an examination constitutes an admission of the allegations against the licensee, consequent upon which a default and a final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond the licensee's control.

b. A licensee who is disciplined under this subparagraph shall, at reasonable intervals, be afforded an opportunity to demonstrate that the licensee can resume the practice of medical physics with reasonable skill and safety.

c. With respect to any proceeding under this subparagraph, the record of proceedings or the orders entered by the department may not be used against a licensee in any other proceeding.

14. Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(h) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the department finds any person guilty of any of the grounds set forth in paragraph (g), including conduct that would constitute a substantial violation of paragraph (g) which occurred prior to licensure, it may enter an order imposing one or more of the following penalties:~~

~~1. Deny the application for licensure.~~

~~2. Revoke or suspend the license.~~

~~3. Impose an administrative fine for each count or separate offense.~~

~~4. Place the licensee on probation for a specified time and subject the licensee to such conditions as the department determines necessary, including requiring treatment, continuing education courses, or working under the monitoring or supervision of another licensee.~~

~~5. Restrict a licensee's practice.~~

~~6. Issue a reprimand to the licensee.~~

(i) The department may not issue or reinstate a license to a person it has deemed unqualified until it is satisfied that such person has complied with the terms and conditions of the final order and that the licensee can safely practice medical physics.

(j) Upon receipt of a complete application and the fee set forth by rule, the department may issue a physicist-in-training certificate to a person qualified to practice medical physics under direct supervision. The department may establish by rule requirements for initial certification and renewal of a physicist-in-training certificate.

Section 47. Subsections (1) and (2) of section 484.014, Florida Statutes, are amended to read:

484.014 Disciplinary actions.—

(1) The following acts *constitute* ~~relating to the practice of opticianry shall be~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~both disciplinary action against an optician as set forth in this section and cease and desist or other related action by the department as set forth in s. 456.065 against any person operating an optical establishment who engages in, aids, or abets any such violation~~:

(a) Procuring or attempting to procure a license by misrepresentation, bribery, or fraud or through an error of the department or the board.

(b) Procuring or attempting to procure a license for any other person by making or causing to be made any false representation.

(c) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by federal or state law, willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records shall include only those which the person is required to make or file as an optician.

(d) Failing to make fee or price information readily available by providing such information upon request or upon the presentation of a prescription.

(e) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(f) Fraud or deceit, or negligence, incompetency, or misconduct, in the authorized practice of opticianry.

~~(g) Violation or repeated violation of this part or of chapter 456 or any rules promulgated pursuant thereto.~~

(g)~~(h)~~ Practicing with a revoked, suspended, inactive, or delinquent license.

(h)~~(i)~~ Violation of a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(i)~~(j)~~ Violation of any provision of s. 484.012.

(j)~~(k)~~ Conspiring with another licensee or with any person to commit an act, or committing an act, which would coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(k)~~(l)~~ Willfully submitting to any third-party payor a claim for services which were not provided to a patient.

(l)~~(m)~~ Failing to keep written prescription files.

(m)~~(n)~~ Willfully failing to report any person who the licensee knows is in violation of this part or of rules of the department or the board.

(n)~~(o)~~ Exercising influence on a client in such a manner as to exploit the client for financial gain of the licensee or of a third party.

(o)~~(p)~~ Gross or repeated malpractice.

(p)~~(q)~~ Permitting any person not licensed as an optician in this state to fit or dispense any lenses, spectacles, eyeglasses, or other optical devices which are part of the practice of opticianry.

(q)~~(r)~~ Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, in a court of this state or other jurisdiction, a crime which relates to the ability to practice opticianry or to the practice of opticianry.

(r)~~(s)~~ Having been disciplined by a regulatory agency in another state for any offense that would constitute a violation of Florida law or rules regulating opticianry.

(s)~~(t)~~ Being unable to practice opticianry with reasonable skill and safety by reason of illness or use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. An optician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of opticianry with reasonable skill and safety to her or his customers.

(t) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(d) Issuance of a reprimand.~~

~~(e) Placement of the optician on probation for a period of time and subject to such conditions as the board may specify, including requiring the optician to submit to treatment or to work under the supervision of another optician.~~

Section 48. Subsections (1) and (2) of section 484.056, Florida Statutes, are amended to read:

484.056 Disciplinary proceedings.—

(1) The following acts *constitute* ~~relating to the practice of dispensing hearing aids shall be~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~both disciplinary action against a hearing aid specialist as set forth in this section and cease and desist or other related action by the department as set forth in s. 456.065 against any person owning or operating a hearing aid establishment who engages in, aids, or abets any such violation~~:

(a) Violation of any provision of s. 456.072(1), s. 484.0512, or s. 484.053.

(b) Attempting to procure a license to dispense hearing aids by bribery, by fraudulent misrepresentations, or through an error of the department or the board.

(c) Having a license to dispense hearing aids revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(d) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of dispensing hearing aids or the ability to practice dispensing hearing aids, including violations of any federal laws or regulations regarding hearing aids.

(e) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records shall include only those reports or records which are signed in one's capacity as a licensed hearing aid specialist.

(f) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(g) Proof that the licensee is guilty of fraud or deceit or of negligence, incompetency, or misconduct in the practice of dispensing hearing aids.

~~(h) Violation or repeated violation of this part or of chapter 456, or any rules promulgated pursuant thereto.~~

(h)~~(i)~~ Violation of a lawful order of the board or department previously entered in a disciplinary hearing or failure to comply with a lawfully issued subpoena of the board or department.

(i)~~(j)~~ Practicing with a revoked, suspended, inactive, or delinquent license.

(j)~~(k)~~ Using, or causing or promoting the use of, any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or other representation, however disseminated or published, which is misleading, deceiving, or untruthful.

(k)~~(l)~~ Showing or demonstrating, or, in the event of sale, delivery of, a product unusable or impractical for the purpose represented or implied by such action.

(l)~~(m)~~ Misrepresentation of professional services available in the fitting, sale, adjustment, service, or repair of a hearing aid, or use of the terms "doctor," "clinic," "clinical," "medical audiologist," "clinical audiologist," "research audiologist," or "audiologic" or any other term or title which might connote the availability of professional services when such use is not accurate.

(m)~~(n)~~ Representation, advertisement, or implication that a hearing aid or its repair is guaranteed without providing full disclosure of the identity of the guarantor; the nature, extent, and duration of the guarantee; and the existence of conditions or limitations imposed upon the guarantee.

(n)~~(o)~~ Representing, directly or by implication, that a hearing aid utilizing bone conduction has certain specified features, such as the absence of anything in the ear or leading to the ear, or the like, without disclosing clearly and conspicuously that the instrument operates on the bone conduction principle and that in many cases of hearing loss this type of instrument may not be suitable.

(o)~~(p)~~ Making any predictions or prognostications as to the future course of a hearing impairment, either in general terms or with reference to an individual person.

(p)~~(q)~~ Stating or implying that the use of any hearing aid will improve or preserve hearing or prevent or retard the progression of a hearing impairment or that it will have any similar or opposite effect.

(q)~~(r)~~ Making any statement regarding the cure of the cause of a hearing impairment by the use of a hearing aid.

(r)~~(s)~~ Representing or implying that a hearing aid is or will be "custom-made," "made to order," or "prescription-made" or in any other sense specially fabricated for an individual person when such is not the case.

(s)~~(t)~~ Canvassing from house to house or by telephone either in person or by an agent for the purpose of selling a hearing aid, except that contacting persons who have evidenced an interest in hearing aids, or

have been referred as in need of hearing aids, shall not be considered canvassing.

(t)~~(u)~~ Failure to submit to the board on an annual basis, or such other basis as may be provided by rule, certification of testing and calibration of audiometric testing equipment on the form approved by the board.

(u)~~(v)~~ Failing to provide all information as described in s. 484.051(1).

(v)~~(w)~~ Exercising influence on a client in such a manner as to exploit the client for financial gain of the licensee or of a third party.

(w) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2)(a) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~Except as provided in paragraph (b), when the board finds any hearing aid specialist to be guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~1. Denial of an application for licensure.~~

~~2. Revocation or suspension of a license.~~

~~3. Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~4. Issuance of a reprimand.~~

~~5. Placing the hearing aid specialist on probation for a period of time and subject to such conditions as the board may specify, including requiring the hearing aid specialist to attend continuing education courses or to work under the supervision of another hearing aid specialist.~~

~~6. Restricting the authorized scope of practice.~~

(b) The board shall revoke the license of any hearing aid specialist found guilty of canvassing as described in this section.

Section 49. Subsections (1) and (2) of section 486.125, Florida Statutes, are amended to read:

486.125 Refusal, revocation, or suspension of license; administrative fines and other disciplinary measures.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Being unable to practice physical therapy with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

1. In enforcing this paragraph, upon a finding of the secretary or the secretary's designee that probable cause exists to believe that the licensee is unable to practice physical therapy due to the reasons stated in this paragraph, the department shall have the authority to compel a physical therapist or physical therapist assistant to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or serves as a physical therapy practitioner. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011.

2. A physical therapist or physical therapist assistant whose license is suspended or revoked pursuant to this subsection shall, at reasonable intervals, be given an opportunity to demonstrate that she or he can resume the competent practice of physical therapy with reasonable skill and safety to patients.

3. Neither the record of proceeding nor the orders entered by the board in any proceeding under this subsection may be used against a physical therapist or physical therapist assistant in any other proceeding.

(b) Having committed fraud in the practice of physical therapy or deceit in obtaining a license as a physical therapist or as a physical therapist assistant.

(c) Being convicted or found guilty regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of physical therapy or to the ability to practice physical therapy. The entry of any plea of nolo contendere shall be considered a conviction for purpose of this chapter.

(d) Having treated or undertaken to treat human ailments by means other than by physical therapy, as defined in this chapter.

(e) Failing to maintain acceptable standards of physical therapy practice as set forth by the board in rules adopted pursuant to this chapter.

(f) Engaging directly or indirectly in the dividing, transferring, assigning, rebating, or refunding of fees received for professional services, or having been found to profit by means of a credit or other valuable consideration, such as an unearned commission, discount, or gratuity, with any person referring a patient or with any relative or business associate of the referring person. Nothing in this chapter shall be construed to prohibit the members of any regularly and properly organized business entity which is comprised of physical therapists and which is recognized under the laws of this state from making any division of their total fees among themselves as they determine necessary.

(g) Having a license revoked or suspended; having had other disciplinary action taken against her or him; or having had her or his application for a license refused, revoked, or suspended by the licensing authority of another state, territory, or country.

(h) Violating ~~any provision of this chapter, a rule of the board or department, or~~ a lawful order of the board or department previously entered in a disciplinary hearing.

(i) Making or filing a report or record which the licensee knows to be false. Such reports or records shall include only those which are signed in the capacity of a physical therapist.

(j) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform, including, but not limited to, specific spinal manipulation.

(k) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Restriction of practice.~~

~~(d) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(e) Issuance of a reprimand.~~

~~(f) Placement of the physical therapist or physical therapist assistant on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the physical therapist or physical therapist assistant to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another physical therapist.~~

~~(g) Recovery of actual costs of investigation and prosecution.~~

Section 50. Section 490.009, Florida Statutes, is amended to read:

490.009 Discipline.—

~~(1) When the department or, in the case of psychologists, the board finds that an applicant, provisional licensee, or licensee whom it regulates under this chapter has committed any of the acts set forth in subsection (2), it may issue an order imposing one or more of the following penalties:~~

~~(a) Denial of an application for licensure, either temporarily or permanently.~~

~~(b) Revocation of an application for licensure, either temporarily or permanently.~~

~~(c) Suspension for a period of up to 5 years or revocation of a license, after hearing.~~

~~(d) Immediate suspension of a license pursuant to s. 120.60(6).~~

~~(e) Imposition of an administrative fine not to exceed $5,000 for each count or separate offense.~~

~~(f) Issuance of a public reprimand.~~

~~(g) Placement of an applicant or licensee on probation for a period of time and subject to conditions specified by the department or, in the case of psychologists, by the board, including, but not limited to, requiring the applicant or licensee to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of a designated licensee.~~

~~(h) Restriction of practice.~~

(1)~~(2)~~ The following acts *constitute* ~~of a licensee, provisional licensee, or applicant are~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions listed in subsection (1) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license under this chapter by bribery or fraudulent misrepresentation or through an error of the board or department.

(b) Having a license to practice a comparable profession revoked, suspended, or otherwise acted against, including the denial of certification or licensure by another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of his or her profession or the ability to practice his or her profession. A plea of nolo contendere creates a rebuttable presumption of guilt of the underlying criminal charges. However, the board shall allow the person who is the subject of the disciplinary proceeding to present any evidence relevant to the underlying charges and circumstances surrounding the plea.

(d) False, deceptive, or misleading advertising or obtaining a fee or other thing of value on the representation that beneficial results from any treatment will be guaranteed.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Maintaining a professional association with any person who the applicant or licensee knows, or has reason to believe, is in violation of this chapter or of a rule of the department or, in the case of psychologists, of the department or the board.

(g) Knowingly aiding, assisting, procuring, or advising any nonlicensed person to hold himself or herself out as licensed under this chapter.

(h) Failing to perform any statutory or legal obligation placed upon a person licensed under this chapter.

(i) Willfully making or filing a false report or record; failing to file a report or record required by state or federal law; willfully impeding or obstructing the filing of a report or record; or inducing another person to make or file a false report or record or to impede or obstruct the filing of a report or record. Such report or record includes only a report or record which requires the signature of a person licensed under this chapter.

(j) Paying a kickback, rebate, bonus, or other remuneration for receiving a patient or client, or receiving a kickback, rebate, bonus, or other remuneration for referring a patient or client to another provider of mental health care services or to a provider of health care services or goods; referring a patient or client to oneself for services on a fee-paid basis when those services are already being paid for by some other public or private entity; or entering into a reciprocal referral agreement.

(k) Committing any act upon a patient or client which would constitute sexual battery or which would constitute sexual misconduct as defined in s. 490.0111.

(l) Making misleading, deceptive, untrue, or fraudulent representations in the practice of any profession licensed under this chapter.

(m) Soliciting patients or clients personally, or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct.

(n) Failing to make available to a patient or client, upon written request, copies of test results, reports, or documents in the possession or under the control of the licensee which have been prepared for and paid for by the patient or client.

(o) Failing to respond within 30 days to a written communication from the department concerning any investigation by the department or to make available any relevant records with respect to any investigation about the licensee's conduct or background.

(p) Being unable to practice the profession for which he or she is licensed under this chapter with reasonable skill or competence as a result of any mental or physical condition or by reason of illness; drunkenness; or excessive use of drugs, narcotics, chemicals, or any other substance. In enforcing this paragraph, upon a finding by the secretary, the secretary's designee, or the board that probable cause exists to believe that the licensee is unable to practice the profession because of the reasons stated in this paragraph, the department shall have the authority to compel a licensee to submit to a mental or physical examination by psychologists or physicians designated by the department or board. If the licensee refuses to comply with the department's order, the department may file a petition for enforcement in the circuit court of the circuit in which the licensee resides or does business. The licensee shall not be named or identified by initials in the petition or in any other public court records or documents, and the enforcement proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall be afforded an opportunity at reasonable intervals to demonstrate that he or she can resume the competent practice for which he or she is licensed with reasonable skill and safety to patients.

~~(q) Violating provisions of this chapter, or of chapter 456, or any rules adopted pursuant thereto.~~

(q)~~(r)~~ Performing any treatment or prescribing any therapy which, by the prevailing standards of the mental health professions in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(r)~~(s)~~ Failing to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the licensee is not qualified by training or experience.

(s)~~(t)~~ Delegating professional responsibilities to a person whom the licensee knows or has reason to know is not qualified by training or experience to perform such responsibilities.

(t)~~(u)~~ Violating a rule relating to the regulation of the profession or a lawful order of the department previously entered in a disciplinary hearing.

(u)~~(v)~~ Failing to maintain in confidence a communication made by a patient or client in the context of such services, except as provided in s. 490.0147.

(v)~~(w)~~ Making public statements which are derived from test data, client contacts, or behavioral research and which identify or damage research subjects or clients.

(w) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The department, or in the case of psychologists, the board, may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

Section 51. Section 491.009, Florida Statutes, is amended to read:

491.009 Discipline.—

~~(1) When the department or the board finds that an applicant, licensee, provisional licensee, registered intern, or certificateholder whom it regulates under this chapter has committed any of the acts set forth in subsection (2), it may issue an order imposing one or more of the following penalties:~~

~~(a) Denial of an application for licensure, registration, or certification, either temporarily or permanently.~~

~~(b) Revocation of an application for licensure, registration, or certification, either temporarily or permanently.~~

~~(c) Suspension for a period of up to 5 years or revocation of a license, registration, or certificate, after hearing.~~

~~(d) Immediate suspension of a license, registration, or certificate pursuant to s. 120.60(6).~~

~~(e) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(f) Issuance of a public reprimand.~~

~~(g) Placement of an applicant, licensee, registered intern, or certificateholder on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the applicant, licensee, registered intern, or certificateholder to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of a designated licensee or certificateholder.~~

~~(h) Restriction of practice.~~

(1)~~(2)~~ The following acts *constitute* ~~of a licensee, provisional licensee, registered intern, certificateholder, or applicant are~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions listed in subsection (1) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license, registration, or certificate under this chapter by bribery or fraudulent misrepresentation or through an error of the board or the department.

(b) Having a license, registration, or certificate to practice a comparable profession revoked, suspended, or otherwise acted against, including the denial of certification or licensure by another state, territory, or country.

(c) Being convicted or found guilty of, regardless of adjudication, or having entered a plea of nolo contendere to, a crime in any jurisdiction which directly relates to the practice of his or her profession or the ability to practice his or her profession. However, in the case of a plea of nolo contendere, the board shall allow the person who is the subject of the disciplinary proceeding to present evidence in mitigation relevant to the underlying charges and circumstances surrounding the plea.

(d) False, deceptive, or misleading advertising or obtaining a fee or other thing of value on the representation that beneficial results from any treatment will be guaranteed.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Maintaining a professional association with any person who the applicant, licensee, registered intern, or certificateholder knows, or has reason to believe, is in violation of this chapter or of a rule of the department or the board.

(g) Knowingly aiding, assisting, procuring, or advising any nonlicensed, nonregistered, or noncertified person to hold himself or herself out as licensed, registered, or certified under this chapter.

(h) Failing to perform any statutory or legal obligation placed upon a person licensed, registered, or certified under this chapter.

(i) Willfully making or filing a false report or record; failing to file a report or record required by state or federal law; willfully impeding or obstructing the filing of a report or record; or inducing another person to make or file a false report or record or to impede or obstruct the filing of a report or record. Such report or record includes only a report or record which requires the signature of a person licensed, registered, or certified under this chapter.

(j) Paying a kickback, rebate, bonus, or other remuneration for receiving a patient or client, or receiving a kickback, rebate, bonus, or other remuneration for referring a patient or client to another provider of mental health care services or to a provider of health care services or goods; referring a patient or client to oneself for services on a fee-paid basis when those services are already being paid for by some other public or private entity; or entering into a reciprocal referral agreement.

(k) Committing any act upon a patient or client which would constitute sexual battery or which would constitute sexual misconduct as defined pursuant to s. 491.0111.

(l) Making misleading, deceptive, untrue, or fraudulent representations in the practice of any profession licensed, registered, or certified under this chapter.

(m) Soliciting patients or clients personally, or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct.

(n) Failing to make available to a patient or client, upon written request, copies of tests, reports, or documents in the possession or under the control of the licensee, registered intern, or certificateholder which have been prepared for and paid for by the patient or client.

(o) Failing to respond within 30 days to a written communication from the department or the board concerning any investigation by the department or the board, or failing to make available any relevant records with respect to any investigation about the licensee's, registered intern's, or certificateholder's conduct or background.

(p) Being unable to practice the profession for which he or she is licensed, registered, or certified under this chapter with reasonable skill or competence as a result of any mental or physical condition or by reason of illness; drunkenness; or excessive use of drugs, narcotics, chemicals, or any other substance. In enforcing this paragraph, upon a finding by the secretary, the secretary's designee, or the board that probable cause exists to believe that the licensee, registered intern, or

certificateholder is unable to practice the profession because of the reasons stated in this paragraph, the department shall have the authority to compel a licensee, registered intern, or certificateholder to submit to a mental or physical examination by psychologists, physicians, or other licensees under this chapter, designated by the department or board. If the licensee, registered intern, or certificateholder refuses to comply with such order, the department's order directing the examination may be enforced by filing a petition for enforcement in the circuit court in the circuit in which the licensee, registered intern, or certificateholder resides or does business. The licensee, registered intern, or certificateholder against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee, registered intern, or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice for which he or she is licensed, registered, or certified with reasonable skill and safety to patients.

~~(q) Violating provisions of this chapter, or of chapter 456, or any rules adopted pursuant thereto.~~

(q)~~(r)~~ Performing any treatment or prescribing any therapy which, by the prevailing standards of the mental health professions in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(r)~~(s)~~ Failing to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the licensee, registered intern, or certificateholder is not qualified by training or experience.

(s)~~(t)~~ Delegating professional responsibilities to a person whom the licensee, registered intern, or certificateholder knows or has reason to know is not qualified by training or experience to perform such responsibilities.

(t)~~(u)~~ Violating a rule relating to the regulation of the profession or a lawful order of the department or the board previously entered in a disciplinary hearing.

(u)~~(v)~~ Failure of the licensee, registered intern, or certificateholder to maintain in confidence a communication made by a patient or client in the context of such services, except as provided in s. 491.0147.

(v)~~(w)~~ Making public statements which are derived from test data, client contacts, or behavioral research and which identify or damage research subjects or clients.

(w) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The department, or in the case of psychologists, the board, may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

Section 52. Subsection (3) of section 456.065, Florida Statutes, is amended to read:

456.065 Unlicensed practice of a health care profession; intent; cease and desist notice; penalties; enforcement; citations; fees; allocation and disposition of moneys collected.—

(3) Because all enforcement costs should be covered by professions regulated by the department, the department shall impose, upon initial licensure and each licensure renewal, a special fee of $5 per licensee to fund efforts to combat unlicensed activity. Such fee shall be in addition to all other fees collected from each licensee. ~~The board, with concurrence of the department, or the department when there is no board, may earmark $5 of the current licensure fee for this purpose, if such board, or profession regulated by the department, is not in a deficit and has a reasonable cash balance.~~ The department shall make direct charges to the Medical Quality Assurance Trust Fund by profession. The department shall seek board advice regarding enforcement methods and strategies. The department shall directly credit the Medical Quality Assurance Trust Fund, by profession, with the revenues received from the department's efforts to enforce licensure provisions. The department shall include all financial and statistical data resulting from unlicensed activity enforcement as a separate category in the quarterly management report provided for in s. 456.025. For an unlicensed activity account, a balance which remains at the end of a renewal cycle may, with concurrence of the applicable board and the department, be transferred to the operating fund account of that profession. The department shall also use these funds to inform and educate consumers generally on the importance of using licensed health care practitioners.

Section 53. Paragraphs (e) and (f) of subsection (4) of section 458.347, Florida Statutes, are amended to read:

458.347 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(e) A supervisory physician may delegate to a fully licensed physician assistant the authority to prescribe any medication used in the supervisory physician's practice *unless* ~~if~~ such medication is listed on the formulary created pursuant to paragraph (f). A fully licensed physician assistant may only prescribe such medication under the following circumstances:

1. A physician assistant must clearly identify to the patient that he or she is a physician assistant. Furthermore, the physician assistant must inform the patient that the patient has the right to see the physician prior to any prescription being prescribed by the physician assistant.

2. The supervisory physician must notify the department of his or her intent to delegate, on a department-approved form, before delegating such authority and notify the department of any change in prescriptive privileges of the physician assistant.

3. The physician assistant must file with the department, before commencing to prescribe, evidence that he or she has completed a continuing medical education course of at least 3 classroom hours in prescriptive practice, conducted by an accredited program approved by the boards, which course covers the limitations, responsibilities, and privileges involved in prescribing medicinal drugs, or evidence that he or she has received education comparable to the continuing education course as part of an accredited physician assistant training program.

4. The physician assistant must file with the department, before commencing to prescribe, evidence that the physician assistant has a minimum of 3 months of clinical experience in the specialty area of the supervising physician.

5. The physician assistant must file with the department a signed affidavit that he or she has completed a minimum of 10 continuing medical education hours in the specialty practice in which the physician assistant has prescriptive privileges with each licensure renewal application.

6. The department shall issue a license and a prescriber number to the physician assistant granting authority for the prescribing of medicinal drugs authorized within this paragraph upon completion of the foregoing requirements.

7. The prescription must be written in a form that complies with chapter 499 and must contain, in addition to the supervisory physician's name, address, and telephone number, the physician assistant's prescriber number. *Unless it is a drug sample dispensed by the physician assistant,* the prescription must be filled in a pharmacy permitted under chapter 465 and must be dispensed in that pharmacy by a pharmacist licensed under chapter 465. The appearance of the prescriber number creates a presumption that the physician assistant is authorized to prescribe the medicinal drug and the prescription is valid.

8. The physician assistant must note the prescription in the appropriate medical record, and the supervisory physician must review

and sign each notation. For dispensing purposes only, the failure of the supervisory physician to comply with these requirements does not affect the validity of the prescription.

9. This paragraph does not prohibit a supervisory physician from delegating to a physician assistant the authority to order medication for a hospitalized patient of the supervisory physician.

This paragraph does not apply to facilities licensed pursuant to chapter 395.

(f)1. ~~There is created a five-member committee appointed by the Secretary of Health. The committee must be composed of one fully licensed physician assistant licensed pursuant to this section or s. 459.022, two physicians licensed pursuant to this chapter, one of whom supervises a fully licensed physician assistant, one osteopathic physician licensed pursuant to chapter 459, and one pharmacist licensed pursuant to chapter 465 who is not licensed pursuant to this chapter or chapter 459.~~ The *council* ~~committee~~ shall establish a formulary of medicinal drugs *that* ~~for which~~ a fully licensed physician assistant*, licensed under this section or s. 459.022,* may *not* prescribe. The formulary *must* ~~may not~~ include controlled substances as defined in chapter 893, ~~antineoplastics,~~ antipsychotics, ~~radiopharmaceuticals,~~ general anesthetics *and* ~~or~~ radiographic contrast materials, *and all* ~~or any~~ parenteral preparations except insulin and epinephrine.

2. In establishing the formulary, the council shall consult with a pharmacist licensed under chapter 465, but not licensed under this chapter or chapter 459, who shall be selected by the Secretary of Health.

3.~~2.~~ Only the *council* ~~committee~~ shall add to, delete from, or modify the formulary. Any person who requests an addition, deletion, or modification of a medicinal drug listed on such formulary has the burden of proof to show cause why such addition, deletion, or modification should be made.

4.~~3.~~ The boards shall adopt the formulary required by this paragraph, and each addition, deletion, or modification to the formulary, by rule. Notwithstanding any provision of chapter 120 to the contrary, the formulary rule shall be effective 60 days after the date it is filed with the Secretary of State. Upon adoption of the formulary, the department shall mail a copy of such formulary to each fully licensed physician assistant*, licensed under this section or s. 459.022,* and to each pharmacy licensed by the state. The boards shall establish, by rule, a fee not to exceed $200 to fund the provisions of this paragraph and paragraph (e).

Section 54. Subsection (4) and paragraph (c) of subsection (9) of section 459.022, Florida Statutes, are amended to read:

459.022 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(a) The boards shall adopt, by rule, the general principles that supervising physicians must use in developing the scope of practice of a physician assistant under direct supervision and under indirect supervision. These principles shall recognize the diversity of both specialty and practice settings in which physician assistants are used.

(b) This chapter does not prevent third-party payors from reimbursing employers of physician assistants for covered services rendered by licensed physician assistants.

(c) Licensed physician assistants may not be denied clinical hospital privileges, except for cause, so long as the supervising physician is a staff member in good standing.

(d) A supervisory physician may delegate to a licensed physician assistant, pursuant to a written protocol, the authority to act according to s. 154.04(1)(c). Such delegated authority is limited to the supervising physician's practice in connection with a county health department as defined and established pursuant to chapter 154. The boards shall adopt rules governing the supervision of physician assistants by physicians in county health departments.

(e) A supervisory physician may delegate to a fully licensed physician assistant the authority to prescribe any medication used in the supervisory physician's practice *unless* ~~if~~ such medication is listed on the formulary created pursuant to s. 458.347. A fully licensed physician assistant may only prescribe such medication under the following circumstances:

1. A physician assistant must clearly identify to the patient that she or he is a physician assistant. Furthermore, the physician assistant must inform the patient that the patient has the right to see the physician prior to any prescription being prescribed by the physician assistant.

2. The supervisory physician must notify the department of her or his intent to delegate, on a department-approved form, before delegating such authority and notify the department of any change in prescriptive privileges of the physician assistant.

3. The physician assistant must file with the department, before commencing to prescribe, evidence that she or he has completed a continuing medical education course of at least 3 classroom hours in prescriptive practice, conducted by an accredited program approved by the boards, which course covers the limitations, responsibilities, and privileges involved in prescribing medicinal drugs, or evidence that she or he has received education comparable to the continuing education course as part of an accredited physician assistant training program.

4. The physician assistant must file with the department, before commencing to prescribe, evidence that the physician assistant has a minimum of 3 months of clinical experience in the specialty area of the supervising physician.

5. The physician assistant must file with the department a signed affidavit that she or he has completed a minimum of 10 continuing medical education hours in the specialty practice in which the physician assistant has prescriptive privileges with each licensure renewal application.

6. The department shall issue a license and a prescriber number to the physician assistant granting authority for the prescribing of medicinal drugs authorized within this paragraph upon completion of the foregoing requirements.

7. The prescription must be written in a form that complies with chapter 499 and must contain, in addition to the supervisory physician's name, address, and telephone number, the physician assistant's prescriber number. *Unless it is a drug sample dispensed by the physician assistant,* the prescription must be filled in a pharmacy permitted under chapter 465, and must be dispensed in that pharmacy by a pharmacist licensed under chapter 465. The appearance of the prescriber number creates a presumption that the physician assistant is authorized to prescribe the medicinal drug and the prescription is valid.

8. The physician assistant must note the prescription in the appropriate medical record, and the supervisory physician must review and sign each notation. For dispensing purposes only, the failure of the supervisory physician to comply with these requirements does not affect the validity of the prescription.

9. This paragraph does not prohibit a supervisory physician from delegating to a physician assistant the authority to order medication for a hospitalized patient of the supervisory physician.

This paragraph does not apply to facilities licensed pursuant to chapter 395.

~~(f)1. There is created a five-member committee appointed by the Secretary of Health. The committee must be composed of one fully licensed physician assistant licensed pursuant to this section or s. 458.347, two physicians licensed pursuant to chapter 458, one of whom supervises a fully licensed physician assistant, one osteopathic physician licensed pursuant to this chapter, and one pharmacist licensed pursuant to chapter 465 who is not licensed pursuant to this chapter or chapter 458. The committee shall establish a formulary of medicinal drugs for which a fully licensed physician assistant may~~

~~prescribe. The formulary may not include controlled substances as defined in chapter 893, antineoplastics, antipsychotics, radiopharmaceuticals, general anesthetics or radiographic contrast materials, or any parenteral preparations except insulin and epinephrine.~~

~~2. Only the committee shall add to, delete from, or modify the formulary. Any person who requests an addition, deletion, or modification of a medicinal drug listed on such formulary has the burden of proof to show cause why such addition, deletion, or modification should be made.~~

~~3. The boards shall adopt the formulary required by this paragraph, and each addition, deletion, or modification to the formulary, by rule. Notwithstanding any provision of chapter 120 to the contrary, the formulary rule shall be effective 60 days after the date it is filed with the Secretary of State. Upon adoption of the formulary, the department shall mail a copy of such formulary to each fully licensed physician assistant and to each pharmacy licensed by the state. The boards shall establish, by rule, a fee not to exceed $200 to fund the provisions of this paragraph and paragraph (e).~~

(9) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on Physician Assistants is created within the department.

(c) The council shall:

1. Recommend to the department the licensure of physician assistants.

2. Develop all rules regulating the use of physician assistants by physicians under chapter 458 and this chapter, except for rules relating to the formulary developed under s. 458.347~~(4)(f)~~. The council shall also develop rules to ensure that the continuity of supervision is maintained in each practice setting. The boards shall consider adopting a proposed rule developed by the council at the regularly scheduled meeting immediately following the submission of the proposed rule by the council. A proposed rule submitted by the council may not be adopted by either board unless both boards have accepted and approved the identical language contained in the proposed rule. The language of all proposed rules submitted by the council must be approved by both boards pursuant to each respective board's guidelines and standards regarding the adoption of proposed rules. If either board rejects the council's proposed rule, that board must specify its objection to the council with particularity and include any recommendations it may have for the modification of the proposed rule.

3. Make recommendations to the boards regarding all matters relating to physician assistants.

4. Address concerns and problems of practicing physician assistants in order to improve safety in the clinical practices of licensed physician assistants.

Section 55. Subsection (6) is added to section 456.003, Florida Statutes, to read:

456.003 Legislative intent; requirements.—

(6) Unless expressly and specifically granted in statute, the duties conferred on the boards do not include the enlargement, modification, or contravention of the lawful scope of practice of the profession regulated by the boards. This subsection shall not prohibit the boards, or the department when there is no board, from taking disciplinary action or issuing a declaratory statement.

Section 56. *(1)(a) The Agency for Health Care Administration shall create an Organ Transplant Task Force within the Agency for Health Care Administration, which task force must be funded by existing agency funds.*

(b) Task force participants shall be responsible for only the expenses that they generate individually through participation. The agency shall be responsible for expenses incidental to the production of any required data or reports.

(2) The task force shall consist of up to 15 members. The task force chairperson shall be selected by majority vote of a quorum present. Eight members shall constitute a quorum. The membership shall include, but not be limited to, a balance of members representing the Agency for Health Care Administration, health care facilities that have existing organ transplantation programs, individual organ transplant health care practitioners, pediatric organ transplantation programs, organ procurement agencies, and organ transplant recipients or family members.

(3) The task force shall meet for the purpose of studying and making recommendations regarding current and future supply of organs in relation to the number of existing organ transplantation programs and the future necessity of the issuance of a certificate of need for proposed organ transplantation programs. At a minimum, the task force shall submit a report to the Legislature which includes a summary of the methods of allocation and distribution of organs; a list of facilities performing multiple organ transplants and the number being performed; the number of Medicaid and charity care patients who have received organ transplants by existing organ transplant programs; suggested mechanisms for funding organ transplants, which shall include, but need not be limited to, an organ transplant trust fund for the treatment of Medicaid and charity patients; the impact of trends in health care delivery and financing on organ transplantation; and the number of certificates of need applications reviewed by the Agency for Health Care Administration in the last 5 years, including the number approved or denied and the number litigated.

(4) The task force shall meet at the call of the chairperson. The task force shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 15, 2002. The task force is abolished effective December 31, 2002.

Section 57. Section 409.9205, Florida Statutes, is amended to read:

409.9205 Medicaid Fraud Control Unit~~; law enforcement officers~~.—

(1) Except as provided in s. 110.205, all positions in the Medicaid Fraud Control Unit of the Department of Legal Affairs are hereby transferred to the Career Service System.

(2) All investigators employed by the Medicaid Fraud Control Unit who have been certified under s. 943.1395 are law enforcement officers of the state. Such investigators have the authority to conduct criminal investigations, bear arms, make arrests, and apply for, serve, and execute search warrants, arrest warrants, capias, and other process throughout the state pertaining to Medicaid fraud as described in this chapter. The Attorney General shall provide reasonable notice of criminal investigations conducted by the Medicaid Fraud Control Unit to, and coordinate those investigations with, the sheriffs of the respective counties. ~~Investigators employed by the Medicaid Fraud Control Unit are not eligible for membership in the Special Risk Class of the Florida Retirement System under s. 121.0515.~~

Section 58. Subsection (1) of section 483.245, Florida Statutes, is amended to read:

483.245 Rebates prohibited; penalties.—

(1) It is unlawful for any person to pay or receive any commission, bonus, kickback, or rebate or engage in any split-fee arrangement in any form whatsoever with any *dialysis facility,* physician, surgeon, organization, agency, or person, either directly or indirectly, for patients referred to a clinical laboratory licensed under this part.

Section 59. Subsection (3) of section 232.435, Florida Statutes, is amended to read:

232.435 Extracurricular athletic activities; athletic trainers.—

(3)~~(a)~~ To the extent practicable, a school district program should include the following employment classification and advancement scheme:

1. *First responder - To qualify as a first responder, a person must possess a professional, temporary, part-time, adjunct, or substitute*

certificate pursuant to s. 231.17, be certified in cardiopulmonary resuscitation, first aid, and have 15 semester hours in courses such as care and prevention of athletic injuries, anatomy, physiology, nutrition, counseling, and other similar courses approved by the Commissioner of Education. This person may only administer first aid and similar care.

~~1. Teacher apprentice trainer I.—To qualify as a teacher apprentice trainer I, a person must possess a professional, temporary, part-time, adjunct, or substitute certificate pursuant to s. 231.17, be certified in first aid and cardiopulmonary resuscitation, and have earned a minimum of 6 semester hours or the equivalent number of inservice education points in the basic prevention and care of athletic injuries.~~

~~2. Teacher apprentice trainer II.—To qualify as a teacher apprentice trainer II, a person must meet the requirements of teacher apprentice trainer I and also have earned a minimum of 15 additional semester hours or the equivalent number of inservice education points in such courses as anatomy, physiology, use of modalities, nutrition, counseling, and other courses approved by the Commissioner of Education.~~

2.~~3.~~ Teacher athletic trainer.—To qualify as a teacher athletic trainer, a person must *possess a professional, temporary, part-time, adjunct, or substitute certificate pursuant to s. 232.17, and be licensed as required by part XIII of chapter 468* ~~meet the requirements of teacher apprentice trainer II, be certified by the Department of Education or a nationally recognized athletic trainer association, and perform one or more of the following functions: preventing athletic injuries; recognizing, evaluating, managing, treating, and rehabilitating athletic injuries; administering an athletic training program; and educating and counseling athletes~~.

~~(b) If a school district uses the services of an athletic trainer who is not a teacher athletic trainer or a teacher apprentice trainer within the requirements of this section, such athletic trainer must be licensed as required by part XIII of chapter 468.~~

Section 60. Paragraph (b) of subsection (1) of section 383.14, Florida Statutes, is amended to read:

383.14 Screening for metabolic disorders, other hereditary and congenital disorders, and environmental risk factors.—

(1) SCREENING REQUIREMENTS.—To help ensure access to the maternal and child health care system, the Department of Health shall promote the screening of all infants born in Florida for phenylketonuria and other metabolic, hereditary, and congenital disorders known to result in significant impairment of health or intellect, as screening programs accepted by current medical practice become available and practical in the judgment of the department. The department shall also promote the identification and screening of all infants born in this state and their families for environmental risk factors such as low income, poor education, maternal and family stress, emotional instability, substance abuse, and other high-risk conditions associated with increased risk of infant mortality and morbidity to provide early intervention, remediation, and prevention services, including, but not limited to, parent support and training programs, home visitation, and case management. Identification, perinatal screening, and intervention efforts shall begin prior to and immediately following the birth of the child by the attending health care provider. Such efforts shall be conducted in hospitals, perinatal centers, county health departments, school health programs that provide prenatal care, and birthing centers, and reported to the Office of Vital Statistics.

(b) Postnatal screening.—A risk factor analysis using the department's designated risk assessment instrument shall also be conducted as part of the medical screening process upon the birth of a child and submitted to the department's Office of Vital Statistics for recording and other purposes provided for in this chapter. The department's screening process for risk assessment shall include a scoring mechanism and procedures that establish thresholds for notification, further assessment, referral, and eligibility for services by professionals or paraprofessionals consistent with the level of risk. Procedures for developing and using the screening instrument, notification, referral, and care coordination services, reporting requirements, management information, and maintenance of a computer-driven registry in the Office of Vital Statistics which ensures privacy safeguards must be consistent with the provisions and plans established under chapter 411, Pub. L. No. 99-457, and this chapter. Procedures established for reporting information and maintaining a confidential registry must include a mechanism for a centralized information depository at the state and county levels. The department shall coordinate with existing risk assessment systems and information registries. The department must ensure, to the maximum extent possible, that the screening information registry is integrated with the department's automated data systems, including the Florida On-line Recipient Integrated Data Access (FLORIDA) system. Tests and screenings must be performed *by the State Public Health Laboratory, in coordination with Children's Medical Services,* at such times and in such manner as is prescribed by the department after consultation with the Genetics and Infant Screening Advisory Council and the State Coordinating Council for School Readiness Programs.

Section 61. Section 395.0197, Florida Statutes, is amended to read:

395.0197 Internal risk management program.—

(1) Every licensed facility shall, as a part of its administrative functions, establish an internal risk management program that includes all of the following components:

(a) The investigation and analysis of the frequency and causes of general categories and specific types of adverse incidents to patients.

(b) The development of appropriate measures to minimize the risk of adverse incidents to patients, including, but not limited to:

1. Risk management and risk prevention education and training of all nonphysician personnel as follows:

a. Such education and training of all nonphysician personnel as part of their initial orientation; and

b. At least 1 hour of such education and training annually for all ~~nonphysician~~ personnel of the licensed facility working in clinical areas and providing patient care*, except those persons licensed as health care practitioners who are required to complete continuing education coursework pursuant to chapter 456 or the respective practice act*.

2. A prohibition, except when emergency circumstances require otherwise, against a staff member of the licensed facility attending a patient in the recovery room, unless the staff member is authorized to attend the patient in the recovery room and is in the company of at least one other person. However, a licensed facility is exempt from the two-person requirement if it has:

a. Live visual observation;

b. Electronic observation; or

c. Any other reasonable measure taken to ensure patient protection and privacy.

3. A prohibition against an unlicensed person from assisting or participating in any surgical procedure unless the facility has authorized the person to do so following a competency assessment, and such assistance or participation is done under the direct and immediate supervision of a licensed physician and is not otherwise an activity that may only be performed by a licensed health care practitioner.

4. Development, implementation, and ongoing evaluation of procedures, protocols, and systems to accurately identify patients, planned procedures, and the correct site of the planned procedure so as to minimize the performance of a surgical procedure on the wrong patient, a wrong surgical procedure, a wrong-site surgical procedure, or a surgical procedure otherwise unrelated to the patient's diagnosis or medical condition.

(c) The analysis of patient grievances that relate to patient care and the quality of medical services.

(d) The development and implementation of an incident reporting system based upon the affirmative duty of all health care providers and

all agents and employees of the licensed health care facility to report adverse incidents to the risk manager, or to his or her designee, within 3 business days after their occurrence.

(2) The internal risk management program is the responsibility of the governing board of the health care facility. Each licensed facility shall hire a risk manager, licensed under *s. 395.10974* ~~part IX of chapter 626~~, who is responsible for implementation and oversight of such facility's internal risk management program as required by this section. A risk manager must not be made responsible for more than four internal risk management programs in separate licensed facilities, unless the facilities are under one corporate ownership or the risk management programs are in rural hospitals.

(3) In addition to the programs mandated by this section, other innovative approaches intended to reduce the frequency and severity of medical malpractice and patient injury claims shall be encouraged and their implementation and operation facilitated. Such additional approaches may include extending internal risk management programs to health care providers' offices and the assuming of provider liability by a licensed health care facility for acts or omissions occurring within the licensed facility.

(4) The agency shall~~, after consulting with the Department of Insurance,~~ adopt rules governing the establishment of internal risk management programs to meet the needs of individual licensed facilities. Each internal risk management program shall include the use of incident reports to be filed with an individual of responsibility who is competent in risk management techniques in the employ of each licensed facility, such as an insurance coordinator, or who is retained by the licensed facility as a consultant. The individual responsible for the risk management program shall have free access to all medical records of the licensed facility. The incident reports are part of the workpapers of the attorney defending the licensed facility in litigation relating to the licensed facility and are subject to discovery, but are not admissible as evidence in court. A person filing an incident report is not subject to civil suit by virtue of such incident report. As a part of each internal risk management program, the incident reports shall be used to develop categories of incidents which identify problem areas. Once identified, procedures shall be adjusted to correct the problem areas.

(5) For purposes of reporting to the agency pursuant to this section, the term "adverse incident" means an event over which health care personnel could exercise control and which is associated in whole or in part with medical intervention, rather than the condition for which such intervention occurred, and which:

(a) Results in one of the following injuries:

1. Death;

2. Brain or spinal damage;

3. Permanent disfigurement;

4. Fracture or dislocation of bones or joints;

5. A resulting limitation of neurological, physical, or sensory function which continues after discharge from the facility;

6. Any condition that required specialized medical attention or surgical intervention resulting from nonemergency medical intervention, other than an emergency medical condition, to which the patient has not given his or her informed consent; or

7. Any condition that required the transfer of the patient, within or outside the facility, to a unit providing a more acute level of care due to the adverse incident, rather than the patient's condition prior to the adverse incident;

(b) Was the performance of a surgical procedure on the wrong patient, a wrong surgical procedure, a wrong-site surgical procedure, or a surgical procedure otherwise unrelated to the patient's diagnosis or medical condition;

(c) Required the surgical repair of damage resulting to a patient from a planned surgical procedure, where the damage was not a recognized specific risk, as disclosed to the patient and documented through the informed-consent process; or

(d) Was a procedure to remove unplanned foreign objects remaining from a surgical procedure.

(6)(a) Each licensed facility subject to this section shall submit an annual report to the agency summarizing the incident reports that have been filed in the facility for that year. The report shall include:

1. The total number of adverse incidents.

2. A listing, by category, of the types of operations, diagnostic or treatment procedures, or other actions causing the injuries, and the number of incidents occurring within each category.

3. A listing, by category, of the types of injuries caused and the number of incidents occurring within each category.

4. A code number using the health care professional's licensure number and a separate code number identifying all other individuals directly involved in adverse incidents to patients, the relationship of the individual to the licensed facility, and the number of incidents in which each individual has been directly involved. Each licensed facility shall maintain names of the health care professionals and individuals identified by code numbers for purposes of this section.

5. A description of all malpractice claims filed against the licensed facility, including the total number of pending and closed claims and the nature of the incident which led to, the persons involved in, and the status and disposition of each claim. Each report shall update status and disposition for all prior reports.

(b) The information reported to the agency pursuant to paragraph (a) which relates to persons licensed under chapter 458, chapter 459, chapter 461, or chapter 466 shall be reviewed by the agency. The agency shall determine whether any of the incidents potentially involved conduct by a health care professional who is subject to disciplinary action, in which case the provisions of s. 456.073 shall apply.

(c) The report submitted to the agency shall also contain the name and license number of the risk manager of the licensed facility, a copy of its policy and procedures which govern the measures taken by the facility and its risk manager to reduce the risk of injuries and adverse incidents, and the results of such measures. The annual report is confidential and is not available to the public pursuant to s. 119.07(1) or any other law providing access to public records. The annual report is not discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or the appropriate regulatory board. The annual report is not available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the agency or the appropriate regulatory board. However, the agency or the appropriate regulatory board shall make available, upon written request by a health care professional against whom probable cause has been found, any such records which form the basis of the determination of probable cause.

(7) The licensed facility shall notify the agency no later than 1 business day after the risk manager or his or her designee has received a report pursuant to paragraph (1)(d) and can determine within 1 business day that any of the following adverse incidents has occurred, whether occurring in the licensed facility or arising from health care prior to admission in the licensed facility:

(a) The death of a patient;

(b) Brain or spinal damage to a patient;

(c) The performance of a surgical procedure on the wrong patient;

(d) The performance of a wrong-site surgical procedure; or

(e) The performance of a wrong surgical procedure.

The notification must be made in writing and be provided by facsimile device or overnight mail delivery. The notification must include information regarding the identity of the affected patient, the type of

adverse incident, the initiation of an investigation by the facility, and whether the events causing or resulting in the adverse incident represent a potential risk to other patients.

(8) Any of the following adverse incidents, whether occurring in the licensed facility or arising from health care prior to admission in the licensed facility, shall be reported by the facility to the agency within 15 calendar days after its occurrence:

(a) The death of a patient;

(b) Brain or spinal damage to a patient;

(c) The performance of a surgical procedure on the wrong patient;

(d) The performance of a wrong-site surgical procedure;

(e) The performance of a wrong surgical procedure;

(f) The performance of a surgical procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition;

(g) The surgical repair of damage resulting to a patient from a planned surgical procedure, where the damage is not a recognized specific risk, as disclosed to the patient and documented through the informed-consent process; or

(h) The performance of procedures to remove unplanned foreign objects remaining from a surgical procedure.

The agency may grant extensions to this reporting requirement for more than 15 days upon justification submitted in writing by the facility administrator to the agency. The agency may require an additional, final report. These reports shall not be available to the public pursuant to s. 119.07(1) or any other law providing access to public records, nor be discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or the appropriate regulatory board, nor shall they be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the agency or the appropriate regulatory board. However, the agency or the appropriate regulatory board shall make available, upon written request by a health care professional against whom probable cause has been found, any such records which form the basis of the determination of probable cause. The agency may investigate, as it deems appropriate, any such incident and prescribe measures that must or may be taken in response to the incident. The agency shall review each incident and determine whether it potentially involved conduct by the health care professional who is subject to disciplinary action, in which case the provisions of s. 456.073 shall apply.

(9) The agency shall publish on the agency's website, no less than quarterly, a summary and trend analysis of adverse incident reports received pursuant to this section, which shall not include information that would identify the patient, the reporting facility, or the health care practitioners involved. The agency shall publish on the agency's website an annual summary and trend analysis of all adverse incident reports and malpractice claims information provided by facilities in their annual reports, which shall not include information that would identify the patient, the reporting facility, or the practitioners involved. The purpose of the publication of the summary and trend analysis is to promote the rapid dissemination of information relating to adverse incidents and malpractice claims to assist in avoidance of similar incidents and reduce morbidity and mortality.

(10)~~(9)~~ The internal risk manager of each licensed facility shall:

(a) Investigate every allegation of sexual misconduct which is made against a member of the facility's personnel who has direct patient contact, when the allegation is that the sexual misconduct occurred at the facility or on the grounds of the facility.~~; and~~

(b) Report every allegation of sexual misconduct to the administrator of the licensed facility.

(c) Notify the family or guardian of the victim, if a minor, that an allegation of sexual misconduct has been made and that an investigation is being conducted.~~;~~

(d) Report to the Department of Health every allegation of sexual misconduct, as defined in chapter 456 and the respective practice act, by a licensed health care practitioner that involves a patient.

(11)~~(10)~~ Any witness who witnessed or who possesses actual knowledge of the act that is the basis of an allegation of sexual abuse shall:

(a) Notify the local police; and

(b) Notify the hospital risk manager and the administrator.

For purposes of this subsection, "sexual abuse" means acts of a sexual nature committed for the sexual gratification of anyone upon, or in the presence of, a vulnerable adult, without the vulnerable adult's informed consent, or a minor. "Sexual abuse" includes, but is not limited to, the acts defined in s. 794.011(1)(h), fondling, exposure of a vulnerable adult's or minor's sexual organs, or the use of the vulnerable adult or minor to solicit for or engage in prostitution or sexual performance. "Sexual abuse" does not include any act intended for a valid medical purpose or any act which may reasonably be construed to be a normal caregiving action.

(12)~~(11)~~ A person who, with malice or with intent to discredit or harm a licensed facility or any person, makes a false allegation of sexual misconduct against a member of a licensed facility's personnel is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(13)~~(12)~~ In addition to any penalty imposed pursuant to this section, the agency shall require a written plan of correction from the facility. For a single incident or series of isolated incidents that are nonwillful violations of the reporting requirements of this section, the agency shall first seek to obtain corrective action by the facility. If the correction is not demonstrated within the timeframe established by the agency or if there is a pattern of nonwillful violations of this section, the agency may impose an administrative fine, not to exceed $5,000 for any violation of the reporting requirements of this section. The administrative fine for repeated nonwillful violations shall not exceed $10,000 for any violation. The administrative fine for each intentional and willful violation may not exceed $25,000 per violation, per day. The fine for an intentional and willful violation of this section may not exceed $250,000. In determining the amount of fine to be levied, the agency shall be guided by s. 395.1065(2)(b). This subsection does not apply to the notice requirements under subsection (7).

(14)~~(13)~~ The agency shall have access to all licensed facility records necessary to carry out the provisions of this section. The records obtained by the agency under subsection (6), subsection (8), or subsection *(10)* ~~(9)~~ are not available to the public under s. 119.07(1), nor shall they be discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or the appropriate regulatory board, nor shall records obtained pursuant to s. 456.071 be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the agency or the appropriate regulatory board. However, the agency or the appropriate regulatory board shall make available, upon written request by a health care professional against whom probable cause has been found, any such records which form the basis of the determination of probable cause, except that, with respect to medical review committee records, s. 766.101 controls.

(15)~~(14)~~ The meetings of the committees and governing board of a licensed facility held solely for the purpose of achieving the objectives of risk management as provided by this section shall not be open to the public under the provisions of chapter 286. The records of such meetings are confidential and exempt from s. 119.07(1), except as provided in subsection *(14)* ~~(13)~~.

(16)~~(15)~~ The agency shall review, as part of its licensure inspection process, the internal risk management program at each licensed facility

regulated by this section to determine whether the program meets standards established in statutes and rules, whether the program is being conducted in a manner designed to reduce adverse incidents, and whether the program is appropriately reporting incidents under *this section* ~~subsections (5), (6), (7), and (8)~~.

(17)~~(16)~~ There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any risk manager, licensed under *s. 395.10974* ~~part IX of chapter 626~~, for the implementation and oversight of the internal risk management program in a facility licensed under this chapter or chapter 390 as required by this section, for any act or proceeding undertaken or performed within the scope of the functions of such internal risk management program if the risk manager acts without intentional fraud.

(18) A privilege against civil liability is hereby granted to any licensed risk manager or licensed facility with regard to information furnished pursuant to this chapter, unless the licensed risk manager or facility acted in bad faith or with malice in providing such information.

(19)~~(17)~~ If the agency, through its receipt of *any reports required under this section* ~~the annual reports prescribed in subsection (6)~~ or through any investigation, has a reasonable belief that conduct by a staff member or employee of a licensed facility is grounds for disciplinary action by the appropriate regulatory board, the agency shall report this fact to such regulatory board.

~~(18) The agency shall annually publish a report summarizing the information contained in the annual incident reports submitted by licensed facilities pursuant to subsection (6) and disciplinary actions reported to the agency pursuant to s. 395.0193. The report must, at a minimum, summarize:~~

~~(a) Adverse incidents, by category of reported incident, and by type of professional involved.~~

~~(b) Types of malpractice claims filed, by type of professional involved.~~

~~(c) Disciplinary actions taken against professionals, by type of professional involved.~~

(20) It shall be unlawful for any person to coerce, intimidate, or preclude a risk manager from lawfully executing his or her reporting obligations pursuant to this chapter. Such unlawful action shall be subject to civil monetary penalties not to exceed $10,000 per violation.

Section 62. Section 395.10972, Florida Statutes, is amended to read:

395.10972 Health Care Risk Manager Advisory Council.—The Secretary of Health Care Administration may appoint a *seven-member* ~~five-member~~ advisory council to advise the agency on matters pertaining to health care risk managers. The members of the council shall serve at the pleasure of the secretary. The council shall designate a chair. The council shall meet at the call of the secretary or at those times as may be required by rule of the agency. The members of the advisory council shall receive no compensation for their services, but shall be reimbursed for travel expenses as provided in s. 112.061. The council shall consist of individuals representing the following areas:

(1) Two shall be active health care risk managers*, including one risk manager who is recommended by and a member of the Florida Society of Healthcare Risk Management*.

(2) One shall be an active hospital administrator.

(3) One shall be an employee of an insurer or self-insurer of medical malpractice coverage.

(4) One shall be a representative of the health-care-consuming public.

(5) Two shall be licensed health care practitioners, one of whom shall be licensed as a physician under chapter 458 or chapter 459.

Section 63. Paragraph (b) of subsection (2) of section 395.701, Florida Statutes, is amended to read:

395.701 Annual assessments on net operating revenues for inpatient *and outpatient* services to fund public medical assistance; administrative fines for failure to pay assessments when due; exemption.—

(2)

(b) There is imposed upon each hospital an assessment in an amount equal to 1 percent of the annual net operating revenue for outpatient services for each hospital, such revenue to be determined by the agency, based on the actual experience of the hospital as reported to the agency. *While prior year report worksheets may be reconciled to the hospital's audited financial statements, no additional audited financial components may be required for the purposes of determining the amount of the assessment imposed pursuant to this section other than those in effect on July 1, 2000.* Within 6 months after the end of each hospital fiscal year, the agency shall certify the amount of the assessment for each hospital. The assessment shall be payable to and collected by the agency in equal quarterly amounts, on or before the first day of each calendar quarter, beginning with the first full calendar quarter that occurs after the agency certifies the amount of the assessment for each hospital. All moneys collected pursuant to this subsection shall be deposited into the Public Medical Assistance Trust Fund.

Section 64. Section 409.905, Florida Statutes, is amended to read:

409.905 Mandatory Medicaid services.—The agency may make payments for the following services, which are required of the state by Title XIX of the Social Security Act, furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any service under this section shall be provided only when medically necessary and in accordance with state and federal law. *Mandatory services rendered by providers in mobile units to Medicaid recipients may be restricted by the agency.* Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, number of services, or any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216.

(1) ADVANCED REGISTERED NURSE PRACTITIONER SERVICES.—The agency shall pay for services provided to a recipient by a licensed advanced registered nurse practitioner who has a valid collaboration agreement with a licensed physician on file with the Department of Health or who provides anesthesia services in accordance with established protocol required by state law and approved by the medical staff of the facility in which the anesthetic service is performed. Reimbursement for such services must be provided in an amount that equals not less than 80 percent of the reimbursement to a physician who provides the same services, unless otherwise provided for in the General Appropriations Act.

(2) EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT SERVICES.—The agency shall pay for early and periodic screening and diagnosis of a recipient under age 21 to ascertain physical and mental problems and conditions and provide treatment to correct or ameliorate these problems and conditions. These services include all services determined by the agency to be medically necessary for the treatment, correction, or amelioration of these problems, including personal care, private duty nursing, durable medical equipment, physical therapy, occupational therapy, speech therapy, respiratory therapy, and immunizations.

(3) FAMILY PLANNING SERVICES.—The agency shall pay for services necessary to enable a recipient voluntarily to plan family size or to space children. These services include information; education; counseling regarding the availability, benefits, and risks of each method of pregnancy prevention; drugs and supplies; and necessary medical care and followup. Each recipient participating in the family planning portion of the Medicaid program must be provided freedom to choose any alternative method of family planning, as required by federal law.

(4) HOME HEALTH CARE SERVICES.—The agency shall pay for nursing and home health aide services, supplies, appliances, and

durable medical equipment, necessary to assist a recipient living at home. An entity that provides services pursuant to this subsection shall be licensed under part IV of chapter 400 or part II of chapter 499, if appropriate. These services, equipment, and supplies, or reimbursement therefor, may be limited as provided in the General Appropriations Act and do not include services, equipment, or supplies provided to a person residing in a hospital or nursing facility. In providing home health care services, the agency may require prior authorization of care based on diagnosis.

(5) HOSPITAL INPATIENT SERVICES.—The agency shall pay for all covered services provided for the medical care and treatment of a recipient who is admitted as an inpatient by a licensed physician or dentist to a hospital licensed under part I of chapter 395. However, the agency shall limit the payment for inpatient hospital services for a Medicaid recipient 21 years of age or older to 45 days or the number of days necessary to comply with the General Appropriations Act.

(a) The agency is authorized to implement reimbursement and utilization management reforms in order to comply with any limitations or directions in the General Appropriations Act, which may include, but are not limited to: prior authorization for inpatient psychiatric days; enhanced utilization and concurrent review programs for highly utilized services; reduction or elimination of covered days of service; adjusting reimbursement ceilings for variable costs; adjusting reimbursement ceilings for fixed and property costs; and implementing target rates of increase.

(b) A licensed hospital maintained primarily for the care and treatment of patients having mental disorders or mental diseases is not eligible to participate in the hospital inpatient portion of the Medicaid program except as provided in federal law. However, the department shall apply for a waiver, within 9 months after June 5, 1991, designed to provide hospitalization services for mental health reasons to children and adults in the most cost-effective and lowest cost setting possible. Such waiver shall include a request for the opportunity to pay for care in hospitals known under federal law as "institutions for mental disease" or "IMD's." The waiver proposal shall propose no additional aggregate cost to the state or Federal Government, and shall be conducted in Hillsborough County, Highlands County, Hardee County, Manatee County, and Polk County. The waiver proposal may incorporate competitive bidding for hospital services, comprehensive brokering, prepaid capitated arrangements, or other mechanisms deemed by the department to show promise in reducing the cost of acute care and increasing the effectiveness of preventive care. When developing the waiver proposal, the department shall take into account price, quality, accessibility, linkages of the hospital to community services and family support programs, plans of the hospital to ensure the earliest discharge possible, and the comprehensiveness of the mental health and other health care services offered by participating providers.

(c) Agency for Health Care Administration shall adjust a hospital's current inpatient per diem rate to reflect the cost of serving the Medicaid population at that institution if:

1. The hospital experiences an increase in Medicaid caseload by more than 25 percent in any year, primarily resulting from the closure of a hospital in the same service area occurring after July 1, 1995; or

2. The hospital's Medicaid per diem rate is at least 25 percent below the Medicaid per patient cost for that year.

No later than November 1, 2000, the agency must provide estimated costs for any adjustment in a hospital inpatient per diem pursuant to this paragraph to the Executive Office of the Governor, the House of Representatives General Appropriations Committee, and the Senate Budget Committee. Before the agency implements a change in a hospital's inpatient per diem rate pursuant to this paragraph, the Legislature must have specifically appropriated sufficient funds in the 2001-2002 General Appropriations Act to support the increase in cost as estimated by the agency. This paragraph is repealed on July 1, 2001.

(6) HOSPITAL OUTPATIENT SERVICES.—The agency shall pay for preventive, diagnostic, therapeutic, or palliative care and other services provided to a recipient in the outpatient portion of a hospital licensed under part I of chapter 395, and provided under the direction of a licensed physician or licensed dentist, except that payment for such care and services is limited to $1,500 per state fiscal year per recipient, unless an exception has been made by the agency, and with the exception of a Medicaid recipient under age 21, in which case the only limitation is medical necessity.

(7) INDEPENDENT LABORATORY SERVICES.—The agency shall pay for medically necessary diagnostic laboratory procedures ordered by a licensed physician or other licensed practitioner of the healing arts which are provided for a recipient in a laboratory that meets the requirements for Medicare participation and is licensed under chapter 483, if required.

(8) NURSING FACILITY SERVICES.—The agency shall pay for 24-hour-a-day nursing and rehabilitative services for a recipient in a nursing facility licensed under part II of chapter 400 or in a rural hospital, as defined in s. 395.602, or in a Medicare certified skilled nursing facility operated by a hospital, as defined by s. 395.002(11), that is licensed under part I of chapter 395, and in accordance with provisions set forth in s. 409.908(2)(a), which services are ordered by and provided under the direction of a licensed physician. However, if a nursing facility has been destroyed or otherwise made uninhabitable by natural disaster or other emergency and another nursing facility is not available, the agency must pay for similar services temporarily in a hospital licensed under part I of chapter 395 provided federal funding is approved and available.

(9) PHYSICIAN SERVICES.—The agency shall pay for covered services and procedures rendered to a recipient by, or under the personal supervision of, a person licensed under state law to practice medicine or osteopathic medicine. These services may be furnished in the physician's office, the Medicaid recipient's home, a hospital, a nursing facility, or elsewhere, but shall be medically necessary for the treatment of an injury, illness, or disease within the scope of the practice of medicine or osteopathic medicine as defined by state law. The agency shall not pay for services that are clinically unproven, experimental, or for purely cosmetic purposes.

(10) PORTABLE X-RAY SERVICES.—The agency shall pay for professional and technical portable radiological services ordered by a licensed physician or other licensed practitioner of the healing arts which are provided by a licensed professional in a setting other than a hospital, clinic, or office of a physician or practitioner of the healing arts, on behalf of a recipient.

(11) RURAL HEALTH CLINIC SERVICES.—The agency shall pay for outpatient primary health care services for a recipient provided by a clinic certified by and participating in the Medicare program which is located in a federally designated, rural, medically underserved area and has on its staff one or more licensed primary care nurse practitioners or physician assistants, and a licensed staff supervising physician or a consulting supervising physician.

(12) TRANSPORTATION SERVICES.—The agency shall ensure that appropriate transportation services are available for a Medicaid recipient in need of transport to a qualified Medicaid provider for medically necessary and Medicaid-compensable services, provided a client's ability to choose a specific transportation provider shall be limited to those options resulting from policies established by the agency to meet the fiscal limitations of the General Appropriations Act. The agency may pay for transportation and other related travel expenses as necessary only if these services are not otherwise available.

Section 65. Section 409.906, Florida Statutes, is amended to read:

409.906 Optional Medicaid services.—Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. *Optional services rendered*

by providers in mobile units to Medicaid recipients may be restricted or prohibited by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. If necessary to safeguard the state's systems of providing services to elderly and disabled persons and subject to the notice and review provisions of s. 216.177, the Governor may direct the Agency for Health Care Administration to amend the Medicaid state plan to delete the optional Medicaid service known as "Intermediate Care Facilities for the Developmentally Disabled." Optional services may include:

(1) ADULT DENTURE SERVICES.—The agency may pay for dentures, the procedures required to seat dentures, and the repair and reline of dentures, provided by or under the direction of a licensed dentist, for a recipient who is age 21 or older. *However, Medicaid will not provide reimbursement for dental services provided in a mobile dental unit, except for a mobile dental unit:*

(a) Owned by, operated by, or having a contractual agreement with the Department of Health and complying with Medicaid's county health department clinic services program specifications as a county health department clinic services provider.

(b) Owned by, operated by, or having a contractual arrangement with a federally qualified health center and complying with Medicaid's federally qualified health center specifications as a federally qualified health center provider.

(c) Rendering dental services to Medicaid recipients, 21 years of age and older, at nursing facilities.

(d) Owned by, operated by, or having a contractual agreement with a state-approved dental educational institution.

(2) ADULT HEALTH SCREENING SERVICES.—The agency may pay for an annual routine physical examination, conducted by or under the direction of a licensed physician, for a recipient age 21 or older, without regard to medical necessity, in order to detect and prevent disease, disability, or other health condition or its progression.

(3) AMBULATORY SURGICAL CENTER SERVICES.—The agency may pay for services provided to a recipient in an ambulatory surgical center licensed under part I of chapter 395, by or under the direction of a licensed physician or dentist.

(4) BIRTH CENTER SERVICES.—The agency may pay for examinations and delivery, recovery, and newborn assessment, and related services, provided in a licensed birth center staffed with licensed physicians, certified nurse midwives, and midwives licensed in accordance with chapter 467, to a recipient expected to experience a low-risk pregnancy and delivery.

(5) CASE MANAGEMENT SERVICES.—The agency may pay for primary care case management services rendered to a recipient pursuant to a federally approved waiver, and targeted case management services for specific groups of targeted recipients, for which funding has been provided and which are rendered pursuant to federal guidelines. The agency is authorized to limit reimbursement for targeted case management services in order to comply with any limitations or directions provided for in the General Appropriations Act. Notwithstanding s. 216.292, the Department of Children and Family Services may transfer general funds to the Agency for Health Care Administration to fund state match requirements exceeding the amount specified in the General Appropriations Act for targeted case management services.

(6) CHILDREN'S DENTAL SERVICES.—The agency may pay for diagnostic, preventive, or corrective procedures, including orthodontia in severe cases, provided to a recipient under age 21, by or under the supervision of a licensed dentist. Services provided under this program include treatment of the teeth and associated structures of the oral cavity, as well as treatment of disease, injury, or impairment that may affect the oral or general health of the individual. *However, Medicaid will not provide reimbursement for dental services provided in a mobile dental unit, except for a mobile dental unit:*

(a) Owned by, operated by, or having a contractual agreement with the Department of Health and complying with Medicaid's county health department clinic services program specifications as a county health department clinic services provider.

(b) Owned by, operated by, or having a contractual arrangement with a federally qualified health center and complying with Medicaid's federally qualified health center specifications as a federally qualified health center provider.

(c) Rendering dental services to Medicaid recipients, 21 years of age and older, at nursing facilities.

(d) Owned by, operated by, or having a contractual agreement with a state-approved dental educational institution.

(7) CHIROPRACTIC SERVICES.—The agency may pay for manual manipulation of the spine and initial services, screening, and X rays provided to a recipient by a licensed chiropractic physician.

(8) COMMUNITY MENTAL HEALTH SERVICES.—The agency may pay for rehabilitative services provided to a recipient by a mental health or substance abuse provider licensed by the agency and under contract with the agency or the Department of Children and Family Services to provide such services. Those services which are psychiatric in nature shall be rendered or recommended by a psychiatrist, and those services which are medical in nature shall be rendered or recommended by a physician or psychiatrist. The agency must develop a provider enrollment process for community mental health providers which bases provider enrollment on an assessment of service need. The provider enrollment process shall be designed to control costs, prevent fraud and abuse, consider provider expertise and capacity, and assess provider success in managing utilization of care and measuring treatment outcomes. Providers will be selected through a competitive procurement or selective contracting process. In addition to other community mental health providers, the agency shall consider for enrollment mental health programs licensed under chapter 395 and group practices licensed under chapter 458, chapter 459, chapter 490, or chapter 491. The agency is also authorized to continue operation of its behavioral health utilization management program and may develop new services if these actions are necessary to ensure savings from the implementation of the utilization management system. The agency shall coordinate the implementation of this enrollment process with the Department of Children and Family Services and the Department of Juvenile Justice. The agency is authorized to utilize diagnostic criteria in setting reimbursement rates, to preauthorize certain high-cost or highly utilized services, to limit or eliminate coverage for certain services, or to make any other adjustments necessary to comply with any limitations or directions provided for in the General Appropriations Act.

(9) DIALYSIS FACILITY SERVICES.—Subject to specific appropriations being provided for this purpose, the agency may pay a dialysis facility that is approved as a dialysis facility in accordance with Title XVIII of the Social Security Act, for dialysis services that are provided to a Medicaid recipient under the direction of a physician licensed to practice medicine or osteopathic medicine in this state, including dialysis services provided in the recipient's home by a hospital-based or freestanding dialysis facility.

(10) DURABLE MEDICAL EQUIPMENT.—The agency may authorize and pay for certain durable medical equipment and supplies provided to a Medicaid recipient as medically necessary.

(11) HEALTHY START SERVICES.—The agency may pay for a continuum of risk-appropriate medical and psychosocial services for the Healthy Start program in accordance with a federal waiver. The agency may not implement the federal waiver unless the waiver permits the state to limit enrollment or the amount, duration, and scope of services to ensure that expenditures will not exceed funds appropriated by the Legislature or available from local sources. If the Health Care Financing Administration does not approve a federal waiver for Healthy Start

services, the agency, in consultation with the Department of Health and the Florida Association of Healthy Start Coalitions, is authorized to establish a Medicaid certified-match program for Healthy Start services. Participation in the Healthy Start certified-match program shall be voluntary, and reimbursement shall be limited to the federal Medicaid share to Medicaid-enrolled Healthy Start coalitions for services provided to Medicaid recipients. The agency shall take no action to implement a certified-match program without ensuring that the amendment and review requirements of ss. 216.177 and 216.181 have been met.

(12) HEARING SERVICES.—The agency may pay for hearing and related services, including hearing evaluations, hearing aid devices, dispensing of the hearing aid, and related repairs, if provided to a recipient by a licensed hearing aid specialist, otolaryngologist, otologist, audiologist, or physician.

(13) HOME AND COMMUNITY-BASED SERVICES.—The agency may pay for home-based or community-based services that are rendered to a recipient in accordance with a federally approved waiver program.

(14) HOSPICE CARE SERVICES.—The agency may pay for all reasonable and necessary services for the palliation or management of a recipient's terminal illness, if the services are provided by a hospice that is licensed under part VI of chapter 400 and meets Medicare certification requirements.

(15) INTERMEDIATE CARE FACILITY FOR THE DEVELOPMENTALLY DISABLED SERVICES.—The agency may pay for health-related care and services provided on a 24-hour-a-day basis by a facility licensed and certified as a Medicaid Intermediate Care Facility for the Developmentally Disabled, for a recipient who needs such care because of a developmental disability.

(16) INTERMEDIATE CARE SERVICES.—The agency may pay for 24-hour-a-day intermediate care nursing and rehabilitation services rendered to a recipient in a nursing facility licensed under part II of chapter 400, if the services are ordered by and provided under the direction of a physician.

(17) OPTOMETRIC SERVICES.—The agency may pay for services provided to a recipient, including examination, diagnosis, treatment, and management, related to ocular pathology, if the services are provided by a licensed optometrist or physician.

(18) PHYSICIAN ASSISTANT SERVICES.—The agency may pay for all services provided to a recipient by a physician assistant licensed under s. 458.347 or s. 459.022. Reimbursement for such services must be not less than 80 percent of the reimbursement that would be paid to a physician who provided the same services.

(19) PODIATRIC SERVICES.—The agency may pay for services, including diagnosis and medical, surgical, palliative, and mechanical treatment, related to ailments of the human foot and lower leg, if provided to a recipient by a podiatric physician licensed under state law.

(20) PRESCRIBED DRUG SERVICES.—The agency may pay for medications that are prescribed for a recipient by a physician or other licensed practitioner of the healing arts authorized to prescribe medications and that are dispensed to the recipient by a licensed pharmacist or physician in accordance with applicable state and federal law.

(21) REGISTERED NURSE FIRST ASSISTANT SERVICES.—The agency may pay for all services provided to a recipient by a registered nurse first assistant as described in s. 464.027. Reimbursement for such services may not be less than 80 percent of the reimbursement that would be paid to a physician providing the same services.

(22) STATE HOSPITAL SERVICES.—The agency may pay for all-inclusive psychiatric inpatient hospital care provided to a recipient age 65 or older in a state mental hospital.

(23) VISUAL SERVICES.—The agency may pay for visual examinations, eyeglasses, and eyeglass repairs for a recipient, if they are prescribed by a licensed physician specializing in diseases of the eye or by a licensed optometrist.

(24) CHILD-WELFARE-TARGETED CASE MANAGEMENT.—The Agency for Health Care Administration, in consultation with the Department of Children and Family Services, may establish a targeted case-management pilot project in those counties identified by the Department of Children and Family Services and for the community-based child welfare project in Sarasota and Manatee counties, as authorized under s. 409.1671. These projects shall be established for the purpose of determining the impact of targeted case management on the child welfare program and the earnings from the child welfare program. Results of the pilot projects shall be reported to the Child Welfare Estimating Conference and the Social Services Estimating Conference established under s. 216.136. The number of projects may not be increased until requested by the Department of Children and Family Services, recommended by the Child Welfare Estimating Conference and the Social Services Estimating Conference, and approved by the Legislature. The covered group of individuals who are eligible to receive targeted case management include children who are eligible for Medicaid; who are between the ages of birth through 21; and who are under protective supervision or postplacement supervision, under foster-care supervision, or in shelter care or foster care. The number of individuals who are eligible to receive targeted case management shall be limited to the number for whom the Department of Children and Family Services has available matching funds to cover the costs. The general revenue funds required to match the funds for services provided by the community-based child welfare projects are limited to funds available for services described under s. 409.1671. The Department of Children and Family Services may transfer the general revenue matching funds as billed by the Agency for Health Care Administration.

Section 66. Subsections (7) through (11) of section 456.013, Florida Statutes, are renumbered as subsections (8) through (12), respectively, and a new subsection (7) is added to said section to read:

456.013 Department; general licensing provisions.—

(7) The boards, or the department when there is no board, shall require the completion of a 2-hour course relating to prevention of medical errors as part of the licensure and renewal process. The 2-hour course shall count towards the total number of continuing education hours required for the profession. The course shall be approved by the board or department, as appropriate, and shall include a study of root-cause analysis, error reduction and prevention, and patient safety. If the course is being offered by a facility licensed pursuant to chapter 395 for its employees, the board may approve up to 1 hour of the 2-hour course to be specifically related to error reduction and prevention methods used in that facility.

Section 67. Subsection (19) is added to section 456.057, Florida Statutes, to read:

456.057 Ownership and control of patient records; report or copies of records to be furnished.—

(19) The board, or department when there is no board, may temporarily or permanently appoint a person or entity as a custodian of medical records in the event of the death of a practitioner, the mental or physical incapacitation of the practitioner, or the abandonment of medical records by a practitioner. The custodian appointed shall comply with all provisions of this section, including the release of patient records.

Section 68. Subsection (3) is added to section 456.063, Florida Statutes, to read:

456.063 Sexual misconduct; disqualification for license, certificate, or registration*; reports of allegation of sexual misconduct*.—

(3) Licensed health care practitioners shall report allegations of sexual misconduct to the department, regardless of the practice setting in which the alleged sexual misconduct occurred.

Section 69. Paragraphs (c) and (q) of subsection (1) of section 456.072, Florida Statutes, are amended, paragraphs (aa), (bb), and (cc)

are added to said subsection, paragraphs (c), (d), and (e) of subsection (2) and subsection (4) are amended, and paragraphs (i) and (j) are added to subsection (2) of said section, to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(c) Being convicted or found guilty of, or entering a plea of *guilty or* nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

(q) Violating ~~any provision of this chapter, the applicable professional practice act, a rule of the department or the board, or~~ a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of the department.

(aa) Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.

(bb) Leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia commonly used in surgical, examination, or other diagnostic procedures. For the purposes of this paragraph, it shall be legally presumed that retention of a foreign body is not in the best interest of the patient and is not within the standard of care of the profession, regardless of the intent of the professional.

(cc) Violating any provision of this chapter, the applicable practice act, or any rules adopted pursuant thereto.

(2) When the board, or the department when there is no board, finds any person guilty of the grounds set forth in subsection (1) or of any grounds set forth in the applicable practice act, including conduct constituting a substantial violation of subsection (1) or a violation of the applicable practice act which occurred prior to obtaining a license, it may enter an order imposing one or more of the following penalties:

(c) Restriction of practice or license*, including, but not limited to, restricting the licensee from practicing in certain settings, restricting the licensee to work only under designated conditions or in certain settings, restricting the licensee from performing or providing designated clinical and administrative services, restricting the licensee from practicing more than a designated number of hours, or any other restriction found to be necessary for the protection of the public health, safety, and welfare*.

(d) Imposition of an administrative fine not to exceed $10,000 for each count or separate offense. *If the violation is for fraud or making a false or fraudulent representation, the board, or the department if there is no board, must impose a fine of $10,000 per count or offense.*

(e) Issuance of a reprimand *or letter of concern*.

(i) Refund of fees billed and collected from the patient or a third party on behalf of the patient.

(j) Requirement that the practitioner undergo remedial education.

In determining what action is appropriate, the board, or department when there is no board, must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the practitioner. All costs associated with compliance with orders issued under this subsection are the obligation of the practitioner.

(4) In addition to any other discipline imposed *through final order, or citation, entered on or after July 1, 2001,* pursuant to this section or discipline imposed *through final order, or citation, entered on or after July 1, 2001,* for a violation of any practice act, the board, or the department when there is no board, *shall* ~~may~~ assess costs related to the investigation and prosecution of the case. In any case where the board or the department imposes a fine or assessment and the fine or assessment is not paid within a reasonable time, such reasonable time to be prescribed in the rules of the board, or the department when there is no board, or in the order assessing such fines or costs, the department or the Department of Legal Affairs may contract for the collection of, or bring a civil action to recover, the fine or assessment.

Section 70. Paragraphs (a) and (c) of subsection (9) of section 456.073, Florida Statutes, are amended, and, effective upon this act becoming a law, subsection (13) is added to said section, to read:

456.073 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(9)(a) The department shall periodically notify the person who filed the complaint*, as well as the patient or the patient's legal representative,* of the status of the investigation, indicating whether probable cause has been found and the status of any civil action or administrative proceeding or appeal.

(c) In any disciplinary case for which probable cause is not found, the department shall so inform the person who filed the complaint and notify that person that he or she may, within 60 days, provide any additional information to the *department* ~~probable cause panel~~ which may be relevant to the decision. *To facilitate the provision of additional information, the person who filed the complaint may receive, upon request, a copy of the department's expert report that supported the recommendation for closure, if such a report was relied upon by the department. In no way does this require the department to procure an expert opinion or report if none was used. Additionally, the identity of the expert shall remain confidential.* In any administrative proceeding under s. 120.57, the person who filed the disciplinary complaint shall have the right to present oral or written communication relating to the alleged disciplinary violations or to the appropriate penalty.

(13) Notwithstanding any provision of law to the contrary, an administrative complaint against a licensee shall be filed within 6 years after the time of the incident or occurrence giving rise to the complaint against the licensee. If such incident or occurrence involved criminal actions, diversion of controlled substances, sexual misconduct, or impairment by the licensee, this subsection does not apply to bar initiation of an investigation or filing of an administrative complaint beyond the 6-year timeframe. In those cases covered by this subsection in which it can be shown that fraud, concealment, or intentional misrepresentation of fact prevented the discovery of the violation of law, the period of limitations is extended forward, but in no event to exceed 12 years after the time of the incident or occurrence.

Section 71. Subsection (1) of section 456.074, Florida Statutes, is amended to read:

456.074 Certain health care practitioners; immediate suspension of license.—

(1) The department shall issue an emergency order suspending the license of any person licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, chapter 466, or chapter 484 who pleads guilty to, is convicted or found guilty of, or who enters a plea of nolo contendere to, regardless of adjudication, a felony under chapter 409*, chapter 817,* or chapter 893 or under 21 U.S.C. ss. 801-970 or under 42 U.S.C. ss. 1395-1396.

Section 72. Subsections (2) and (6) of section 456.077, Florida Statutes, are amended to read:

456.077 Authority to issue citations.—

(2) The board, or the department if there is no board, shall adopt rules designating violations for which a citation may be issued. Such rules shall designate as citation violations those violations for which there is no substantial threat to the public health, safety, and welfare. *Violations for which a citation may be issued shall include violations of continuing education requirements, failure to timely pay required fees and fines, failure to comply with the requirements of ss. 381.026 and*

381.0261 regarding the dissemination of information regarding patient rights, failure to comply with advertising requirements, failure to timely update practitioner profile and credentialing files, failure to display signs, licenses, and permits, failure to have required reference books available, and all other violations that do not pose a direct and serious threat to the health and safety of the patient.

(6) A board ~~created on or after January 1, 1992,~~ has 6 months in which to enact rules designating violations and penalties appropriate for citation offenses. Failure to enact such rules gives the department exclusive authority to adopt rules as required for implementing this section. A board has continuous authority to amend its rules adopted pursuant to this section.

Section 73. Section 456.081, Florida Statutes, is amended to read:

456.081 Publication of information.—The department and the boards shall have the authority to advise licensees periodically, through the publication of a newsletter, about information that the department or the board determines is of interest to the industry. *The department and the boards shall maintain a website which contains copies of the newsletter; information relating to adverse incident reports without identifying the patient, practitioner, or facility in which the adverse incident occurred until 10 days after probable cause is found, at which time the name of the practitioner and facility shall become public as part of the investigative file; information about error prevention and safety strategies; and information concerning best practices.* Unless otherwise prohibited by law, the department and the boards shall publish *on the website* a summary of final orders *entered after July 1, 2001,* resulting in *disciplinary action* ~~fines, suspensions, or revocations~~, and any other information the department or the board determines is of interest to the public. *In order to provide useful and timely information at minimal cost, the department and boards may consult with, and include information provided by, professional associations and national organizations.*

Section 74. Subsections (1) and (2) of section 458.315, Florida Statutes, are amended to read:

458.315 Temporary certificate for practice in areas of critical need.—Any physician who is licensed to practice in any other state, whose license is currently valid, and who pays an application fee of $300 may be issued a temporary certificate to practice in communities of Florida where there is a critical need for physicians. A certificate may be issued to a physician who will be employed by a county health department, correctional facility, community health center funded by s. 329, s. 330, or s. 340 of the United States Public Health Services Act, or other entity that provides health care to indigents and that is approved by the State Health Officer. The Board of Medicine may issue this temporary certificate with the following restrictions:

(1) The board shall determine the areas of critical need, and the physician so certified may practice in any of those areas for a time to be determined by the board. Such areas shall include, but not be limited to, health professional shortage areas designated by the United States Department of Health and Human Services.

(a) A recipient of a temporary certificate for practice in areas of critical need may use the license to work for any approved employer in any area of critical need approved by the board.

(b) The recipient of a temporary certificate for practice in areas of critical need shall, within 30 days after accepting employment, notify the board of all approved institutions in which the licensee practices and of all approved institutions where practice privileges have been denied.

(c) A physician practicing under a temporary certificate is immune from civil liability for any act or omission by such physician which results in personal injury or property damage if:

1. The physician was acting in good faith within the scope of his or her duties and was acting as an ordinary reasonably prudent person would have acted under the same or similar circumstances; and

2. The injury or damage was not caused by any wanton or willful misconduct on the part of the physician in the performance of such duties.

(2) The board may administer an abbreviated oral examination to determine the physician's competency, but no written regular examination is necessary. *Within 60 days after receipt of an application for a temporary certificate, the board shall review the application and issue the temporary certificate or notify the applicant of denial.*

Section 75. Section 458.3147, Florida Statutes, is created to read:

458.3147 Medical school eligibility of military academy students or graduates.—Any Florida resident who is a student at or a graduate of any of the United States military academies who qualifies for assignment to the Medical Corps of the United States military shall be admitted to any medical school in the State University System.

Section 76. Subsection (9) of section 458.331, Florida Statutes, is amended to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(9) When an investigation of a physician is undertaken, the department shall promptly furnish to the physician or the physician's attorney a copy of the complaint or document which resulted in the initiation of the investigation. For purposes of this subsection, such documents include, but are not limited to: the pertinent portions of an annual report submitted to the department pursuant to s. 395.0197(6); a report of an adverse incident which is provided to the department pursuant to s. 395.0197~~(8)~~; a report of peer review disciplinary action submitted to the department pursuant to s. 395.0193(4) or s. 458.337, providing that the investigations, proceedings, and records relating to such peer review disciplinary action shall continue to retain their privileged status even as to the licensee who is the subject of the investigation, as provided by ss. 395.0193(8) and 458.337(3); a report of a closed claim submitted pursuant to s. 627.912; a presuit notice submitted pursuant to s. 766.106(2); and a petition brought under the Florida Birth-Related Neurological Injury Compensation Plan, pursuant to s. 766.305(2). The physician may submit a written response to the information contained in the complaint or document which resulted in the initiation of the investigation within 45 days after service to the physician of the complaint or document. The physician's written response shall be considered by the probable cause panel.

Section 77. Subsection (9) of section 459.015, Florida Statutes, is amended to read:

459.015 Grounds for disciplinary action; action by the board and department.—

(9) When an investigation of an osteopathic physician is undertaken, the department shall promptly furnish to the osteopathic physician or his or her attorney a copy of the complaint or document which resulted in the initiation of the investigation. For purposes of this subsection, such documents include, but are not limited to: the pertinent portions of an annual report submitted to the department pursuant to s. 395.0197(6); a report of an adverse incident which is provided to the department pursuant to s. 395.0197~~(8)~~; a report of peer review disciplinary action submitted to the department pursuant to s. 395.0193(4) or s. 459.016, provided that the investigations, proceedings, and records relating to such peer review disciplinary action shall continue to retain their privileged status even as to the licensee who is the subject of the investigation, as provided by ss. 395.0193(8) and 459.016(3); a report of a closed claim submitted pursuant to s. 627.912; a /resuit notice submitted pursuant to s. 766.106(2); and a petition brought under the Florida Birth-Related Neurological Injury Compensation Plan, pursuant to s. 766.305(2). The osteopathic physician may submit a written response to the information contained in the complaint or document which resulted in the initiation of the investigation within 45 days after service to the osteopathic physician of the complaint or document. The osteopathic physician's written response shall be considered by the probable cause panel.

Section 78. Effective January 1, 2002, subsection (4) of section 641.51, Florida Statutes, is amended to read:

641.51 Quality assurance program; second medical opinion requirement.—

(4) The organization shall ensure that only a physician *with an active, unencumbered license* ~~licensed~~ under chapter 458 or chapter 459~~, or an allopathic or osteopathic physician with an active, unencumbered license in another state with similar licensing requirements~~ may render an adverse determination regarding a service provided by a physician licensed in this state. The organization shall submit to the treating provider and the subscriber written notification regarding the organization's adverse determination within 2 working days after the subscriber or provider is notified of the adverse determination. The written notification must include the utilization review criteria or benefits provisions used in the adverse determination, identify the physician who rendered the adverse determination, and be signed by an authorized representative of the organization or the physician who rendered the adverse determination. The organization must include with the notification of an adverse determination information concerning the appeal process for adverse determinations. *This provision does not create authority for the Board of Medicine or Board of Osteopathic Medicine to regulate the organization; however, the Board of Medicine and the Board of Osteopathic Medicine continue to have jurisdiction over licensees of their respective boards.*

Section 79. Subsection (5) of section 465.019, Florida Statutes, is amended to read:

465.019 Institutional pharmacies; permits.—

(5) All institutional pharmacies shall be under the professional supervision of a consultant pharmacist, and the compounding and dispensing of medicinal drugs shall be done only by a licensed pharmacist. *Every institutional pharmacy that employs or otherwise utilizes pharmacy technicians shall have a written policy and procedures manual specifying those duties, tasks, and functions which a pharmacy technician is allowed to perform.*

Section 80. Section 465.0196, Florida Statutes, is amended to read:

465.0196 Special pharmacy permits.—Any person desiring a permit to operate a pharmacy which does not fall within the definitions set forth in s. 465.003(11)(a)1., 2., and 3. shall apply to the department for a special pharmacy permit. If the board certifies that the application complies with the applicable laws and rules of the board governing the practice of the profession of pharmacy, the department shall issue the permit. No permit shall be issued unless a licensed pharmacist is designated to undertake the professional supervision of the compounding and dispensing of all drugs dispensed by the pharmacy. The licensed pharmacist shall be responsible for maintaining all drug records and for providing for the security of the area in the facility in which the compounding, storing, and dispensing of medicinal drugs occurs. The permittee shall notify the department within 10 days of any change of the licensed pharmacist responsible for such duties. *Every permittee that employs or otherwise utilizes pharmacy technicians shall have a written policy and procedures manual specifying those duties, tasks, and functions which a pharmacy technician is allowed to perform.*

Section 81. Effective upon this act becoming a law and operating retroactively to July 1, 2000, section 22 of Chapter 2000-256, Laws of Florida, is amended to read:

Section 22. The amendments to ss. 395.701 and 395.7015, Florida Statutes, by this act shall take effect *July 1, 2000* ~~only upon the Agency for Health Care Administration receiving written confirmation from the federal Health Care Financing Administration that the changes contained in such amendments will not adversely affect the use of the remaining assessments as state match for the state's Medicaid program.~~

Section 82. *The Department of Health and the Agency for Health Care Administration shall conduct a review of all statutorily imposed reporting requirements for health care practitioners and health facilities. The department and the agency shall report back to the Legislature on or before November 1, 2001, with recommendations and suggested statutory changes to streamline reporting requirements to avoid duplicative, overlapping, and unnecessary reports or data elements.*

Section 83. Paragraph (r) is added to subsection (1) of section 468.1755, Florida Statutes, and, for the purpose of incorporating the amendment to section 456.072(1), Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of said section is reenacted, to read:

468.1755 Disciplinary proceedings.—

(1) The following acts shall constitute grounds for which the disciplinary actions in subsection (2) may be taken:

(a) Violation of any provision of s. 456.072(1) or s. 468.1745(1).

(r) Failing to implement an ongoing quality assurance program directed by an interdisciplinary team that meets at least every other month.

(2) When the board finds any nursing home administrator guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Denial of an application for licensure.

(b) Revocation or suspension of a license.

(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.

(d) Issuance of a reprimand.

(e) Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify, including requiring the licensee to attend continuing education courses or to work under the supervision of another licensee.

(f) Restriction of the authorized scope of practice.

Section 84. For the purpose of incorporating the amendment to section 468.1755(1), Florida Statutes, in reference thereto, subsection (3) of section 468.1695, Florida Statutes, and section 468.1735, Florida Statutes, are reenacted to read:

468.1695 Licensure by examination.—

(3) The department shall issue a license to practice nursing home administration to any applicant who successfully completes the examination in accordance with this section and otherwise meets the requirements of this part. The department shall not issue a license to any applicant who is under investigation in this state or another jurisdiction for an offense which would constitute a violation of s. 468.1745 or s. 468.1755. Upon completion of the investigation, the provisions of s. 468.1755 shall apply.

468.1735 Provisional license.—The board may establish by rule requirements for issuance of a provisional license. A provisional license shall be issued only to fill a position of nursing home administrator that unexpectedly becomes vacant due to illness, sudden death of the administrator, or abandonment of position and shall be issued for one single period as provided by rule not to exceed 6 months. The department shall not issue a provisional license to any applicant who is under investigation in this state or another jurisdiction for an offense which would constitute a violation of s. 468.1745 or s. 468.1755. Upon completion of the investigation, the provisions of s. 468.1755 shall apply. The provisional license may be issued to a person who does not meet all of the licensing requirements established by this part, but the board shall by rule establish minimal requirements to ensure protection of the public health, safety, and welfare. The provisional license shall be issued to the person who is designated as the responsible person next in command in the event of the administrator's departure. The board may set an application fee not to exceed $500 for a provisional license.

Section 85. For the purpose of incorporating the amendment to section 456.072(1), Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 484.056, Florida Statutes, is reenacted to read:

484.056 Disciplinary proceedings.—

(1) The following acts relating to the practice of dispensing hearing aids shall be grounds for both disciplinary action against a hearing aid

specialist as set forth in this section and cease and desist or other related action by the department as set forth in s. 456.065 against any person owning or operating a hearing aid establishment who engages in, aids, or abets any such violation:

(a) Violation of any provision of s. 456.072(1), s. 484.0512, or s. 484.053.

Section 86. Paragraph (a) of subsection (1), paragraph (a) of subsection (7), and subsection (8) of section 766.101, Florida Statutes, are amended to read:

766.101 Medical review committee, immunity from liability.—

(1) As used in this section:

(a) The term "medical review committee" or "committee" means:

1.a. A committee of a hospital or ambulatory surgical center licensed under chapter 395 or a health maintenance organization certificated under part I of chapter 641,

b. A committee of a physician-hospital organization, a provider-sponsored organization, or an integrated delivery system,

c. A committee of a state or local professional society of health care providers,

d. A committee of a medical staff of a licensed hospital or nursing home, provided the medical staff operates pursuant to written bylaws that have been approved by the governing board of the hospital or nursing home,

e. A committee of the Department of Corrections or the Correctional Medical Authority as created under s. 945.602, or employees, agents, or consultants of either the department or the authority or both,

f. A committee of a professional service corporation formed under chapter 621 or a corporation organized under chapter 607 or chapter 617, which is formed and operated for the practice of medicine as defined in s. 458.305(3), and which has at least 25 health care providers who routinely provide health care services directly to patients,

g. A committee of a mental health treatment facility licensed under chapter 394 or a community mental health center as defined in s. 394.907, provided the quality assurance program operates pursuant to the guidelines which have been approved by the governing board of the agency,

h. A committee of a substance abuse treatment and education prevention program licensed under chapter 397 provided the quality assurance program operates pursuant to the guidelines which have been approved by the governing board of the agency,

i. A peer review or utilization review committee organized under chapter 440, ~~or~~

j. A committee of the Department of Health, a county health department, healthy start coalition, or certified rural health network, when reviewing quality of care, or employees of these entities when reviewing mortality records, *or*

k. A continuous quality improvement committee of a pharmacy licensed pursuant to chapter 465,

which committee is formed to evaluate and improve the quality of health care rendered by providers of health service or to determine that health services rendered were professionally indicated or were performed in compliance with the applicable standard of care or that the cost of health care rendered was considered reasonable by the providers of professional health services in the area; or

2. A committee of an insurer, self-insurer, or joint underwriting association of medical malpractice insurance, or other persons conducting review under s. 766.106.

(7)(a) It is the intent of the Legislature to encourage medical review committees to contribute further to the quality of health care in this state by reviewing complaints against physicians in the manner described in this paragraph. Accordingly, the Department of *Health* ~~Business and Professional Regulation~~ may enter into a letter of agreement with a professional society of physicians licensed under chapter 458 or chapter 459, under which agreement the medical or peer review committees of the professional society will conduct a review of any complaint or case referred to the society by the department which involves a question as to whether a physician's actions represented a breach of the prevailing professional standard of care. The prevailing professional standard of care is that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers. The letter of agreement must specify that the professional society will submit an advisory report to the department within a reasonable time following the department's written and appropriately supported request to the professional society. The advisory report, which is not binding upon the department, constitutes the professional opinion of the medical review committee and must include:

1. A statement of relevant factual findings.

2. The judgment of the committee as to whether the physician's actions represented a breach of the prevailing professional standard of care.

(8) No cause of action of any nature by a person licensed pursuant to chapter 458, chapter 459, chapter 461, chapter 463, part I of chapter 464, chapter 465, or chapter 466 shall arise against another person licensed pursuant to chapter 458, chapter 459, chapter 461, chapter 463, part I of chapter 464, chapter 465, or chapter 466 for furnishing information to a duly appointed medical review committee, to an internal risk management program established under s. 395.0197, to the Department of *Health or the Agency for Health Care Administration* ~~Business and Professional Regulation~~, or to the appropriate regulatory board if the information furnished concerns patient care at a facility licensed pursuant to part I of chapter 395 where both persons provide health care services, if the information is not intentionally fraudulent, and if the information is within the scope of the functions of the committee, department, or board. However, if such information is otherwise available from original sources, it is not immune from discovery or use in a civil action merely because it was presented during a proceeding of the committee, department, or board.

Section 87. For the purpose of incorporating the amendment to section 766.101(1)(a), Florida Statutes, in references thereto, paragraph (a) of subsection (1) of section 440.105, Florida Statutes, and subsection (6) of section 626.989, Florida Statutes, are reenacted to read:

440.105 Prohibited activities; reports; penalties; limitations.—

(1)(a) Any insurance carrier, any individual self-insured, any commercial or group self-insurance fund, any professional practitioner licensed or regulated by the Department of Business and Professional Regulation, except as otherwise provided by law, any medical review committee as defined in s. 766.101, any private medical review committee, and any insurer, agent, or other person licensed under the insurance code, or any employee thereof, having knowledge or who believes that a fraudulent act or any other act or practice which, upon conviction, constitutes a felony or misdemeanor under this chapter is being or has been committed shall send to the Division of Insurance Fraud, Bureau of Workers' Compensation Fraud, a report or information pertinent to such knowledge or belief and such additional information relative thereto as the bureau may require. The bureau shall review such information or reports and select such information or reports as, in its judgment, may require further investigation. It shall then cause an independent examination of the facts surrounding such information or report to be made to determine the extent, if any, to which a fraudulent act or any other act or practice which, upon conviction, constitutes a felony or a misdemeanor under this chapter is being committed. The bureau shall report any alleged violations of law which its investigations disclose to the appropriate licensing agency and state attorney or other prosecuting agency having jurisdiction with respect to any such violations of this chapter. If prosecution by the state

attorney or other prosecuting agency having jurisdiction with respect to such violation is not begun within 60 days of the bureau's report, the state attorney or other prosecuting agency having jurisdiction with respect to such violation shall inform the bureau of the reasons for the lack of prosecution.

626.989 Investigation by department or Division of Insurance Fraud; compliance; immunity; confidential information; reports to division; division investigator's power of arrest.—

(6) Any person, other than an insurer, agent, or other person licensed under the code, or an employee thereof, having knowledge or who believes that a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or a misdemeanor under the code, or under s. 817.234, is being or has been committed may send to the Division of Insurance Fraud a report or information pertinent to such knowledge or belief and such additional information relative thereto as the department may request. Any professional practitioner licensed or regulated by the Department of Business and Professional Regulation, except as otherwise provided by law, any medical review committee as defined in s. 766.101, any private medical review committee, and any insurer, agent, or other person licensed under the code, or an employee thereof, having knowledge or who believes that a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or a misdemeanor under the code, or under s. 817.234, is being or has been committed shall send to the Division of Insurance Fraud a report or information pertinent to such knowledge or belief and such additional information relative thereto as the department may require. The Division of Insurance Fraud shall review such information or reports and select such information or reports as, in its judgment, may require further investigation. It shall then cause an independent examination of the facts surrounding such information or report to be made to determine the extent, if any, to which a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or a misdemeanor under the code, or under s. 817.234, is being committed. The Division of Insurance Fraud shall report any alleged violations of law which its investigations disclose to the appropriate licensing agency and state attorney or other prosecuting agency having jurisdiction with respect to any such violation, as provided in s. 624.310. If prosecution by the state attorney or other prosecuting agency having jurisdiction with respect to such violation is not begun within 60 days of the division's report, the state attorney or other prosecuting agency having jurisdiction with respect to such violation shall inform the division of the reasons for the lack of prosecution.

Section 88. Paragraph (c) of subsection (4) of section 766.1115, Florida Statutes, is amended to read:

766.1115 Health care providers; creation of agency relationship with governmental contractors.—

(4) CONTRACT REQUIREMENTS.—A health care provider that executes a contract with a governmental contractor to deliver health care services on or after April 17, 1992, as an agent of the governmental contractor is an agent for purposes of s. 768.28(9), while acting within the scope of duties pursuant to the contract, if the contract complies with the requirements of this section and regardless of whether the individual treated is later found to be ineligible. A health care provider under contract with the state may not be named as a defendant in any action arising out of the medical care or treatment provided on or after April 17, 1992, pursuant to contracts entered into under this section. The contract must provide that:

(c) Adverse incidents and information on treatment outcomes must be reported by any health care provider to the governmental contractor if such incidents and information pertain to a patient treated pursuant to the contract. The health care provider shall *submit the reports required by s. 395.0197* ~~annually submit an adverse incident report that includes all information required by s. 395.0197(6)(a), unless the adverse incident involves a result described by s. 395.0197(8), in which case it shall be reported within 15 days after the occurrence of such incident~~. If an incident involves a professional licensed by the Department of Health or a facility licensed by the Agency for Health Care Administration, the governmental contractor shall submit such incident reports to the appropriate department or agency, which shall review each incident and determine whether it involves conduct by the licensee that is subject to disciplinary action. All patient medical records and any identifying information contained in adverse incident reports and treatment outcomes which are obtained by governmental entities pursuant to this paragraph are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

Section 89. Section 456.047, Florida Statutes, is amended to read:

456.047 Standardized credentialing for health care practitioners.—

(1) INTENT.—The Legislature recognizes that an efficient and effective health care practitioner credentialing program helps to ensure access to quality health care and also recognizes that health care practitioner credentialing activities have increased significantly as a result of health care reform and recent changes in health care delivery and reimbursement systems. Moreover, the resulting duplication of health care practitioner credentialing activities is unnecessarily costly and cumbersome for both the practitioner and the entity granting practice privileges. Therefore, it is the intent of this section that a credentials collection program be established which provides that, once a health care practitioner's core credentials data are collected, they need not be collected again, except for corrections, updates, and modifications thereto. *Furthermore, it is the intent of the Legislature that the department and all entities and practitioners work cooperatively to ensure the integrity and accuracy of the program.* Participation under this section shall include those individuals licensed under chapter 458, chapter 459, chapter 460, chapter 461, or s. 464.012. However, the department shall, with the approval of the applicable board, include other professions under the jurisdiction of the Division of Medical Quality Assurance in this program, provided they meet the requirements of s. 456.039 or s. 456.0391.

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

(a) "Certified" or "accredited," as applicable, means approved by a quality assessment program, from the National Committee for Quality Assurance, the Joint Commission on Accreditation of Healthcare Organizations, the American Accreditation HealthCare Commission/URAC, or any such other nationally recognized and accepted organization authorized by the department, used to assess and certify any credentials verification program, entity, or organization that verifies the credentials of any health care practitioner.

(b) "Core credentials data" means *data that is primary source verified and includes* ~~the following data: current name, any former name, and any alias, any~~ professional education, professional training, licensure, current Drug Enforcement Administration certification, ~~social security number,~~ specialty board certification, Educational Commission for Foreign Medical Graduates certification, *and* ~~hospital or other institutional affiliations, evidence of professional liability coverage or evidence of financial responsibility as required by s. 458.320, s. 459.0085, or s. 456.048, history of claims, suits, judgments, or settlements,~~ final disciplinary action reported pursuant to s. 456.039(1)(a)8. or s. 456.0391(1)(a)8. *The department may by rule designate additional core credentials data elements*~~, and Medicare or Medicaid sanctions~~.

(c) "Credential" or "credentialing" means the process of assessing and verifying the qualifications of a licensed health care practitioner or applicant for licensure as a health care practitioner.

(d) "Credentials verification organization" means any organization certified or accredited as a credentials verification organization.

(e) "Department" means the Department of Health, Division of Medical Quality Assurance.

(f) "Designated credentials verification organization" means the credentials verification organization which is selected by the health care practitioner, if the health care practitioner chooses to make such a designation.

(g) "Drug Enforcement Administration certification" means certification issued by the Drug Enforcement Administration for purposes of administration or prescription of controlled substances. Submission of such certification under this section must include evidence that the certification is current and must also include all current addresses to which the certificate is issued.

(h) "Health care entity" means:

1. Any health care facility or other health care organization licensed or certified to provide approved medical and allied health services in this state;

2. Any entity licensed by the Department of Insurance as a prepaid health care plan or health maintenance organization or as an insurer to provide coverage for health care services through a network of providers *or similar organization licensed under chapter 627, chapter 636, chapter 641, or chapter 651*; or

3. Any accredited medical school in this state.

(i) "Health care practitioner" means any person licensed, or, for credentialing purposes only, any person applying for licensure, under chapter 458, chapter 459, chapter 460, chapter 461, or s. 464.012 or any person licensed or applying for licensure under a chapter subsequently made subject to this section by the department with the approval of the applicable board, except a person registered or applying for registration pursuant to s. 458.345 or s. 459.021.

~~(j) "Hospital or other institutional affiliations" means each hospital or other institution for which the health care practitioner or applicant has provided medical services. Submission of such information under this section must include, for each hospital or other institution, the name and address of the hospital or institution, the staff status of the health care practitioner or applicant at that hospital or institution, and the dates of affiliation with that hospital or institution.~~

(j)~~(k)~~ "National accrediting organization" means an organization that awards accreditation or certification to hospitals, managed care organizations, credentials verification organizations, or other health care organizations, including, but not limited to, the Joint Commission on Accreditation of Healthcare Organizations, the American Accreditation HealthCare Commission/URAC, and the National Committee for Quality Assurance.

(k) "Primary source verification" means verification of professional qualifications based on evidence obtained directly from the issuing source of the applicable qualification or from any other source deemed as a primary source for such verification by the department or an accrediting body approved by the department.

(l) "Professional training" means any internship, residency, or fellowship relating to the profession for which the health care practitioner is licensed or seeking licensure.

(m) "Specialty board certification" means certification in a specialty issued by a specialty board recognized by the board in this state that regulates the profession for which the health care practitioner is licensed or seeking licensure.

(3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.—

(a) Every health care practitioner shall:

1. Report all core credentials data to the department which is not already on file with the department, either by designating a credentials verification organization to submit the data or by submitting the data directly.

2. Notify the department within 45 days of any corrections, updates, or modifications to the core credentials data either through his or her designated credentials verification organization or by submitting the data directly. Corrections, updates, and modifications to the core credentials data provided the department under this section shall comply with the updating requirements of s. 456.039(3) or s. 456.0391(3) related to profiling.

(b) The department shall:

1. Maintain a complete, current file of *applicable* core credentials data on each health care practitioner, which shall include *data provided in accordance with subparagraph (a)1. and* all updates provided in accordance with subparagraph (a)2.

2. Release the core credentials data that is otherwise confidential or exempt from the provisions of chapter 119 and s. 24(a), Art. I of the State Constitution and any corrections, updates, and modifications thereto, if authorized by the health care practitioner.

3. Charge a fee to access the core credentials data, which may not exceed the actual cost, including prorated setup and operating costs, pursuant to the requirements of chapter 119.

4. Develop standardized forms to be used by the health care practitioner or designated credentials verification organization for the initial reporting of core credentials data, for the health care practitioner to authorize the release of core credentials data, and for the subsequent reporting of corrections, updates, and modifications thereto.

(c) A registered credentials verification organization may be designated by a health care practitioner to assist the health care practitioner to comply with the requirements of subparagraph (a)2. A designated credentials verification organization shall:

1. Timely comply with the requirements of subparagraph (a)2., pursuant to rules adopted by the department.

2. Not provide the health care practitioner's core *credentials* data, including all corrections, updates, and modifications, without the authorization of the practitioner.

(d) This section shall not be construed to restrict in any way the authority of the health care entity to credential and to approve or deny an application for hospital staff membership, clinical privileges, or managed care network participation.

(4) DUPLICATION OF DATA PROHIBITED.—

(a) A health care entity or credentials verification organization is prohibited from collecting or attempting to collect duplicate core credentials data from any health care practitioner if the information is available from the department. This section shall not be construed to restrict the right of any health care entity or credentials verification organization to collect additional information from the health care practitioner which is not included in the core credentials data file. This section shall not be construed to prohibit a health care entity or credentials verification organization from obtaining all necessary attestation and release form signatures and dates.

(b) Effective July 1, 2002, a state agency in this state which credentials health care practitioners may not collect or attempt to collect duplicate core credentials data from any individual health care practitioner if the information is already available from the department. This section shall not be construed to restrict the right of any such state agency to request additional information not included in the core *credentials* ~~credential~~ data file, but which is deemed necessary for the agency's specific credentialing purposes.

(5) STANDARDS AND REGISTRATION.—Any credentials verification organization that does business in this state must be fully accredited or certified as a credentials verification organization by a national accrediting organization as specified in paragraph (2)(a) and must register with the department. The department may charge a reasonable registration fee, not to exceed an amount sufficient to cover its actual expenses in providing and enforcing such registration. The department shall establish by rule for biennial renewal of such registration. Failure by a registered credentials verification organization to maintain full accreditation or certification, to provide data as authorized by the health care practitioner, to report to the department changes, updates, and modifications to a health care practitioner's records within the time period specified in subparagraph (3)(a)2., or to comply with the prohibition against collection of duplicate core credentials data from a practitioner may result in denial of an

application for renewal of registration or in revocation or suspension of a registration.

(6) PRIMARY SOURCE VERIFIED DATA.—Health care entities and credentials verification organizations may rely upon any data that has been primary source verified by the department or its designee to meet primary source verification requirements of national accrediting organizations.

(7)~~(6)~~ LIABILITY.—No civil, criminal, or administrative action may be instituted, and there shall be no liability, against any registered credentials verification organization or health care entity on account of its reliance on any data obtained directly from the department.

(8)~~(7)~~ LIABILITY INSURANCE REQUIREMENTS.—Each credentials verification organization doing business in this state shall maintain liability insurance appropriate to meet the certification or accreditation requirements established in this section.

(9)~~(8)~~ RULES.—The department shall adopt rules necessary to develop and implement the standardized core credentials data collection program established by this section.

Section 90. Section 232.61, Florida Statutes, is amended to read:

232.61 Governing organization for athletics; adoption of bylaws.—

(1) The organization shall adopt bylaws that, unless specifically provided by statute, establish eligibility requirements for all students who participate in high school athletic competition in its member schools. The bylaws governing residence and transfer shall allow the student to be eligible in the school in which he or she first enrolls each school year, or makes himself or herself a candidate for an athletic team by engaging in a practice prior to enrolling in any member school. The student shall be eligible in that school so long as he or she remains enrolled in that school. Subsequent eligibility shall be determined and enforced through the organization's bylaws.

(2) The organization shall ~~also~~ adopt bylaws that specifically prohibit the recruiting of students for athletic purposes. The bylaws shall prescribe penalties and an appeals process for athletic recruiting violations.

(3) The organization shall adopt bylaws that require all students participating in interscholastic athletic competition or who are candidates for an interscholastic athletic team to satisfactorily pass a medical evaluation each year prior to participating in interscholastic athletic competition or engaging in any practice, tryout, workout, or other physical activity associated with the student's candidacy for an interscholastic athletic team. Such medical evaluation can only be administered by a practitioner licensed under the provisions of chapter 458, chapter 459, chapter 460, or s. 464.012, and in good standing with the practitioner's regulatory board. The bylaws shall establish requirements for eliciting a student's medical history and performing the medical evaluation required under this subsection, which shall include minimum standards for the physical capabilities necessary for participation in interscholastic athletic competition as contained in a uniform preparticipation physical evaluation form. The evaluation form shall provide place for the signature of the practitioner performing the evaluation with an attestation that each examination procedure listed on the form was performed by the practitioner or by someone under the direct supervision of the practitioner. The form shall also contain a place for the practitioner to indicate if a referral to another practitioner was made in lieu of completion of a certain examination procedure. The form shall provide a place for the practitioner to whom the student was referred to complete the remaining sections and attest to that portion of the examination. Practitioners administering medical evaluations pursuant to this section must know the minimum standards established by the organization and certify that the student meets the standards. If the practitioner determines that there are any abnormal findings in the cardiovascular system, the student may not participate unless a subsequent EKG or other cardiovascular assessment indicates that the abnormality will not place the student at risk during such participation. Results of such medical evaluation must be provided to the school. No student shall be eligible to participate in any interscholastic athletic competition or engage in any practice, tryout, workout, or other physical activity associated with the student's candidacy for an interscholastic athletic team until the results of the medical evaluation verifying that the student has satisfactorily passed the evaluation have been received and approved by the school.

(4) Notwithstanding the provisions of subsection (3), a student may participate in interscholastic athletic competition or be a candidate for an interscholastic athletic team if the parent or guardian of the student objects in writing to the student undergoing a medical evaluation because such evaluation is contrary to his or her religious tenets or practices, provided that no person or entity shall be held liable for any injury or other damages suffered by such student.

Section 91. Section 240.4075, Florida Statutes, is amended to read:

240.4075 Nursing Student Loan Forgiveness Program.—

(1) To encourage qualified personnel to seek employment in areas of this state in which critical nursing shortages exist, there is established the Nursing Student Loan Forgiveness Program. The primary function of the program is to increase employment and retention of registered nurses and licensed practical nurses in nursing homes and hospitals in the state and in state-operated medical and health care facilities, *public schools,* birth centers, *and* federally sponsored community health centers ~~and teaching hospitals~~ by making repayments toward loans received by students from federal or state programs or commercial lending institutions for the support of postsecondary study in accredited or approved nursing programs.

(2) To be eligible, a candidate must have graduated from an accredited or approved nursing program and have received a Florida license as a licensed practical nurse or a registered nurse or a Florida certificate as an advanced registered nurse practitioner.

(3) Only loans to pay the costs of tuition, books, and living expenses shall be covered, at an amount not to exceed $4,000 for each year of education towards the degree obtained.

(4) Receipt of funds pursuant to this program shall be contingent upon continued proof of employment in the designated facilities in this state. Loan principal payments shall be made by the Department of *Health* ~~Education~~ directly to the federal or state programs or commercial lending institutions holding the loan as follows:

(a) Twenty-five percent of the loan principal and accrued interest shall be retired after the first year of nursing;

(b) Fifty percent of the loan principal and accrued interest shall be retired after the second year of nursing;

(c) Seventy-five percent of the loan principal and accrued interest shall be retired after the third year of nursing; and

(d) The remaining loan principal and accrued interest shall be retired after the fourth year of nursing.

In no case may payment for any nurse exceed $4,000 in any 12-month period.

(5) There is created the Nursing Student Loan Forgiveness Trust Fund to be administered by the Department of *Health* ~~Education~~ pursuant to this section and s. 240.4076 and department rules. The Comptroller shall authorize expenditures from the trust fund upon receipt of vouchers approved by the Department of *Health* ~~Education~~. All moneys collected from the private health care industry and other private sources for the purposes of this section shall be deposited into the Nursing Student Loan Forgiveness Trust Fund. Any balance in the trust fund at the end of any fiscal year shall remain therein and shall be available for carrying out the purposes of this section and s. 240.4076.

(6) In addition to licensing fees imposed under part I of chapter 464, there is hereby levied and imposed an additional fee of $5, which fee shall be paid upon licensure or renewal of nursing licensure. Revenues collected from the fee imposed in this subsection shall be deposited in the Nursing Student Loan Forgiveness Trust Fund of the Department

of *Health* ~~Education~~ and will be used solely for the purpose of carrying out the provisions of this section and s. 240.4076. Up to 50 percent of the revenues appropriated to implement this subsection may be used for the nursing scholarship program established pursuant to s. 240.4076.

(7)(a) Funds contained in the Nursing Student Loan Forgiveness Trust Fund which are to be used for loan forgiveness for those nurses employed by hospitals, birth centers, and nursing homes must be matched on a dollar-for-dollar basis by contributions from the employing institutions, except that this provision shall not apply to state-operated medical and health care facilities, *public schools,* county health departments, federally sponsored community health centers, ~~or~~ teaching hospitals as defined in s. 408.07*, family practice teaching hospitals as defined in s. 395.805, or specialty hospitals for children as used in s. 409.9119. If in any given fiscal quarter there are insufficient funds in the trust fund to grant all eligible applicant requests, awards shall be based on the following priority of employer: county health departments; federally sponsored community health centers; state-operated medical and health care facilities; public schools; teaching hospitals as defined in s. 408.07; family practice teaching hospitals as defined in s. 395.805; specialty hospitals for children as used in s. 409.9119; and other hospitals, birth centers, and nursing homes*.

(b) All Nursing Student Loan Forgiveness Trust Fund moneys shall be invested pursuant to s. 18.125. Interest income accruing to that portion of the trust fund not matched shall increase the total funds available for loan forgiveness and scholarships. Pledged contributions shall not be eligible for matching prior to the actual collection of the total private contribution for the year.

(8) The Department of *Health* ~~Education~~ may solicit technical assistance relating to the conduct of this program from the Department of *Education* ~~Health~~.

(9) The Department of *Health* ~~Education~~ is authorized to recover from the Nursing Student Loan Forgiveness Trust Fund its costs for administering the Nursing Student Loan Forgiveness Program.

(10) The Department of *Health* ~~Education~~ may adopt rules necessary to administer this program.

(11) This section shall be implemented only as specifically funded.

Section 92. Section 240.4076, Florida Statutes, is amended to read:

240.4076 Nursing scholarship program.—

(1) There is established within the Department of *Health* ~~Education~~ a scholarship program for the purpose of attracting capable and promising students to the nursing profession.

(2) A scholarship applicant shall be enrolled as a full-time or part-time student in the upper division of an approved nursing program leading to the award of a baccalaureate *degree or graduate degree to qualify for a nursing faculty position or as an* ~~or any~~ advanced registered nurse practitioner ~~degree~~ or be enrolled as a full-time or part-time student in an approved program leading to the award of an associate degree in nursing ~~or a diploma in nursing~~.

(3) A scholarship may be awarded for no more than 2 years, in an amount not to exceed $8,000 per year. However, registered nurses pursuing *a graduate degree for a faculty position or to practice as* an advanced registered nurse practitioner ~~degree~~ may receive up to $12,000 per year. Beginning July 1, 1998, these amounts shall be adjusted by the amount of increase or decrease in the consumer price index for urban consumers published by the United States Department of Commerce.

(4) Credit for repayment of a scholarship shall be as follows:

(a) For each full year of scholarship assistance, the recipient agrees to work for 12 months *in a faculty position in a college of nursing or community college nursing program in this state or* at a health care facility in a medically underserved area as approved by the Department of *Health* ~~Education~~. Scholarship recipients who attend school on a part-time basis shall have their employment service obligation prorated in proportion to the amount of scholarship payments received.

(b) Eligible health care facilities include *nursing homes and hospitals in this state,* state-operated medical or health care facilities, *public schools,* county health departments, federally sponsored community health centers, *colleges of nursing in universities in this state, and community college nursing programs in this state* ~~or teaching hospitals as defined in s. 408.07~~. The recipient shall be encouraged to complete the service obligation at a single employment site. If continuous employment at the same site is not feasible, the recipient may apply to the department for a transfer to another approved health care facility.

(c) Any recipient who does not complete an appropriate program of studies or who does not become licensed shall repay to the Department of *Health* ~~Education~~, on a schedule to be determined by the department, the entire amount of the scholarship plus 18 percent interest accruing from the date of the scholarship payment. Moneys repaid shall be deposited into the Nursing Student Loan Forgiveness Trust Fund established in s. 240.4075. However, the department may provide additional time for repayment if the department finds that circumstances beyond the control of the recipient caused or contributed to the default.

(d) Any recipient who does not accept employment as a nurse at an approved health care facility or who does not complete 12 months of approved employment for each year of scholarship assistance received shall repay to the Department of *Health* ~~Education~~ an amount equal to two times the entire amount of the scholarship plus interest accruing from the date of the scholarship payment at the maximum allowable interest rate permitted by law. Repayment shall be made within 1 year of notice that the recipient is considered to be in default. However, the department may provide additional time for repayment if the department finds that circumstances beyond the control of the recipient caused or contributed to the default.

(5) Scholarship payments shall be transmitted to the recipient upon receipt of documentation that the recipient is enrolled in an approved nursing program. The Department of *Health* ~~Education~~ shall develop a formula to prorate payments to scholarship recipients so as not to exceed the maximum amount per academic year.

(6) The Department of *Health* ~~Education~~ shall adopt rules, including rules to address extraordinary circumstances that may cause a recipient to default on either the school enrollment or employment contractual agreement, to implement this section and may solicit technical assistance relating to the conduct of this program from the Department of Health.

(7) The Department of *Health* ~~Education~~ is authorized to recover from the Nursing Student Loan Forgiveness Trust Fund its costs for administering the nursing scholarship program.

Section 93. *All powers, duties, and functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Department of Education relating to the Nursing Student Loan Forgiveness Program and the nursing scholarship program are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Department of Health.*

Section 94. Effective July 1, 2003, section 464.005, Florida Statutes, is amended to read:

464.005 Board headquarters.—The board shall maintain its official headquarters in *Tallahassee* ~~the city in which it has been domiciled for the past 5 years~~.

Section 95. Subsections (1) and (2) of section 464.008, Florida Statutes, are amended to read:

464.008 Licensure by examination.—

(1) Any person desiring to be licensed as a registered nurse or licensed practical nurse shall apply to the department to take the licensure examination. The department shall examine each applicant who:

(a) Has completed the application form and remitted a fee set by the board not to exceed $150 and has remitted an examination fee set by the board not to exceed $75 plus the actual per applicant cost to the department for purchase of the examination from the National Council of State Boards of Nursing or a similar national organization.

(b) Has provided sufficient information on or after October 1, 1989, which must be submitted by the department for a statewide criminal records correspondence check through the Department of Law Enforcement.

(c) Is in good mental and physical health, is a recipient of a high school diploma or the equivalent, and has completed the requirements for graduation from an approved program*, or its equivalent as determined by the board,* for the preparation of registered nurses or licensed practical nurses, whichever is applicable. Courses successfully completed in a professional nursing program which are at least equivalent to a practical nursing program may be used to satisfy the education requirements for licensure as a licensed practical nurse.

(d) Has the ability to communicate in the English language, which may be determined by an examination given by the department.

(2) Each applicant who passes the examination and provides proof of *meeting the educational requirements specified in subsection (1)* ~~graduation from an approved nursing program~~ shall, unless denied pursuant to s. 464.018, be entitled to licensure as a registered professional nurse or a licensed practical nurse, whichever is applicable.

Section 96. Section 464.009, Florida Statutes, is amended to read:

464.009 Licensure by endorsement.—

(1) The department shall issue the appropriate license by endorsement to practice professional or practical nursing to an applicant who, upon applying to the department and remitting a fee set by the board not to exceed $100, demonstrates to the board that he or she:

(a) Holds a valid license to practice professional or practical nursing in another state of the United States, provided that, when the applicant secured his or her original license, the requirements for licensure were substantially equivalent to or more stringent than those existing in Florida at that time; or

(b) Meets the qualifications for licensure in s. 464.008 and has successfully completed a state, regional, or national examination which is substantially equivalent to or more stringent than the examination given by the department.

(2) Such examinations and requirements from other states shall be presumed to be substantially equivalent to or more stringent than those in this state. Such presumption shall not arise until January 1, 1980. However, the board may, by rule, specify states the examinations and requirements of which shall not be presumed to be substantially equivalent to those of this state.

(3) The applicant must submit to the department a set of fingerprints on a form and under procedures specified by the department, along with a payment in an amount equal to the costs incurred by the Department of Health for the criminal background check of the applicant. The Department of Health shall submit the fingerprints provided by the applicant to the Florida Department of Law Enforcement for a statewide criminal history check, and the Florida Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check of the applicant. The Department of Health shall review the results of the criminal history check, issue a license to an applicant who has met all of the other requirements for licensure and has no criminal history, and shall refer all applicants with criminal histories back to the board for determination as to whether a license should be issued and under what conditions.

(4)~~(3)~~ The department shall not issue a license by endorsement to any applicant who is under investigation in another state for an act which would constitute a violation of this part *or chapter 456* until such time as the investigation is complete, at which time the provisions of s. 464.018 shall apply.

(5) The department shall develop an electronic applicant notification process and provide electronic notification when the application has been received and when background screenings have been completed, and shall issue a license within 30 days after completion of all required data collection and verification. This 30-day period to issue a license shall be tolled if the applicant must appear before the board due to information provided on the application or obtained through screening and data collection and verification procedures.

Section 97. Section 464.0195, Florida Statutes, is created to read:

464.0195 Florida Center for Nursing; goals.—There is established the Florida Center for Nursing to address issues of supply and demand for nursing, including issues of recruitment, retention, and utilization of nurse workforce resources. The Legislature finds that the center will repay the state's investment by providing an ongoing strategy for the allocation of the state's resources directed towards nursing. The primary goals for the center shall be to:

(1) Develop a strategic statewide plan for nursing manpower in this state by:

(a) Establishing and maintaining a database on nursing supply and demand in the state, to include current supply and demand, and future projections; and

(b) Selecting from the plan priorities to be addressed.

(2) Convene various groups representative of nurses, other health care providers, business and industry, consumers, legislators, and educators to:

(a) Review and comment on data analysis prepared for the center;

(b) Recommend systemic changes, including strategies for implementation of recommended changes; and

(c) Evaluate and report the results of these efforts to the Legislature and others.

(3) Enhance and promote recognition, reward, and renewal activities for nurses in the state by:

(a) Promoting nursing excellence programs such as magnet recognition by the American Nurses Credentialing Center;

(b) Proposing and creating additional reward, recognition, and renewal activities for nurses; and

(c) Promoting media and positive image-building efforts for nursing.

Section 98. Section 464.0196, Florida Statutes, is created to read:

464.0196 Florida Center for Nursing; board of directors.—

(1) The Florida Center for Nursing shall be governed by a policy-setting board of directors. The board shall consist of 16 members, with a simple majority of the board being nurses representative of various practice areas. Other members shall include representatives of other health care professions, business and industry, health care providers, and consumers. The members of the board shall be appointed by the Governor as follows:

(a) Four members recommended by the President of the Senate, at least one of whom shall be a registered nurse recommended by the Florida Organization of Nurse Executives and at least one other representative of the hospital industry recommended by the Florida Hospital Association;

(b) Four members recommended by the Speaker of the House of Representatives, at least one of whom shall be a registered nurse recommended by the Florida Nurses Association and at least one other representative of the long-term care industry;

(c) Four members recommended by the Governor, two of whom shall be registered nurses; and

(d) Four nurse educators recommended by the State Board of Education, one of whom shall be a dean of a College of Nursing at a state university, one other shall be a director of a nursing program in a state community college.

(2) The initial terms of the members shall be as follows:

(a) Of the members appointed pursuant to paragraph (1)(a), two shall be appointed for terms expiring June 30, 2005, one for a term expiring June 30, 2004, and one for a term expiring June 30, 2003.

(b) Of the members appointed pursuant to paragraph (1)(b), one shall be appointed for a term expiring June 30, 2005, two for terms expiring June 30, 2004, and one for a term expiring June 20, 2003.

(c) Of the members appointed pursuant to paragraph (1)(c), one shall be appointed for a term expiring June 30, 2005, one for a term expiring June 30, 2004, and two for terms expiring June 30, 2003.

(d) Of the members appointed pursuant to paragraph (1)(d), the terms of two members recommended by the State Board of Education shall expire June 30, 2005; the term of the member who is a dean of a College of Nursing at a state university shall expire June 30, 2004; and the term of the member who is a director of a state community college nursing program shall expire June 30, 2003.

After the initial appointments expire, the terms of all the members shall be for 3 years, with no member serving more than two consecutive terms.

(3) The board shall have the following powers and duties:

(a) To employ an executive director.

(b) To determine operational policy.

(c) To elect a chair and officers, to serve 2-year terms. The chair and officers may not succeed themselves.

(d) To establish committees of the board as needed.

(e) To appoint a multidisciplinary advisory council for input and advice on policy matters.

(f) To implement the major functions of the center as established in the goals set out in s. 464.0195.

(g) To seek and accept nonstate funds for sustaining the center and carrying out center policy.

(4) The members of the board are entitled to receive per diem and allowances prescribed by law for state boards and commissions.

Section 99. Section 464.0197, Florida Statutes, is created to read:

464.0197 Florida Center for Nursing; state budget support.—The Legislature finds that it is imperative that the state protect its investment and progress made in nursing efforts to date. The Legislature finds that the Florida Center for Nursing is the appropriate means to do so. The center shall have state budget support for its operations so that it may have adequate resources for the tasks the Legislature has set out in s. 464.0195.

Section 100. *The Board of Nursing within the Department of Health shall hold in abeyance until July 1, 2002, the development of any rule pursuant to s. 464.019(2), Florida Statutes, which relates to the establishment of faculty/student clinical ratios. The Board of Nursing and the Department of Education shall submit to the President of the Senate and the Speaker of the House of Representatives by December 31, 2001, an implementation plan that details both the impact and the cost of any such proposed rule change.*

Section 101. Subsection (1) of section 464.0205, Florida Statutes, is amended to read:

464.0205 Retired volunteer nurse certificate.—

(1) Any retired practical or registered nurse desiring to serve indigent, underserved, or critical need populations in this state may apply to the department for a retired volunteer nurse certificate by providing:

(a) A complete application.

~~(b) An application and processing fee of $25.~~

(b)~~(c)~~ Verification that the applicant had been licensed to practice nursing in any jurisdiction in the United States for at least 10 years, had retired or plans to retire, intends to practice nursing only pursuant to the limitations provided by the retired volunteer nurse certificate, and has not committed any act that would constitute a violation under s. 464.018(1).

(c)~~(d)~~ Proof that the applicant meets the requirements for licensure under s. 464.008 or s. 464.009.

Section 102. *The Florida Legislature's Office of Program Policy Analysis and Government Accountability shall study the feasibility of maintaining the entire Medical Quality Assurance function, including enforcement, within one department, as recommended by the Auditor General in Operational Report Number 01-063. The study shall be completed and a report issued to the Legislature on or before November 30, 2001.*

Section 103. Effective October 1, 2001, section 456.0375, Florida Statutes, is created to read:

456.0375 Registration of certain clinics; requirements; discipline; exemptions.—

(1)(a) As used in this section, the term "clinic" means a business operating in a single structure or facility or group of adjacent structures or facilities operating under the same business name or management at which health care services are provided to individuals and which tenders charges for reimbursement for such services.

(b) For purposes of this section, the term "clinic" does not include and the registration requirements in this section do not apply to:

1. Entities licensed or registered by the state pursuant to chapter 390, chapter 394, chapter 395, chapter 397, chapter 400, chapter 463, chapter 465, chapter 466, chapter 478, chapter 480, or chapter 484.

2. Entities exempt from federal taxation under 26 U.S.C. s. 501(c)(3).

3. Sole proprietorships, group practices, partnerships, or corporations which provide health care services by licensed health care practitioners pursuant to chapter 457, chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 466, chapter 467, chapter 484, chapter 486, chapter 490, or chapter 491; part I, part III, part X, part XIII, or part XIV of chapter 468; or s. 464.012, which are wholly owned by licensed health care practitioners or wholly owned by licensed health care practitioners and the spouse, parent, or child of a licensed health care practitioner, so long as one of the owners who is a licensed health care practitioner is supervising the services performed therein and is legally responsible for the entity's compliance with all federal and state laws. However, no health care practitioner may supervise services beyond the scope of the practitioner's license.

(2)(a) Every clinic, as defined in paragraph (1)(a), must register, and at all times maintain a valid registration, with the department. Each clinic location must be registered separately even though operated under the same business name or management, and each clinic must appoint a medical director or clinic director.

(b) The department shall adopt rules necessary to administer the registration program, including rules establishing the specific registration procedures, forms, and fees. Registration may be conducted electronically. Registration fees must be calculated to reasonably cover the cost of registration and must be of such amount that the total fees collected do not exceed the cost of administering and enforcing compliance with this section. The registration program must require:

1. The clinic to file the registration form with the department within 60 days after the effective date of this section or prior to the inception of

operation. The registration expires automatically 2 years after its date of issuance and must be renewed biennially thereafter.

2. The registration form to contain the name, residence, and business address, phone number, and license number of the medical director or clinic director for the clinic.

3. The clinic to display the registration certificate in a conspicuous location within the clinic which is readily visible to all patients.

(3)(a) Each clinic must employ or contract with a physician maintaining a full and unencumbered physician license in accordance with chapter 458, chapter 459, chapter 460, or chapter 461 to serve as the medical director. However, if the clinic is limited to providing health care services pursuant to chapter 457, chapter 484, chapter 486, chapter 490, or chapter 491 or part I, part III, part X, part XIII, or part XIV of chapter 468, the clinic may appoint a health care practitioner licensed under that chapter to serve as the clinic director who is responsible for the clinic's activities. A health care practitioner may not serve as the clinic director if the services provided at the clinic are beyond the scope of that practitioner's license.

(b) The medical director or clinic director must agree in writing to accept responsibility for the following activities on behalf of the clinic. The medical director or the clinic director shall:

1. Have signs identifying the medical director or clinic director posted in a conspicuous location within the clinic which is readily visible to all patients.

2. Ensure that all practitioners providing health care services or supplies to patients maintain a current, active, and unencumbered Florida license.

3. Review any patient-referral contracts or agreements executed by the clinic.

4. Ensure that all health care practitioners at the clinic have active appropriate certification or licensure for the level of care being provided.

5. Serve as the clinic records owner as defined in s. 456.057.

6. Ensure compliance with the recordkeeping, office surgery, and adverse incident reporting requirements of chapter 456, the respective practice acts, and the rules adopted thereunder.

7. Conduct systematic reviews of clinic billings to ensure that the billings are not fraudulent or unlawful. Upon discovery of an unlawful charge, the medical director or clinic director must take immediate corrective action.

(c) Any contract to serve as a medical director or clinic director entered into or renewed by a physician or licensed health care practitioner in violation of this section is void as contrary to public policy. This section applies to contracts entered into or renewed on or after the effective date of this section.

(d) The department, in consultation with the boards, shall adopt rules specifying limitations on the number of registered clinics and licensees for which a medical director or clinic director may assume responsibility for purposes of this section. In determining the quality of supervision a medical director or clinic director can provide, the department shall consider the number of clinic employees, the clinic location, and the services provided by the clinic.

(4)(a) All charges or reimbursement claims made by or on behalf of a clinic that is required to be registered under this section but that is not so registered are unlawful charges and therefore are noncompensable and unenforceable.

(b) Any person establishing, operating, or managing an unregistered clinic otherwise required to be registered under this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any licensed health care practitioner who violates this section is subject to discipline in accordance with this chapter and the respective practice act.

(d) The department shall revoke the registration of any clinic registered under this section for operating in violation of the requirements of this section or the rules adopted pursuant to this section.

(e) The department shall investigate allegations of noncompliance with this section and the rules adopted pursuant to this section.

Section 104. *The sum of $100,000 is appropriated from the registration fees collected from clinics pursuant to s. 456.0375, Florida Statutes, and one-half of one full-time equivalent position is authorized, to the Department of Health for the purposes of regulating medical clinics pursuant to s. 456.0375, Florida Statutes. The appropriated funds shall be deposited into the Medical Quality Assurance Trust Fund.*

Section 105. Subsection (3) of section 456.031, Florida Statutes, is amended to read:

456.031 Requirement for instruction on domestic violence.—

(3)*(a)* In lieu of completing a course as required in subsection (1), a licensee or certificateholder may complete a course in end-of-life care and palliative health care, if the licensee or certificateholder has completed an approved domestic violence course in the immediately preceding biennium.

(b) In lieu of completing a course as required by subsection (1), a person licensed under chapter 466 who has completed an approved domestic-violence education course in the immediately preceding 2 years may complete a course approved by the Board of Dentistry.

Section 106. Subsection (9) of section 456.033, Florida Statutes, is amended to read:

456.033 Requirement for instruction for certain licensees on human immunodeficiency virus and acquired immune deficiency syndrome.—

(9)*(a)* In lieu of completing a course as required in subsection (1), the licensee may complete a course in end-of-life care and palliative health care, so long as the licensee completed an approved AIDS/HIV course in the immediately preceding biennium.

(b) In lieu of completing a course as required by subsection (1), a person licensed under chapter 466 who has completed an approved AIDS/HIV course in the immediately preceding 2 years may complete a course approved by the Board of Dentistry.

Section 107. (1) Subsection (9) is added to section 627.419, Florida Statutes, to read:

627.419 Construction of policies.—

(9) With respect to any group or individual insurer covering dental services, each claimant, or dentist acting for a claimant, who has had a claim denied as not medically or dentally necessary or who has had a claim payment based on an alternate dental service in accordance with accepted dental standards for adequate and appropriate care must be provided an opportunity for an appeal to the insurer's licensed dentist who is responsible for the medical necessity reviews under the plan or is a member of the plan's peer review group. The appeal may be by telephone, and the insurer's dentist must respond within a reasonable time, not to exceed 15 business days.

(2) This section shall apply to policies issued or renewed on or after July 1, 2001.

Section 108. Paragraph (d) of subsection (3) and paragraph (c) of subsection (6) of section 468.302, Florida Statutes, are amended to read:

468.302 Use of radiation; identification of certified persons; limitations; exceptions.—

(3) Requirement for certification does not apply to:

(d) A person holding a certificate as a general radiographer may not perform nuclear medicine and radiation therapy procedures. A general radiographer may participate in additional approved programs as provided by rule of the department. *However, a person who is a general radiographer certified pursuant to this part who is trained and skilled*

in radiologic technology procedures appropriate to managing patients in the course of radiation therapy treatment and who provides these services while assisting a person registered with the American Registry of Radiologic Technologists in radiation therapy under the general supervision of a physician licensed under chapter 458 or chapter 459 who is trained and skilled in performing radiation therapy treatments, may assist in providing radiation therapy procedures. Such persons must successfully complete a training program in the following areas before performing radiologic technology duties:

1. Principles of radiation therapy treatment;

2. Biological effects of radiation;

3. Radiation exposure and monitoring;

4. Radiation safety and protection;

5. Evaluation and handling of radiographic treatment equipment and accessories; and

6. Patient positioning for radiation therapy treatment.

(6) Requirement for certification does not apply to:

(c) A person who is trained and skilled in *invasive cardiovascular* ~~cardiopulmonary~~ technology*, including the radiologic technology duties associated with these procedures,* and who provides *invasive cardiovascular* ~~cardiopulmonary~~ technology services at the direction, and under the direct supervision, of a licensed practitioner *who is trained and skilled in performing invasive cardiovascular procedures. Such persons must have successfully completed a didactic and clinical training program in the following areas before performing radiologic technology duties:*

1. Principles of X-ray production and equipment operation.

2. Biological effects of radiation.

3. Radiation exposure and monitoring.

4. Radiation safety and protection.

5. Evaluation of radiographic equipment and accessories.

6. Radiographic exposure and technique factors.

7. Film processing.

8. Image quality assurance.

9. Patient positioning.

10. Administration and complications of contrast media.

11. Specific fluoroscopic and digital X-ray imaging procedures related to invasive cardiovascular technology.

Section 109. Subsections (8) and (9) of section 468.352, Florida Statutes, are amended to read:

468.352 Definitions.—As used in this part, unless the context otherwise requires, the term:

(8) "*Registered* respiratory therapist" means any person licensed pursuant to this part who is employed to deliver respiratory care services under the order of a physician licensed pursuant to chapter 458 or chapter 459, and in accordance with protocols established by a hospital, other health care provider, or the board, and who functions in situations of unsupervised patient contact requiring individual judgment.

(9) *"Certified respiratory therapist" or* "respiratory care practitioner" means any person licensed pursuant to this part who is employed to deliver respiratory care services under the order of a physician licensed pursuant to chapter 458 or chapter 459, and in accordance with protocols established by a hospital, other health care provider, or the board.

Section 110. Subsections (1) and (2) of section 468.355, Florida Statutes, are amended to read:

468.355 Eligibility for licensure; temporary licensure.—

(1) To be eligible for licensure by the board as a *certified respiratory therapist* ~~respiratory care practitioner~~, an applicant must:

(a) Be at least 18 years old.

(b) Possess a high school diploma or a graduate equivalency diploma.

(c) Meet at least one of the following criteria:

1. The applicant has successfully completed a training program for respiratory therapy technicians or respiratory therapists approved by the Commission on Accreditation of Allied Health Education Programs, or the equivalent thereof, as accepted by the board.

2. The applicant is currently a "Certified Respiratory *Therapist* ~~Therapy Technician~~" certified by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.

3. The applicant is currently a "Registered Respiratory Therapist" registered by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.

The criteria set forth in subparagraphs 2. and 3. notwithstanding, the board shall periodically review the examinations and standards of the National Board for Respiratory Care and may reject those examinations and standards if they are deemed inappropriate.

(2) To be eligible for licensure by the board as a *registered* respiratory therapist, an applicant must:

(a) Be at least 18 years old.

(b) Possess a high school diploma or a graduate equivalency diploma.

(c) Meet at least one of the following criteria:

1. The applicant has successfully completed a training program for *registered* respiratory therapists approved by the Commission on Accreditation of Allied Health Education Programs, or the equivalent thereof, as accepted by the board.

2. The applicant is currently a "Registered Respiratory Therapist" registered by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.

The criteria set forth in subparagraphs 1. and 2. notwithstanding, the board shall periodically review the examinations and standards of the National Board for Respiratory Care and may reject those examinations and standards if they are deemed inappropriate.

Section 111. Section 468.357, Florida Statutes, is amended to read:

468.357 Licensure by examination.—

(1) A person who desires to be licensed as a *certified respiratory therapist* ~~respiratory care practitioner~~ may submit an application to take the examination, in accordance with board rule.

(a) Each applicant may take the examination who is determined by the board to have:

1. Completed the application form and remitted the applicable fee set by the board;

2. Submitted required documentation as required in s. 468.355; and

3. Remitted an examination fee set by the examination provider.

(b) Examinations for licensure of *certified respiratory therapist* ~~respiratory care practitioners~~ must be conducted no less than two times a year in such geographical locations or by such methods as are deemed advantageous to the majority of the applicants.

(c) The examination given for *certified respiratory therapist* ~~respiratory care practitioners~~ shall be the same as that given by the National Board for Respiratory Care for entry-level certification of respiratory *therapists* ~~therapy technicians~~. However, an equivalent examination may be accepted by the board in lieu of that examination.

(2) Each applicant who passes the examination shall be entitled to licensure as a *certified respiratory therapist* ~~respiratory care practitioner~~, and the department shall issue a license pursuant to this part to any applicant who successfully completes the examination in accordance with this section. However, the department shall not issue a license to any applicant who is under investigation in another jurisdiction for an offense which would constitute a violation of this part. Upon completion of such an investigation, if the applicant is found guilty of such an offense, the applicable provisions of s. 468.365 will apply.

Section 112. Subsections (1) and (2) of section 468.358, Florida Statutes, are amended to read:

468.358 Licensure by endorsement.—

(1) Licensure as a *certified respiratory therapist* ~~respiratory care practitioner~~ shall be granted by endorsement to an individual who holds the "Certified Respiratory *Therapist* ~~Therapy Technician~~" credential issued by the National Board for Respiratory Care or an equivalent credential acceptable to the board. Licensure by this mechanism requires verification by oath and submission of evidence satisfactory to the board that such credential is held.

(2) Licensure as a *registered* respiratory therapist shall be granted by endorsement to an individual who holds the "Registered Respiratory Therapist" credential issued by the National Board for Respiratory Care or an equivalent credential acceptable to the board. Licensure by this mechanism requires verification by oath and submission of evidence satisfactory to the board that such credential is held.

Section 113. Section 468.359, Florida Statutes, is amended to read:

468.359 Assumption of title and use of abbreviations.—

(1) Only persons who are licensed pursuant to this part as respiratory care practitioners have the right to use the title "Respiratory Care Practitioner" and the abbreviation "RCP."

(2) Only persons who are licensed pursuant to this part as *registered* respiratory therapists have the right to use the title "Registered Respiratory Therapist" and the abbreviation "RRT~~,~~" *when delivering services pursuant to this part* ~~provided such persons have passed the Registry Examination for Respiratory Therapists given by the National Board for Respiratory Care~~.

(3) Only persons who are *licensed pursuant to this part as certified respiratory therapists have the right to use the title "Certified Respiratory Therapist" and the abbreviation "CRT" when delivering services pursuant to this part.* ~~graduates of board-approved programs for respiratory care practitioners may use the term "Graduate Respiratory Therapy Technician" and the abbreviation "GRTT."~~

~~(4) Only persons who are graduates of board-approved programs for respiratory therapists may use the term "Graduate Respiratory Therapist" and the abbreviation "GRT."~~

(4)~~(5)~~ No person in this state shall deliver respiratory care services; advertise as, or assume the title of, respiratory care practitioner*, certified respiratory therapist,* or *registered* respiratory therapist; or use the abbreviation "RCP*," "CRT," or "RRT" that would lead the public to believe that such person is licensed pursuant to this part unless such person is so licensed;* or take any other action that would lead the public to believe that such person is licensed pursuant to this part unless such person is so licensed.

Section 114. Subsections (2), (3), and (4) of section 468.1155, Florida Statutes, are amended to read:

468.1155 Provisional license; requirements.—

(2) The department shall issue a provisional license to practice speech-language pathology to each applicant who the board certifies has:

(a) Completed the application form and remitted the required fees, including a nonrefundable application fee.

(b) Received a master's degree or *is currently enrolled in a* doctoral degree *program* with a major emphasis in speech-language pathology from an institution of higher learning which *is*, *or* at the time the applicant was enrolled and graduated~~,~~ was*,* accredited by an accrediting agency recognized by the *Council for Higher Education* ~~Commission on Recognition of Postsecondary~~ Accreditation or from an institution which is ~~publicly recognized as~~ a member in good standing with the Association of Universities and Colleges of Canada. An applicant who graduated from *or is currently enrolled in* a program at a university or college outside the United States or Canada must present documentation of the determination of equivalency to standards established by the *Council for Higher Education* ~~Commission on Recognition of Postsecondary~~ Accreditation in order to qualify. The applicant must have completed 60 semester hours that include:

1. Fundamental information applicable to the normal development and use of speech, hearing, and language; information about training in management of speech, hearing, and language disorders; and information supplementary to these fields.

2. Six semester hours in audiology.

3. Thirty of the required 60 semester hours in courses acceptable toward a graduate degree by the college or university in which these courses were taken, of which 24 semester hours must be in speech-language pathology.

(c) Completed 300 supervised clinical clock hours with 200 clock hours in the area of speech-language pathology *or completed the number of clock hours required by an accredited institution meeting national certification standards*. The supervised clinical clock hours shall be completed within the training institution or one of its cooperating programs.

(3) The department shall issue a provisional license to practice audiology to each applicant who the board certifies has:

(a) Completed the application form and remitted the required fees, including a nonrefundable application fee.

(b) Received a master's degree or *is currently enrolled in a* doctoral degree *program* with a major emphasis in audiology from an institution of higher learning which *is, or* at the time the applicant was enrolled and graduated was*,* accredited by an accrediting agency recognized by the *Council for Higher Education* ~~Commission on Recognition of Postsecondary~~ Accreditation or from an institution which is ~~publicly recognized as~~ a member in good standing with the Association of Universities and Colleges of Canada. An applicant who graduated from *or is currently enrolled in* a program at a university or college outside the United States or Canada must present documentation of the determination of equivalency to standards established by the *Council for Higher Education* ~~Commission on Recognition of Postsecondary~~ Accreditation in order to qualify. The applicant must have completed 60 semester hours that include:

1. Fundamental information applicable to the normal development and use of speech, hearing, and language; information about training in management of speech, hearing, and language disorders; and information supplementary to these fields.

2. Six semester hours in speech-language pathology.

3. Thirty of the required 60 semester hours in courses acceptable toward a graduate degree by the college or university in which these courses were taken, of which 24 semester hours must be in audiology.

(c) Completed 300 supervised clinical clock hours with 200 clock hours in the area of audiology *or completed the number of clock hours required by an accredited institution meeting national certification*

standards. The supervised clinical clock hours shall be completed within the training institution or one of its cooperating programs.

(4) An applicant ~~for a provisional license~~ who has received a master's degree or *is currently enrolled in a* doctoral degree *program* with a major emphasis in speech-language pathology as provided in subsection (2), or audiology as provided in subsection (3), and who seeks licensure in the area in which the applicant is not currently licensed, must have completed 30 semester hours in courses acceptable toward a graduate degree and 200 supervised clinical clock hours in the second discipline from an accredited institution.

Section 115. Paragraph (b) of subsection (1) and paragraph (b) of subsection (2) of section 468.1215, Florida Statutes, are amended to read:

468.1215 Speech-language pathology assistant and audiology assistant; certification.—

(1) The department shall issue a certificate as a speech-language pathology assistant to each applicant who the board certifies has:

(b) Earned a bachelor's degree from a college or university accredited by a regional association of colleges and schools recognized by the Department of Education which includes at least 24 semester hours of coursework as approved by the board at an institution accredited by an accrediting agency recognized by the *Council for Higher Education* ~~Commission on Recognition of Postsecondary~~ Accreditation.

(2) The department shall issue a certificate as an audiology assistant to each applicant who the board certifies has:

(b) Completed at least 24 semester hours of coursework as approved by the board at an institution accredited by an accrediting agency recognized by the *Council for Higher Education* ~~Commission on Recognition of Postsecondary~~ Accreditation.

Section 116. Subsection (3) of section 480.033, Florida Statutes, is amended to read:

480.033 Definitions.—As used in this act:

(3) "Massage" means the manipulation of the *soft* ~~superficial~~ tissues of the human body with the hand, foot, arm, or elbow, whether or not such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation.

Section 117. Subsection (3) of section 484.002, Florida Statutes, is amended, and subsections (8) and (9) are added to that section, to read:

484.002 Definitions.—As used in this part:

(3) "Opticianry" means the preparation and dispensing of lenses, spectacles, eyeglasses, contact lenses, and other optical devices to the intended user or agent thereof, upon the written prescription of a *licensed allopathic or osteopathic physician* ~~medical doctor~~ or optometrist who is duly licensed to practice or upon presentation of a duplicate prescription. The selection of frame designs, the actual sales transaction, and the transfer of physical possession of lenses, spectacles, eyeglasses, contact lenses, and other optical devices subsequent to performance of all services of the optician shall not be considered the practice of opticianry; however, such physical possession shall not be transferred until the optician has completed the fitting of the optical device upon the customer. The practice of opticianry also includes the duplication of lenses accurately as to power, without prescription. A board-certified optician qualified and operating under rules established by the board may fill, fit, adapt, or dispense any soft contact lens prescription. Such optician may fill, fit, adapt, or dispense any extended wear or hard contact lens prescription to the extent authorized to do so by the prescribing *allopathic or osteopathic physician* ~~medical doctor~~ or optometrist.

(8) "Contact lenses" means a prescribed medical device intended to be worn directly against the cornea of the eye to correct vision conditions, act as a therapeutic device, or provide a cosmetic effect.

(9) "Optical dispensing" means interpreting but not altering a prescription of a licensed physician or optometrist and designing, adapting, fitting, or replacing the prescribed optical aids, pursuant to such prescription, to or for the intended wearer, duplicating lenses, accurately as to power without a prescription and duplicating nonprescription eyewear and parts of eyewear. "Optical dispensing" does not include selecting frames, transferring an optical aid to the wearer after an optician has completed fitting it, or providing instruction in the general care and use of an optical aid, including placement, removal, hygiene, or cleaning.

Section 118. Subsection (2) of section 484.006, Florida Statutes, is amended to read:

484.006 Certain rules prohibited.—

(2) No rule or policy of the board shall prohibit any optician from practicing jointly with optometrists or *allopathic or osteopathic physicians* ~~medical doctors~~ licensed in this state.

Section 119. Subsections (1) and (2) of section 484.012, Florida Statutes, are amended to read:

484.012 Prescriptions; filing; duplication of prescriptions; duplication of lenses.—

(1) Any prescription written by a duly licensed *allopathic or osteopathic physician* ~~medical doctor~~ or optometrist for any lenses, spectacles, eyeglasses, contact lenses, or other optical devices shall be kept on file for a period of 2 years with the optical establishment that fills such prescription. However, the licensed optician may maintain a copy of the prescription.

(2) Upon request by the intended user of the prescribed lenses, spectacles, eyeglasses, contact lenses, or other optical devices, or by an agent of the intended user, the optician who fills the original prescription shall duplicate, on a form prescribed by rule of the board, the original prescription. However, for medical reasons only, the prescribing *allopathic or osteopathic physician* ~~medical doctor~~ or optometrist may, upon the original prescription, prohibit its duplication. Any duplication shall be considered a valid prescription to be filled for a period of 5 years from the date of the original prescription, except that a contact lens prescription shall be considered a valid prescription to be filled for a period of 2 years from the date of the original prescription.

Section 120. Section 484.015, Florida Statutes, is amended to read:

484.015 Authority to inspect.—Duly authorized agents and employees of the department shall have the power to inspect in a lawful manner at all reasonable hours *an* ~~any~~ establishment *of any kind* in the state in which lenses, spectacles, eyeglasses, contact lenses, and any other optical devices are prepared *or* ~~and~~ dispensed, for the purposes of:

(1) Determining if any provision of this part, or any rule promulgated under its authority, is being violated;

(2) Securing samples or specimens of any lenses, spectacles, eyeglasses, contact lenses, or other optical devices, after paying or offering to pay for such sample or specimen; or

(3) Securing such other evidence as may be needed for prosecution under this part.

Section 121. Section 484.013, Florida Statutes, is amended to read:

484.013 Violations and penalties.—

(1) It is unlawful for any person:

(a) To *intentionally* make a false or fraudulent statement, either for herself or himself or for another person, in any application, affidavit, or statement presented to the board or in any proceeding before the board.

(b) To prepare or dispense lenses, spectacles, eyeglasses, contact lenses, or other optical devices when such person is not licensed as an optician in this state.

(c) To prepare or dispense lenses, spectacles, eyeglasses, contact lenses, or other optical devices without first being furnished with a prescription as provided for in s. 484.012.

(2) It is unlawful for any person other than an optician licensed under this part to use the title "optician" or otherwise lead the public to believe that she or he is engaged in the practice of opticianry.

(3) It is unlawful for any optician to engage in the diagnosis of the human eyes, attempt to determine the refractive powers of the human eyes, or, in any manner, attempt to prescribe for or treat diseases or ailments of human beings.

(4) It is unlawful for any person to open or operate, either alone or with any other person or persons, an optical establishment which does not have the permit required by this part.

(5)*(a) Except as otherwise provided in paragraph (b), any*~~Any~~ person who *knowingly* violates *any* ~~a~~ provision of this section commits a *felony* ~~misdemeanor~~ of the *third* ~~second~~ degree, punishable as provided in s. 775.082*,* ~~or~~ s. 775.083*, or s. 775.084*.

(b) A person who knowingly violates paragraph (1)(c) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 122. Paragraph (g) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(g) LEVEL 7
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
409.920(2)	3rd	Medicaid provider fraud.
456.065(2)	3rd	Practicing a health care profession without a license.
456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
458.327(1)	3rd	Practicing medicine without a license.
459.013(1)	3rd	Practicing osteopathic medicine without a license.
460.411(1)	3rd	Practicing chiropractic medicine without a license.
461.012(1)	3rd	Practicing podiatric medicine without a license.
462.17	3rd	Practicing naturopathy without a license.
463.015(1)	3rd	Practicing optometry without a license.
464.016(1)	3rd	Practicing nursing without a license.
465.015(2)	3rd	Practicing pharmacy without a license.
466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
483.901(9)	3rd	Practicing medical physics without a license.
484.013(1)(c)	*3rd*	*Preparing or dispensing optical devices without a prescription.*
484.053	3rd	Dispensing hearing aids without a license.
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.
560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding $300 but less than $20,000 by money transmitter.
560.125(5)(a)	3rd	Money transmitter business by unauthorized person, currency or payment instruments exceeding $300 but less than $20,000.
655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding $300 but less than $20,000 by financial institution.
782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	2nd	Killing of human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
784.083(1)	1st	Aggravated battery on code inspector.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.

Florida Statute	Felony Degree	Description
796.03	2nd	Procuring any person under 16 years for prostitution.
800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
812.014(2)(a)	1st	Property stolen, valued at $100,000 or more; property stolen while causing other property damage; 1st degree grand theft.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.131(2)(a)	2nd	Robbery by sudden snatching.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at $20,000 or more, but less than $100,000.
827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
872.06	2nd	Abuse of a dead human body.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility or school.
893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 50 lbs., less than 2,000 lbs.
893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135 (1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
893.135 (1)(i)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less then 5 kilograms.
893.135 (1)(j)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
896.101(5)(a)	3rd	Money laundering, financial transactions exceeding $300 but less than $20,000.
896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding $300 but less than $20,000.

Section 123. Subsection (1) of section 484.0445, Florida Statutes, is amended to read:

484.0445 Training program.—

(1) The board shall establish by rule a training program *for a minimum* ~~not to exceed~~ 6 months in length, which may include a board-approved home study course. ~~Upon submitting to the department the registration fee, the applicant may register and enter the training program. Upon completion of the training program, the trainee shall take the first available written and practical examinations offered by the department. The department shall administer the written and practical examinations as prescribed by board rule. If the trainee fails either the written or the practical examination, she or he may repeat the training program one time and retake the failed examination, provided she or he takes the next available examination. No person may remain in trainee status or further perform any services authorized for a trainee if she or he fails either the written or the practical examination twice; but, a trainee may continue to function as a trainee until she or he has received the results of the examinations. Any applicant who has failed an examination twice and is no longer functioning as a trainee shall be eligible for reexamination as provided in s. 484.045(2).~~

Section 124. Section 484.045, Florida Statutes, is amended to read:

484.045 Licensure by examination.—

(1) Any person desiring to be licensed as a hearing aid specialist shall apply to the department *on a form approved by the department* ~~to take the licensure examination, which shall include a clinical practical component~~.

(2) The department shall *license* ~~examine~~ each applicant who the board certifies:

(a) Has completed the application form and remitted the *required fees* ~~applicable fee to the board and has paid the examination fee~~;

(b) Is of good moral character;

(c) Is 18 years of age or older;

(d) Is a graduate of an accredited high school or its equivalent; ~~and~~

(e)1. Has met the requirements *of the training program* ~~set forth in s. 484.0445~~; or

2.a. Has a valid, current license as a hearing aid specialist or its equivalent from another state and has been actively practicing in such capacity for at least 12 months; or

b. Is currently certified by the National Board for Certification in Hearing Instrument Sciences and has been actively practicing for at least 12 months. ~~Persons qualifying under this sub-subparagraph need not take the written or practical examination, but must take and pass a test on Florida laws and rules relating to the fitting and dispensing of hearing aids.~~

(f) Has passed an examination, as prescribed by board rule; and

(g) Has demonstrated, in a manner designated by rule of the board, knowledge of state laws and rules relating to the fitting and dispensing of hearing aids.

(3) A person who fails the examination may make application for reexamination to the appropriate examining entity, as prescribed by board rule.

~~(2) On or after October 1, 1990, every applicant who is qualified to take the examination shall be allowed to take the examination three times. If, after October 1, 1990, an applicant fails the examination three times, the applicant shall no longer be eligible to take the examination.~~

~~(3) The department shall issue a license to practice dispensing hearing aids to any applicant who successfully completes the examination in accordance with this section.~~

Section 125. Effective January 1, 2002, subsection (1) of section 490.012, Florida Statutes, is amended to read:

490.012 Violations; penalties; injunction.—

(1)(a) No person shall hold herself or himself out by any professional title, name, or description incorporating the word "psychologist" unless such person holds a valid, active license as a psychologist under this chapter.

(b) No person shall hold herself or himself out by any professional title, name, or description incorporating the words "school psychologist" unless such person holds a valid, active license as a school psychologist under this chapter or is certified as a school psychologist by the Department of Education.

(c)~~(1)(a)~~ No person shall hold herself or himself out by any title or description incorporating the words, or permutations of them, ~~"psychologist,"~~ "psychology," "psychological," *or* "psychodiagnostic," ~~or "school psychologist,"~~ or describe any test or report as psychological, unless such person holds a valid, active license under this chapter or is exempt from the provisions of this chapter.

(d)~~(b)~~ No person shall hold herself or himself out by any title or description incorporating the word, or a permutation of the word, "psychotherapy" unless such person holds a valid, active license under chapter 458, chapter 459, chapter 490, or chapter 491, or such person is certified as an advanced registered nurse practitioner, pursuant to s. 464.012, who has been determined by the Board of Nursing as a specialist in psychiatric mental health.

(e)~~(c)~~ No person licensed or provisionally licensed pursuant to this chapter shall hold herself or himself out by any title or description which indicates licensure other than that which has been granted to her or him.

Section 126. Effective January 1, 2002, section 490.014, Florida Statutes, is amended to read:

490.014 Exemptions.—

(1)(a) No provision of this chapter shall be construed to limit the practice of physicians licensed pursuant to chapter 458 or chapter 459 so long as they do not hold themselves out to the public as psychologists or use a professional title protected by this chapter.

(b) No provision of this chapter shall be construed to limit the practice of nursing, clinical social work, marriage and family therapy, mental health counseling, or other recognized businesses or professions, or to prevent qualified members of other professions from doing work of a nature consistent with their training, so long as they do not hold themselves out to the public as psychologists or use a title *or description* protected by this chapter. Nothing in this subsection shall be construed to exempt any person from the provisions of s. 490.012.

(2) No person shall be required to be licensed or provisionally licensed under this chapter who:

(a) Is a salaried employee of a government agency; developmental services program, mental health, alcohol, or drug abuse facility operating pursuant to chapter 393, chapter 394, or chapter 397; subsidized child care program, subsidized child care case management program, or child care resource and referral program operating pursuant to chapter 402; child-placing or child-caring agency licensed pursuant to chapter 409; domestic violence center certified pursuant to chapter 39; accredited academic institution; or research institution, if such employee is performing duties for which he or she was trained and hired solely within the confines of such agency, facility, or institution*, so long as the employee is not held out to the public as a psychologist pursuant to s. 490.012(1)(a)* .

(b) Is a salaried employee of a private, nonprofit organization providing counseling services to children, youth, and families, if such services are provided for no charge, if such employee is performing duties for which he or she was trained and hired*, so long as the employee is not held out to the public as a psychologist pursuant to s. 490.012(1)(a)*.

(c) Is a student who is pursuing a course of study which leads to a degree in medicine or a profession regulated by this chapter who is providing services in a training setting, provided such activities or services constitute part of a supervised course of study, or is a graduate accumulating the experience required for any licensure under this chapter, provided such graduate or student is designated by a title such as "intern" or "trainee" which clearly indicates the in-training status of the student.

(d) Is certified in school psychology by the Department of Education and is performing psychological services as an employee of a public or private educational institution. Such exemption shall not be construed to authorize any unlicensed practice which is not performed as a direct employee of an educational institution.

(e) Is not a resident of the state but offers services in this state, provided:

1. Such services are performed for no more than 5 days in any month and no more than 15 days in any calendar year; and

2. Such nonresident is licensed or certified by a state or territory of the United States, or by a foreign country or province, the standards of which were, at the date of his or her licensure or certification, equivalent to or higher than the requirements of this chapter in the opinion of the department or, in the case of psychologists, in the opinion of the board.

(f) Is a rabbi, priest, minister, or member of the clergy of any religious denomination or sect when engaging in activities which are within the scope of the performance of his or her regular or specialized ministerial duties and for which no separate charge is made, or when such activities are performed, with or without charge, for or under the auspices or sponsorship, individually or in conjunction with others, of an established and legally cognizable church, denomination, or sect, and when the person rendering service remains accountable to the established authority thereof.

(3) No provision of this chapter shall be construed to limit the practice of any individual who solely engages in behavior analysis so long as he or she does not hold himself or herself out to the public as possessing a license issued pursuant to this chapter or use a title *or description* protected by this chapter.

(4) Nothing in this section shall exempt any person from the *provisions* ~~provision~~ of s. 490.012(1)*(a)-(b)* ~~(a)-(b)~~.

(5) Except as stipulated by the board, the exemptions contained in this section do not apply to any person licensed under this chapter whose license has been suspended or revoked by the board or another jurisdiction.

Section 127. Effective January 1, 2002, paragraphs (i), (j), and (k) of subsection (1) of section 491.012, Florida Statutes, are amended to read:

491.012 Violations; penalty; injunction.—

(1) It is unlawful and a violation of this chapter for any person to:

(i) Practice clinical social work in this state~~, as the practice is defined in s. 491.003(7),~~ for compensation, unless the person holds a valid, active license to practice clinical social work issued pursuant to this chapter *or is an intern registered pursuant to s. 491.0045*.

(j) Practice marriage and family therapy in this state, ~~as the practice is defined in s. 491.003(8),~~ for compensation, unless the person holds a valid, active license to practice marriage and family therapy issued pursuant to this chapter *or is an intern registered pursuant to s. 491.0045*.

(k) Practice mental health counseling in this state, ~~as the practice is defined in s. 491.003(9),~~ for compensation, unless the person holds a valid, active license to practice mental health counseling issued pursuant to this chapter *or is an intern registered pursuant to s. 491.0045*.

Section 128. Effective January 1, 2002, paragraphs (a) and (b) of subsection (4) of section 491.014, Florida Statutes, are amended to read:

491.014 Exemptions.—

(4) No person shall be required to be licensed, provisionally licensed, registered, or certified under this chapter who:

(a) Is a salaried employee of a government agency; developmental services program, mental health, alcohol, or drug abuse facility operating pursuant to chapter 393, chapter 394, or chapter 397; subsidized child care program, subsidized child care case management program, or child care resource and referral program operating pursuant to chapter 402; child-placing or child-caring agency licensed pursuant to chapter 409; domestic violence center certified pursuant to chapter 39; accredited academic institution; or research institution, if such employee is performing duties for which he or she was trained and hired solely within the confines of such agency, facility, or institution*, so long as the employee is not held out to the public as a clinical social worker, mental health counselor, or marriage and family therapist*.

(b) Is a salaried employee of a private, nonprofit organization providing counseling services to children, youth, and families, if such services are provided for no charge, if such employee is performing duties for which he or she was trained and hired*, so long as the employee is not held out to the public as a clinical social worker, mental health counselor, or marriage and family therapist*.

Section 129. Subsection (4) of section 458.319, Florida Statutes, is amended to read:

458.319 Renewal of license.—

(4) Notwithstanding the provisions of s. 456.033, a physician may complete continuing education on end-of-life care and palliative ~~health~~ care in lieu of continuing education in AIDS/HIV, if that physician has completed the AIDS/HIV continuing education in the immediately preceding biennium.

Section 130. Subsection (5) of section 459.008, Florida Statutes, is amended to read:

459.008 Renewal of licenses and certificates.—

(5) Notwithstanding the provisions of s. 456.033, an osteopathic physician may complete continuing education on end-of-life and palliative ~~health~~ care in lieu of continuing education in AIDS/HIV, if that physician has completed the AIDS/HIV continuing education in the immediately preceding biennium.

Section 131. Subsection (4) of section 765.101, Florida Statutes, is amended to read:

765.101 Definitions.—As used in this chapter:

(4) "End-stage condition" means *an irreversible* ~~a~~ condition that is caused by injury, disease, or illness which has resulted in *progressively* severe and permanent deterioration, ~~indicated by incapacity and complete physical dependency~~ and ~~for~~ which, to a reasonable degree of medical *probability* ~~certainty~~, treatment of the ~~irreversible~~ condition would be ~~medically~~ ineffective.

Section 132. Subsection (4) of section 765.102, Florida Statutes, is amended to read:

765.102 Legislative findings and intent.—

(4) The Legislature recognizes the need for all health care professionals to rapidly increase their understanding of end-of-life and palliative ~~health~~ care. Therefore, the Legislature encourages the professional regulatory boards to adopt appropriate standards and guidelines regarding end-of-life care and pain management and encourages educational institutions established to train health care professionals and allied health professionals to implement curricula to train such professionals to provide end-of-life care, including pain management and palliative care.

Section 133. Section 765.1025, Florida Statutes, is created to read:

765.1025 Palliative care.—For purposes of this chapter:

(1) Palliative care is the comprehensive management of the physical, psychological, social, spiritual, and existential needs of patients. Palliative care is especially suited to the care of persons who have incurable, progressive illness.

(2) Palliative care must include:

(a) An opportunity to discuss and plan for end-of-life care.

(b) Assurance that physical and mental suffering will be carefully attended to.

(c) Assurance that preferences for withholding and withdrawing life-sustaining interventions will be honored.

(d) Assurance that the personal goals of the dying person will be addressed.

(e) Assurance that the dignity of the dying person will be a priority.

(f) Assurance that health care providers will not abandon the dying person.

(g) Assurance that the burden to family and others will be addressed.

(h) Assurance that advance directives for care will be respected regardless of the location of care.

(i) Assurance that organizational mechanisms are in place to evaluate the availability and quality of end-of-life, palliative, and hospice care services, including the evaluation of administrative and regulatory barriers.

(j) Assurance that necessary health care services will be provided and that relevant reimbursement policies are available.

(k) Assurance that the goals expressed in paragraphs (a)-(j) will be accomplished in a culturally appropriate manner.

Section 134. Subsection (2) of section 765.1103, Florida Statutes, is amended to read:

765.1103 Pain management and palliative care.—

(2) *Health care providers and practitioners regulated under chapter 458, chapter 459, or chapter 464 must, as appropriate, comply with a request for pain management or palliative care from a patient under their care or, for an incapacitated patient under their care, from a surrogate, proxy, guardian, or other representative permitted to make health care decisions for the incapacitated patient. Facilities regulated under chapter 400 or chapter 395 must comply with the pain management or palliative care measures ordered by the patient's physician.* ~~When the patient is receiving care as an admitted patient of a facility or a provider or is a subscriber of a health care facility, health care provider, or health care practitioner regulated under chapter 395, chapter 400, chapter 458, chapter 459, chapter 464, or chapter 641, such facility, provider, or practitioner must, when appropriate, comply with a request for pain management or palliative care from a capacitated patient or an incapacitated patient's health care surrogate or proxy, court-appointed guardian as provided in chapter 744, or attorney in fact as provided in chapter 709. The court-appointed guardian or attorney in fact must have been delegated authority to make health care decisions on behalf of the patient.~~

Section 135. Paragraph (b) of subsection (1) of section 765.205, Florida Statutes, is amended to read:

765.205 Responsibility of the surrogate.—

(1) The surrogate, in accordance with the principal's instructions, unless such authority has been expressly limited by the principal, shall:

(b) Consult expeditiously with appropriate health care providers to provide informed consent, and make only health care decisions for the principal which he or she believes the principal would have made under the circumstances if the principal were capable of making such decisions. *If there is no indication of what the principal would have chosen, the surrogate may consider the patient's best interest in deciding that proposed treatments are to be withheld or that treatments currently in effect are to be withdrawn.*

Section 136. Subsections (2) and (3) of section 765.401, Florida Statutes, are amended to read:

765.401 The proxy.—

(2) Any health care decision made under this part must be based on the proxy's informed consent and on the decision the proxy reasonably believes the patient would have made under the circumstances. *If there is no indication of what the patient would have chosen, the proxy may consider the patient's best interest in deciding that proposed treatments are to be withheld or that treatments currently in effect are to be withdrawn.*

(3) Before exercising the incapacitated patient's rights to select or decline health care, the proxy must comply with the provisions of ss. 765.205 and 765.305, except that a proxy's decision to withhold or withdraw life-prolonging procedures must be supported by clear and convincing evidence that the decision would have been the one the patient would have chosen had the patient been competent *or, if there is no indication of what the patient would have chosen, that the decision is in the patient's best interest*.

Section 137. *The Legislature finds that the area of specialty training is of great importance to the citizens of this state and that specialty training and certification creates a higher level of proficiency for the practitioner and improves the delivery of health care to Floridians. Because much confusion exists among the patient population and practitioners as to the requirements for board certification, the Legislature directs the Department of Health to conduct a study of the area of specialty certification relating to the Board of Medicine, the Board of Osteopathic Medicine, and the Board of Dentistry. The study should review current statutes and rules to determine if any barriers exist in board recognition of certifying organizations and if restrictions placed on a licensee's speech both target an identifiable harm and mitigate against such harm in a direct and effective manner. A final report shall be provided no later than January 1, 2002, to the President of the Senate and the Speaker of the House of Representatives for distribution to the chairs of the health-care-related committees.*

Section 138. Paragraph (d) of subsection (2) of section 499.012, Florida Statutes, is amended to read:

499.012 Wholesale distribution; definitions; permits; general requirements.—

(2) The following types of wholesaler permits are established:

(d) A retail pharmacy wholesaler's permit. A retail pharmacy wholesaler is a retail pharmacy engaged in wholesale distribution of prescription drugs within this state under the following conditions:

1. The pharmacy must obtain a retail pharmacy wholesaler's permit pursuant to ss. 499.001-499.081 and the rules adopted under those sections.

2. The wholesale distribution activity does not exceed 30 percent of the total annual purchases of prescription drugs. If the wholesale distribution activity exceeds the 30-percent maximum, the pharmacy must obtain a prescription drug wholesaler's permit.

3. The transfer of prescription drugs that appear in any schedule contained in chapter 893 is subject to chapter 893 and the federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

4. The transfer is between a retail pharmacy and another retail pharmacy*, a Modified Class II institutional pharmacy,* or a health care practitioner licensed in this state and authorized by law to dispense or prescribe prescription drugs.

5. All records of sales of prescription drugs subject to this section must be maintained separate and distinct from other records and comply with the recordkeeping requirements of ss. 499.001-499.081.

Section 139. *The Legislature finds that personal identifying information, name, age, diagnosis, address, bank account numbers, and debit and credit card numbers contained in the records relating to an individual's personal health or eligibility for health-related services made or received by the individual's physician and public or private health facility should be held confidential. Furthermore, the Legislature finds that every person has an expectation of and a right to privacy in all matters concerning her or his personal health when medical services are provided. Matters of personal health are traditionally private and confidential concerns between the patient and the health care provider. The private and confidential nature of personal health matters pervades both the public and private sectors. For these reasons, it is the express intent of the Legislature to protect confidential information and the individual's expectations of the right to privacy in all matters regarding her or his personal health and not to have such information exploited for purposes of solicitation or marketing the sale of goods and services.*

Section 140. Subsection (5) of section 456.057, Florida Statutes, is amended to read:

456.057 Ownership and control of patient records; report or copies of records to be furnished.—

(5)*(a)* Except as otherwise provided in this section and in s. 440.13(4)(c), such records may not be furnished to, and the medical condition of a patient may not be discussed with, any person other than the patient or the patient's legal representative or other health care practitioners and providers involved in the care or treatment of the patient, except upon written authorization of the patient. However, such records may be furnished without written authorization under the following circumstances:

1.~~(a)~~ To any person, firm, or corporation that has procured or furnished such examination or treatment with the patient's consent.

2.~~(b)~~ When compulsory physical examination is made pursuant to Rule 1.360, Florida Rules of Civil Procedure, in which case copies of the

medical records shall be furnished to both the defendant and the plaintiff.

3.~~(c)~~ In any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the patient or the patient's legal representative by the party seeking such records.

4.~~(d)~~ For statistical and scientific research, provided the information is abstracted in such a way as to protect the identity of the patient or provided written permission is received from the patient or the patient's legal representative.

(b) Absent a specific written release or authorization permitting utilization of patient information for solicitation or marketing the sale of goods or services, any use of that information for those purposes is prohibited.

(14) Licensees in violation of the provisions of this section shall be disciplined by the appropriate licensing authority.

(15) The Attorney General is authorized to enforce the provisions of this section for records owners not otherwise licensed by the state, through injunctive relief and fines not to exceed $5,000 per violation.

Section 141. Subsection (7) of section 395.3025, Florida Statutes is amended to read:

395.3025 Patient and personnel records; copies; examination.—

(7)*(a)* If the content of any record of patient treatment is provided under this section, the recipient, if other than the patient or the patient's representative, may use such information only for the purpose provided and may not further disclose any information to any other person or entity, unless expressly permitted by the written consent of the patient. A general authorization for the release of medical information is not sufficient for this purpose. The content of such patient treatment record is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Absent a specific written release or authorization permitting utilization of patient information for solicitation or marketing the sale of goods or services, any use of that information for those purposes is prohibited.

Section 142. Subsection (1) of section 400.1415, Florida Statutes, is amended to read:

400.1415 Patient records; penalties for alteration.—

(1) Any person who fraudulently alters, defaces, or falsifies any medical *record or releases medical records for the purposes of solicitation or marketing the sale of goods or services absent a specific written release or authorization permitting utilization of patient information,* or other nursing home record, or causes or procures any of these offenses to be committed, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 143. Section 626.9651, Florida Statutes, is created to read:

626.9651 Privacy.—The department shall adopt rules consistent with other provisions of the Florida Insurance Code to govern the use of a consumer's nonpublic personal financial and health information. These rules must be based on, consistent with, and not more restrictive than the Privacy of Consumer Financial and Health Information Regulation, adopted September 26, 2000, by the National Association of Insurance Commissioners; however, the rules must permit the use and disclosure of nonpublic personal health information for scientific, medical, or public policy research, in accordance with federal law. In addition, these rules must be consistent with, and not more restrictive than, the standards contained in Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102. If the department determines that a health insurer or health maintenance organization is in compliance with, or is actively undertaking compliance with, the consumer privacy protection rules adopted by the United States Department of Health and Human Services, in conformance with the Health Insurance Portability and Affordability Act, that health insurer or health maintenance organization is in compliance with this section.

Section 144. Effective upon becoming law, subsections (14), (15), and (16) are added to section 400.141, Florida Statutes, to read:

400.141 Administration and management of nursing home facilities.—Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(14) Before November 30 of each year, subject to the availability of an adequate supply of the necessary vaccine, provide for immunizations against influenza viruses to all its consenting residents in accordance with the recommendations of the U.S. Centers for Disease Control and Prevention, subject to exemptions for medical contraindications and religious or personal beliefs. Subject to these exemptions, any consenting person who becomes a resident of the facility after November 30 but before March 31 of the following year must be immunized within 5 working days after becoming a resident. Immunization shall not be provided to any resident who provides documentation that he or she has been immunized as required by this subsection. This subsection does not prohibit a resident from receiving the immunization from his or her personal physician if he or she so chooses. A resident who chooses to receive the immunization from his or her personal physician shall provide proof of immunization to the facility. The agency may adopt and enforce any rules necessary to comply with or implement this subsection.

(15) Assess all residents for eligibility for pneumococcal polysaccharide vaccination (PPV) and vaccinate residents when indicated within 60 days after the effective date of this act in accordance with the recommendations of the U.S. Centers for Disease Control and Prevention, subject to exemptions for medical contraindications and religious or personal beliefs. Residents admitted after the effective date of this act shall be assessed within 5 working days of admission and, when indicated, vaccinated within 60 days in accordance with the recommendations of the United States Centers for Disease Control and Prevention, subject to exemptions for medical contradictions and religious or personal beliefs. Immunization shall not be provided to any resident who provides documentation that he or she has been immunized as required by this subsection. This subsection does not prohibit a resident from receiving the immunization from his or her personal physician if he or she so chooses. A resident who chooses to receive the immunization from his or her personal physician shall provide proof of immunization to the facility. The agency may adopt and enforce any rules necessary to comply with or implement this subsection.

(16) Annually encourage and promote to its employees the benefits associated with immunizations against influenza viruses in accordance with the recommendations of the U.S. Centers for Disease Control and Prevention. The agency may adopt and enforce any rules necessary to comply with or implement this subsection.

Facilities that have been awarded a Gold Seal under the program established in s. 400.235 may develop a plan to provide certified nursing assistant training as prescribed by federal regulations and state rules and may apply to the agency for approval of its program.

Section 145. *There is established the Office of Community Partners within the Department of Health for the purpose of receiving, coordinating, and dispensing federal funds set aside to expand the delivery of social services through eligible private community organizations and programs. The office shall provide policy direction and promote civic initiatives which seek to preserve and strengthen families and communities. The Department of Health, the Department of Children and Family Services, the Department of Juvenile Justice, and the Department of Corrections may request transfer of general revenue funds between agencies, as approved by the Legislative Budget Commission, as necessary to match federal funds received by the Office of Community Partners for these initiatives.*

Section 146. Section 627.6474, Florida Statutes, is created to read:

627.6474 Provider contracts.—A health insurer shall not require a contracted health care practitioner as defined in s. 456.001(4) to accept the terms of other health care practitioner contracts with the insurer or

any other insurer, or health maintenance organization, under common management and control with the insurer, including Medicare and Medicaid practitioner contracts and those authorized by s. 627.6471, s. 627.6472, or s. 641.315, except for a practitioner in a group practice as defined in s. 456.053 who must accept the terms of a contract negotiated for the practitioner by the group, as a condition of continuation or renewal of the contract. Any contract provision that violates this section is void. A violation of this section is not subject to the criminal penalty specified in s. 624.15.

Section 147. Subsection (11) is added to section 627.662, Florida Statutes, to read:

627.662 Other provisions applicable.—The following provisions apply to group health insurance, blanket health insurance, and franchise health insurance:

(11) Section 627.6474, relating to provider contracts.

Section 148. Subsection (10) is added to section 641.315, Florida Statutes, to read:

641.315 Provider contracts.—

(10) A health maintenance organization shall not require a contracted health care practitioner as defined in s. 456.001(4) to accept the terms of other health care practitioner contracts with the health maintenance organization or any insurer, or other health maintenance organization, under common management and control with the health maintenance organization, including Medicare and Medicaid practitioner contracts and those authorized by s. 627.6471, s. 627.6472, or s. 641.315, except for a practitioner in a group practice as defined in s. 456.053 who must accept the terms of a contract negotiated for the practitioner by the group, as a condition of continuation or renewal of the contract. Any contract provision that violates this section is void. A violation of this section is not subject to the criminal penalty specified in s. 624.15.

Section 149. The provisions of sections 142-144 of this act shall take effect July 1, 2001, and shall apply to contracts entered into or renewed on or after that date.

Section 150. Except as otherwise provided herein, this act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 2, through page 3, line 24,
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to health care; providing legislative intent and findings with respect to the Medical Quality Assurance Trust Fund and function administered by the Department of Health; requiring the Auditor General to do a followup Medical Quality Assurance audit and issue a report to the Legislature; requiring the Department of Health to reimburse the Agency for Health Care Administration for certain costs; requiring the Office of Program Policy Analysis and Government Accountability to study the feasibility of maintaining the Medical Quality Assurance function within a single department and issue a report to the Legislature; amending s. 456.004, F.S.; providing requirements for rules relating to biennial renewal of licenses; amending s. 456.025, F.S.; revising requirements relating to the setting and use of fees for the regulation of health care professions and practitioners, including continuing education fees; providing for an electronic continuing education tracking system; repealing s. 458.31151, F.S.; repealing obsolete provisions; amending s. 457.107, F.S.; for clarification of acupuncture fees; amending s. 483.807, F.S.; relating to clinical laboratory personnel fees; amending s. 456.011, F.S.; requiring board meetings to be conducted through teleconferencing or other technological means except under certain circumstances; amending s. 456.013, F.S.; requiring the department to charge initial license fees; amending s. 456.017, F.S.; providing for administration of national examinations and termination of state-administered written examinations; providing for administration of state-administered practical or clinical examinations if paid for in advance by the examination candidates; providing legislative intent with respect to the use of national examinations; providing for electronic access to and posting of examination scores under certain conditions; providing for the sharing of examinations or examination item banks with certain entities; clarifying circumstances under which candidates may bring a challenge; providing for electronic administration of certain laws and rules examinations; amending s. 456.035, F.S.; providing for electronic notification of a licensee's current mailing address and place of practice; amending s. 456.073, F.S.; authorizing a letter of guidance in lieu of a finding of probable cause under certain conditions; amending s. 456.081, F.S.; providing for the posting of newsletters on the department's website; amending s. 456.072, F.S.; revising and providing grounds for discipline of licensees; revising and providing disciplinary actions; amending s. 456.079, F.S.; requiring mitigating or aggravating circumstances to be in the final order to be considered in the imposition of penalties; amending ss. 457.109, 458.320, 458.331, 458.345, 458.347, 459.0085, 459.015, 459.022, 460.413, 461.013, 462.14, 463.016, 464.018, 465.008, 465.016, 466.028, 466.037, 467.203, 468.1295, 468.1755, 468.217, 468.365, 468.518, 468.719, 468.811, 478.52, 480.046, 483.825, 483.901, 484.014, 484.056, 486.125, 490.009, and 491.009, F.S.; revising and conforming provisions relating to disciplinary grounds and penalties; repealing s. 483.827, F.S., relating to penalties applicable to clinical laboratories; amending s. 456.065, F.S.; requiring the unlicensed activity fee to be in addition to all other fees collected from each licensee; amending ss. 458.347 and 459.022, F.S.; allowing authorized physician assistants to prescribe any medication not listed on a formulary established by the Council on Physician Assistants; allowing authorized physician assistants to dispense drug samples pursuant to proper prescription; eliminating the formulary committee and revising provisions relating to creation and amendment of the formulary, to conform; amending s. 456.003, F.S.; providing a limitation on the duties of certain boards; providing for the Agency for Health Care Administration to create the Organ Transplant Task Force to study organ transplantation programs; requiring the task force to study and make recommendations on the necessity of the issuance of certificates of need for such programs and funding for organ transplantation; providing a date for the task force to report to the Governor and the Legislature; amending 409.9205, F.S.; transferring positions in the Medicaid Fraud Control Unit of the Department of Legal Affairs to Career Services; amending s. 483.245, F.S.; prohibiting rebate or split-fee arrangements with dialysis facilities for patient referrals to clinical laboratories; providing penalties; amending s. 232.435, F.S.; providing training requirements for a first responder and teacher athletic trainer; amending s. 383.14, F.S.; amending screening requirements for postnatal screening; amending s. 395.0197, F.S.; revising provisions relating to hospital and ambulatory surgical center internal risk management programs; modifying requirements for risk management and prevention education and training; restricting participation of unlicensed persons in surgical procedures; requiring ongoing evaluation of surgical procedures and protocols; eliminating an annual report summarizing facility incident reports and disciplinary actions; requiring the Agency for Health Care Administration to publish website summaries of adverse incident reports; requiring facility reporting of allegations of sexual misconduct by health care practitioners; providing certain civil liability for licensed risk managers; prohibiting intimidation of a risk manager; providing a penalty; amending s. 395.10972, F.S.; increasing membership on the Health Care Risk Management Advisory Council; amending s. 395.701, F.S.; limiting the financial information the agency may require to determine the amount of hospital annual assessments; amending s. 409.905, F.S.; providing that the Agency for Health Care Administration may restrict the provision of mandatory services by mobile providers; amending s. 409.906, F.S.; providing that the agency may restrict or prohibit the provision of services by mobile providers; providing that Medicaid will not provide reimbursement for dental services provided in mobile dental units, except for certain units; amending s. 456.013, F.S.; providing a professional continuing education requirement relating to prevention of medical errors; amending s. 456.057, F.S.; providing for appointment of a records custodian under certain circumstances; amending s. 456.063, F.S.; requiring licensed health care practitioners to report to the Department of Health any allegations of sexual misconduct; amending s. 456.072, F.S.; providing additional grounds for disciplinary actions;

clarifying a penalty involving restriction of professional practice or license; providing additional penalties; requiring assessment of costs related to investigation and prosecution; amending s. 456.073, F.S.; requiring the Department of Health to notify the patient or legal representative of the status of a disciplinary case; requiring the department to provide certain information to the complainant; providing time limitations on the filing of administrative complaints against licensees of the department; amending s. 456.074, F.S.; providing for an emergency order suspending the license of a practitioner for fraud; amending s. 456.077, F.S.; specifying violations for which the Department of Health or a regulatory board may issue citations; amending s. 456.081, F.S.; requiring the Department of Health and regulatory boards to maintain a website containing specified information; creating s. 458.3147, F.S.; providing automatic admission to any medical school in the State University System for military academy students or graduates who qualify for the Medical Corps of the United States military; amending s. 458.315, F.S.; providing that a physician practicing under a temporary certificate is immune from civil liability if acting in good faith as a resonably prudent person and if the injury or damage is not caused by willful misconduct; providing requirements for the Board of Medicine in issuing temporary certificates; amending ss. 458.331 and 459.015, F.S.; conforming language and cross references to changes made by the act; amending s. 641.51, F.S.; revising adverse determination provisions; amending ss. 465.019 and 465.0196, F.S.; requiring institutional pharmacies and special pharmacy permittees that use pharmacy technicians to have a written policy and procedures manual; directing the Department of Health and the Agency for Health Care Administration to review health care practitioner and facility reporting requirements; requiring a report to the Legislature; amending s. 468.1755, F.S.; providing an additional ground for disciplinary action against a nursing home administrator; reenacting ss. 468.1695(3) and 468.1735, F.S., to incorporate said amendment in references; reenacting s. 484.056(1)(a), F.S., relating to disciplinary action against hearing aid specialists, to incorporate the amendment to s. 456.072(1), in a reference; amending s. 766.101, F.S.; providing that a continuous quality improvement committee of a licensed pharmacy is a medical review committee for purposes of immunity from liability, and reenacting ss. 440.105(1)(a) and 626.989(6), F.S., to incorporate said amendment in references; amending s. 766.1115, F.S.; conforming language and cross references to changes made by the act; amending s. 456.047, F.S.; providing intent; revising and providing definitions; revising duties of the Department of Health relating to file maintenance; providing that primary source data verified by the department or its designee may be relied upon to meet accreditation purposes; amending s. 232.61, F.S.; requiring the Florida High School Activities Association to adopt bylaws which require students participating in interscholastic athletic competition or who are candidates for an interscholastic athletic team to satisfactorily pass a medical evaluation prior to participating in interscholastic athletic competition or engaging in practice with an interscholastic athletic team; providing requirements with respect to such evaluation; amending s. 240.4075, F.S.; transferring the Nursing Student Loan Forgiveness Program from the Department of Education to the Department of Health; including public schools, family practice teaching hospitals, and specialty hospitals for children as eligible facilities under the program; exempting such facilities from the fund-matching requirements of the program; amending s. 240.4076, F.S.; transferring the nursing scholarship program from the Department of Education to the Department of Health; providing requirements under the program for students seeking to qualify for a nursing faculty position and receive credit for work in such a position; including nursing homes, hospitals, public schools, colleges of nursing, and community college nursing programs as eligible facilities under the program; transferring powers, duties, functions, rules, records, personnel, property, and appropriations and other funds relating to the Nursing Student Loan Forgiveness Program and the nursing scholarship program from the Department of Education to the Department of Health; amending s. 464.005, F.S.; providing for future relocation of the headquarters of the Board of Nursing; amending s. 464.008, F.S.; revising education requirements for licensure by examination; amending s. 464.009, F.S.; revising requirements for licensure by endorsement; requiring submission of fingerprints for a criminal history check and a fee to cover the costs of such check; providing for an electronic applicant notification process; creating s. 464.0195, F.S.; creating the Florida Center for Nursing and providing its goals; creating s. 464.0196, F.S.; providing for a board of directors; providing for appointment of board members; providing for staggered terms; providing powers and duties; authorizing per diem and travel expenses; creating s. 464.0197, F.S.; declaring state budget support for the center; prohibiting the Board of Nursing from developing any rule relating to faculty/student clinical ratios until a specified time; requiring the Board of Nursing and the Department of Education to submit to the Legislature an implementation plan detailing the impact and cost of any such proposed rule change; amending s. 464.0205, F.S.; deleting the application and processing fee for applicants for a retired volunteer nurse certificate; requiring study by Office of Program Policy Analysis and Government Accountability of the feasibility of maintaining all of Medical Quality Assurance in one state agency; creating s. 456.0375, F.S.; requiring registration of certain clinics; providing requirements, including fees; providing rulemaking authority; requiring medical directors or clinic directors for such clinics and providing their duties and responsibilities; providing an appropriation; amending s. 456.031, F.S.; providing an alternative by which licensees under ch. 466, F.S., relating to dentistry, may comply with a general requirement that they take domestic-violence education courses; amending s. 456.033, F.S.; providing an alternative by which such licensees may comply with a general requirement that they take AIDS/HIV education courses; amending s. 627.419, F.S.; providing for appeals from certain adverse determinations relating to dental service claims; providing applicability; amending s. 468.302, F.S.; revising a provision relating to exemption from certification to use radiation on human beings; amending ss. 468.352, 468.355, 468.357, 468.358, and 468.359, F.S.; revising definitions and provisions relating to licensure and use of titles and abbreviations to correct and conform terminology with respect to respiratory therapists and respiratory care practitioners; amending ss. 468.1155 and 468.1215, F.S.; revising requirements for licensure to practice speech-language pathology or audiology and for certification of speech-language pathology or audiology assistants; amending s. 480.033, F.S.; correcting terminology in the definition of "massage"; amending s. 484.002, F.S.; amending and creating definitions; amending ss. 484.002, 484.006, 484.012, F.S.; replacing references to the term "medical doctor" with the term "allopathic or osteopathic physician"; amending s. 484.015, F.S.; revising inspection authority; amending s. 484.0445, F.S.; removing certain provisions relating to the training program for hearing aid specialists; amending s. 484.045, F.S.; revising requirements for licensure as a hearing aid specialist by examination; amending s. 490.012, F.S.; prohibiting the use of certain titles or descriptions relating to the practice of psychology or school psychology unless properly licensed; providing penalties; amending s. 490.014, F.S.; revising exemptions from regulation under ch. 490, F.S., relating to psychology; correcting a cross reference; amending s. 491.012, F.S.; revising prohibitions against unlicensed practice of clinical social work, marriage and family therapy, and mental health counseling to provide that practice by registered interns is lawful; amending s. 491.014, F.S.; revising exemptions from licensure under ch. 491, F.S., relating to clinical, counseling, and psychotherapy services, to prohibit the use by certain employees of titles, names, or descriptions protected by the chapter; amending ss. 458.319, 459.008, and 765.102, F.S.; conforming terminology relating to palliative care; amending s. 765.101, F.S.; redefining the term "end-stage condition" with respect to health care advance directives; creating s. 765.1025, F.S.; prescribing the content and suitability of palliative care; amending s. 765.1103, F.S.; revising provisions relating to compliance with requests for pain management and palliative care; amending s. 765.205, F.S.; prescribing the standards of decisionmaking to be used in certain circumstances by health care surrogates, persons who have durable powers of attorney for health care, and proxy decisionmakers; amending s. 765.401, F.S.; prescribing the standards of decisionmaking to be used in certain circumstances by proxy decisionmakers; requiring the Department of Health to conduct an interim study on specialty certification and provide a report to the Legislature; amending s. 499.012, F.S.; authorizing transfer of prescription drugs between a retail pharmacy and a Modified Class II institutional pharmacy under a retail pharmacy wholesaler's permit; providing legislative intent; amending ss. 395.3025, 400.1415, and 456.057, F.S.; prohibiting the use

of a patient's medical records for purposes of solicitation and marketing absent a specific written release or authorization; providing penalties; creating s. 626.9651, F.S.; requiring the Department of Insurance to adopt rules governing the use of a consumer's nonpublic personal financial and health information; providing standards for the rules; amending s. 400.141, F.S.; prescribing duties of nursing homes with respect to influenza and pneumococcal polysaccharide vaccinations; providing rulemaking authority; establishing the Office of Community Partners within the Department of Health to provide for delivery of social services through eligible private organizations and programs; providing procedure for transfer of general revenue funds to match federal funds received by the office; creating s. 627.6474, F.S.; prohibiting health insurers from requiring certain contracted health care practitioners to accept the terms of other health care contracts as a condition of continuation or renewal; providing exceptions; amending s. 627.662, F.S.; applying this prohibition to group health insurance, blanket health insurance, and franchise health insurance; amending s. 641.315, F.S.; applying this prohibition to health maintenance organizations; providing effective dates.

Rep. Farkas moved the adoption of the amendment.

Representative(s) Littlefield offered the following:

(Amendment Bar Code: 264967)

Amendment 1 to Amendment 3 (with title amendment)—On page 1, between lines 16 & 17, of the amendment

insert:

Section 1. (1) Subsection (3) is added to section 766.301, Florida Statutes, to read:

766.301 Legislative findings and intent.—

(3) In order to maintain the actuarial soundness of the compensation scheme for birth-related neurological injuries as established in ss. 766.301-766.316, the Legislature hereby clarifies its original intent with respect to the distinction between the payment of actual expenses for medical necessities, which is authorized in s. 766.31(1)(a), and the award of up to $125,000 for the parents or legal guardians of neurologically injured infants, which is authorized in s. 766.31(1)(b). It has always been the intent of the Legislature that the term "actual expenses," as used in s. 766.31(1)(a), means only out-of-pocket, monetary expenditures for the professionally rendered care of a neurologically injured infant, as opposed to payments for the time spent by a parent or other family member in providing care to an eligible infant, and that s. 766.31(1)(b) has been and remains the exclusive source of funds for parents or legal guardians irrespective of the time, activities, and services they devote to the care and welfare of an eligible neurologically injured infant.

(2)(a) The addition of subsection (3) to section 766.301, Florida Statutes, by this section shall take effect upon this act becoming a law and shall apply to all claims under the Florida Birth-Related Neurological Injury Compensation Plan which date from the effective date of chapter 88-1, Laws of Florida.

(b) The purpose of the addition of subsection (3) to section 766.301, Florida Statutes, by this section is to clarify legislative intent with respect to the term "actual expenses" as used in paragraph (a) of subsection (1) of section 766.31, Florida Statutes, and the term "award" as used in paragraph (b) of subsection (1) of section 766.31, Florida Statutes.

Section 2. (1) Paragraphs (a) and (b) of subsection (1) of section 766.31, Florida Statutes, are amended to read:

766.31 Administrative law judge awards for birth-related neurological injuries; notice of award.—

(1) Upon determining that an infant has sustained a birth-related neurological injury and that obstetrical services were delivered by a participating physician at the birth, the administrative law judge shall make an award providing compensation for the following items relative to such injury:

(a) Actual expenses for medically necessary and reasonable medical and hospital *costs for*~~,~~ habilitative and training, *nonfamilial* residential, and custodial care and service, for medically necessary drugs, special equipment, and facilities, and for related travel. However, such expenses shall not include:

1. Expenses for items or services that the infant has received, or is entitled to receive, under the laws of any state or the Federal Government, except to the extent such exclusion may be prohibited by federal law.

2. Expenses for items or services that the infant has received, or is contractually entitled to receive, from any prepaid health plan, health maintenance organization, or other private insuring entity.

3. Expenses for which the infant has received reimbursement, or for which the infant is entitled to receive reimbursement, under the laws of any state or the Federal Government, except to the extent such exclusion may be prohibited by federal law.

4. Expenses for which the infant has received reimbursement, or for which the infant is contractually entitled to receive reimbursement, pursuant to the provisions of any health or sickness insurance policy or other private insurance program.

5. Compensation for the time, services, or activities performed by the parents or legal guardians of the infant.

Expenses included under this paragraph shall be limited to reasonable charges prevailing in the same community for similar treatment of injured persons when such treatment is paid for by the injured person.

(b) Periodic payments of an award to the parents or legal guardians of the infant found to have sustained a birth-related neurological injury, which award shall not exceed *$125,000* ~~$100,000~~. However, at the discretion of the administrative law judge, such award may be made in a lump sum. *An award made under this paragraph shall be the exclusive source of funds from the plan to the parents or legal guardians of an eligible neurologically injured infant, and compensation shall not be provided under any other provision of the plan for the time, services, or activities performed by the parents or legal guardians of the infant.*

(2)(a) The amendment of paragraphs (a) and (b) of subsection (1) of section 766.31, Florida Statutes, by this section shall take effect upon this act becoming a law and shall apply to all claims under the Florida Birth-Related Neurological Injury Compensation Plan which date from the effective date of chapter 88-1, Laws of Florida.

(b) The purpose of the amendment of paragraphs (a) and (b) of subsection (1) of section 766.31, Florida Statutes, by this section is to clarify legislative intent with respect to the term "actual expenses" as used in paragraph (a) of subsection (1) of section 766.31, Florida Statutes, and the term "award" as used in paragraph (a) of subsection (1) of section 766.31, Florida Statutes.

Section 3. (1) Subsection (2) of section 766.302, Florida Statutes, is amended to read:

766.302 Definitions; ss. 766.301-766.316.—As used in ss. 766.301-766.316, the term:

(2) "Birth-related neurological injury" means injury to the brain or spinal cord of a live infant weighing at least 2,500 grams *at birth, in the case of a single gestation, or a live infant weighing at least 2,000 grams* at birth*, in the case of a multiple gestation,* caused by oxygen deprivation or mechanical injury occurring in the course of labor, delivery, or resuscitation in the immediate postdelivery period in a hospital, which renders the infant permanently and substantially mentally and physically impaired. This definition shall apply to live births only and shall not include disability or death caused by genetic or congenital abnormality.

(2) The amendment of subsection (2) of section 766.302, Florida Statutes, by this section shall take effect July 1, 2001, and shall apply to all births occurring on or after that date.

Section 4. (1) Paragraph (b) of subsection (1) of section 766.31, Florida Statutes, as amended by this act, is amended to read:

766.31 Administrative law judge awards for birth-related neurological injuries; notice of award.—

(1) Upon determining that an infant has sustained a birth-related neurological injury and that obstetrical services were delivered by a participating physician at the birth, the administrative law judge shall make an award providing compensation for the following items relative to such injury:

(b)*1.* Periodic payments of an award to the parents or legal guardians of the infant found to have sustained a birth-related neurological injury, which award shall not exceed $125,000. However, at the discretion of the administrative law judge, such award may be made in a lump sum. An award made under this paragraph shall be the exclusive source of funds from the plan to the parents or legal guardians of an eligible neurologically injured infant, and compensation shall not be provided under any other provision of the plan for the time, services, or activities performed by the parents or legal guardians of the infant.

2. Payment for funeral expenses not to exceed $1,500.

(2) The amendment of paragraph (b) of subsection (1) of section 766.31, Florida Statutes, by this section shall take effect July 1, 2001, and shall apply to all births occurring on or after that date.

And the title is amended as follows:

On page 300, line 17, of the amendment after the semicolon
remove: all of said line

and insert in lieu thereof: amending s. 766.301, F.S.; providing additional and clarifying legislative intent with respect to expenses and awards for birth-related neurologically injured infants; providing applicability and purpose; amending s. 766.31, F.S.; revising requirements as to what constitutes actual expenses for which compensation for birth-related neurological injury may be awarded; increasing the cap on periodic payments; authorizing certain compensation for funeral expenses; providing applicability and purpose; amending s. 766.302, F.S.; revising the definition of "birth-related neurological injury"; providing applicability;

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

Representative(s) Farkas offered the following:

(Amendment Bar Code: 803395)

Amendment 2 to Amendment 3—On page 156, line 15,
remove from the amendment: all of said line

and insert in lieu thereof:

Section 53. Effective October 1, 2001, paragraphs (e) and (f) of subsection (4)

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

Representative(s) Farkas offered the following:

(Amendment Bar Code: 511347)

Amendment 3 to Amendment 3—On page 159, line 28,
remove from the amendment: all of said line

and insert in lieu thereof:

Section 54. Effective October 1, 2001, subsection (4) and paragraph (c) of

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

Representative(s) Farkas offered the following:

(Amendment Bar Code: 560389)

Amendment 4 to Amendment 3 (with title amendment)—On page 208, line 7, through page 209, line 17,
remove from the amendment: all of said lines

and insert in lieu thereof:

Section 74. Subsection (2) of section 458.315, Florida Statutes, is amended to read:

458.315 Temporary certificate for practice in areas of critical need.—Any physician who is licensed to practice in any other state, whose license is currently valid, and who pays an application fee of $300 may be issued a temporary certificate to practice in communities of Florida where there is a critical need for physicians. A certificate may be issued to a physician who will be employed by a county health department, correctional facility, community health center funded by s. 329, s. 330, or s. 340 of the United States Public Health Services Act, or other entity that provides health care to indigents and that is approved by the State Health Officer. The Board of Medicine may issue this temporary certificate with the following restrictions:

(2) The board may administer an abbreviated oral examination to determine the physician's competency, but no written regular examination is necessary. *Within 60 days after receipt of an application for a temporary certificate, the board shall review the application and issue the temporary certificate or notify the applicant of denial.*

(Renumber subsequent sections)

And the title is amended as follows:

On page 304, lines 14 through 19, of the amendment
remove: all of said lines

and insert in lieu thereof: 458.315, F.S.; providing requirements for the

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

Representative(s) Green offered the following:

(Amendment Bar Code: 930263)

Amendment 5 to Amendment 3—On page 254, line 28, through page 255, line 20,
remove from the amendment: all of said lines

and insert in lieu thereof:

(d) A person holding a certificate as a general radiographer may not perform nuclear medicine and radiation therapy procedures*, except as provided herein. A person who is a general radiographer certified pursuant to this part who receives additional training and skills in radiation therapy technology procedures as referenced herein may assist with managing patients undergoing radiation therapy treatments if that assistance is provided to a person registered with the American Registry of Radiologic Technologists in radiation therapy who is also certified pursuant to this part as a radiation therapy technologist. Both the general radiographer and the radiation therapy technologist must perform these radiation therapy services under the general supervision of a physician licensed under chapter 458 or chapter 459 who is trained and skilled in performing radiation therapy treatments. The radiation therapy technologist identified in this paragraph may not delegate any function to the general radiographer that could reasonably be expected to create an unnecessary danger to a patient's life, health or safety. The general radiographer identified under this paragraph may not, however, perform the following services while assisting the radiation therapy technologist: radiation treatment planning, calculation of radiation therapy doses, administration of radiation therapy doses, or any of the duties of a medical physicist. The general radiographer identified under this paragraph must successfully complete a training program in the following areas before assisting with radiation therapy technology duties:*

1. Principles of radiation therapy treatment;

2. Biological effects of radiation;

3. Radiation exposure and monitoring;

4. Radiation safety and protection;

5. Evaluation and handling of radiographic treatment equipment and accessories;

6. Patient positioning for radiation therapy treatment. In addition, a ~~A~~ general radiographer may participate in additional approved programs as provided by rule of the department.

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

Representative(s) Farkas offered the following:

(Amendment Bar Code: 830007)

Amendment 6 to Amendment 3—On page 298, line 10,
remove from the amendment: 142-144

and insert in lieu thereof: 146-148

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

The question recurred on the adoption of **Amendment 3**, as amended, which was adopted by the required two-thirds vote.

The question recurred on the passage of HB 1867. The vote was:

Session Vote Sequence: 366

Yeas—119

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

Continuation of Special Orders

Continuation of Special Order Calendar

CS/HB 1255—A bill to be entitled An act relating to the Florida Building Code; amending s. 373.323, F.S.; authorizing water well contractors to install, repair, or modify specified equipment in accordance with the code; amending s. 489.509, F.S.; transferring specified licensing fees from the Department of Education to the Department of Community Affairs; amending ss. 553.36 and 553.415, F.S.; defining the term "factory-built school shelter"; providing for the Department of Community Affairs to approve plans for such shelters; authorizing districts to charge inspection fees; authorizing approved inspection entities to conduct inspections of factory-built school buildings while they are under construction; delaying the deadline for inspecting factory-built buildings currently in use; amending ss. 553.505 and 553.507, F.S.; conforming cross references; amending s. 553.73, F.S.; providing for the uniform implementation of parts of the residential swimming pool safety act; defining the term "specific needs" for purposes of selection from available codes; providing a process for the approval of technical amendments to the code; providing for the treatment of permit applications submitted prior to the effective date of the code; exempting specified buildings from certain standards of the code; amending s. 553.77, F.S.; requiring the commission to issue specified declaratory statements; providing for hearings; providing for rules for plan review of prototype buildings; authorizing the commission to produce a commentary to accompany the Florida Building Code; amending s. 553.79, F.S.; requiring the code to establish standards for preliminary construction; creating s. 553.8412, F.S.; providing for statewide outreach for training in the code; amending s. 553.842, F.S.; providing methods for local and statewide approval of products and methods or systems of construction; providing rulemaking authority; amending s. 553.895, F.S.; exempting specified spaces within telecommunications buildings under specified circumstances; allowing the use of a manual wet standpipe under certain circumstances; directing the commission to research certain issues and provide reports to the Legislature; providing an effective date for the Florida Building Code; amending chs. 98-287, Laws of Florida, as amended by ch. 2000-141, Laws of Florida, 98-419, Laws of Florida, as amended by ch. 2000-141, Laws of Florida, and 2000-141, Laws of Florida; revising effective dates of certain provisions; requiring the Florida Building Commission to appoint members to the commission's Education Technical Advisory Committee; specifying duties of the advisory committee; providing for the carryforward of funds collected for research projects; requiring the Florida Building Commission to convene an ad hoc subcommittee to make recommendations regarding alternative plans review and inspection procedures; requiring a report; amending ss. 316.515 and 627.702, F.S.; revising cross references; repealing s. 553.77(2), F.S., relating to commission prescription of certain renewal fees; providing effective dates.

—was taken up, having been read the second time, and amended, earlier today; now pending on motion by Rep. Diaz-Balart to adopt Amendment 2 to Amendment 1.

The question recurred on the adoption of **Amendment 2 to Amendment 1**, which was adopted.

Representative(s) Diaz-Balart offered the following:

(Amendment Bar Code: 520287)

Amendment 3 to Amendment 1 (with title amendment)—On page 4, line 19, through page 5, line 24,
remove from the amendment: all of said lines,

and insert in lieu thereof:

Section 4. Section 399.001, Florida Statutes, is created to read:

399.001 Short title and purpose.—This chapter may be cited as the "Elevator Safety Act." The purpose of this chapter is to provide for the safety of life and limb and to promote public safety awareness. The use of unsafe and defective lifting devices imposes a substantial probability of serious and preventable injury and exposes employees and the public to unsafe conditions. The prevention of these injuries and the protection

of employees and the public from unsafe conditions is in the best interest of the public. Elevator personnel performing work covered by the Florida Building Code must possess documented training or experience or both and be familiar with the operation and safety functions of the components and equipment. Training and experience includes, but is not limited to, recognizing the safety hazards and performing the procedures to which they are assigned in conformance with the requirements of the Florida Building Code. This chapter establishes the minimum standards for elevator personnel.

Section 5. Section 399.01, Florida Statutes, is amended to read:

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

(1) "Alteration" means any change or addition to the *vertical conveyance* ~~equipment~~ other than maintenance, repair, or replacement.

(2) "Certificate of competency" means a document issued by the division which evidences the competency of a person to construct, install, inspect, maintain, or repair any *vertical conveyance* ~~elevator~~.

(3) "Certificate of operation" means a document *issued by the department which indicates that the conveyance has had the required safety inspection and tests and that fees have been paid as provided in this chapter.*

(4) "Conveyance" means an elevator, dumbwaiter, escalator, moving sidewalk, platform lift, and stairway chairlift.

(5) "Department" means the Department of Business and Professional Regulation. ~~that authorizes an elevator owner to operate the elevator and that is issued to the elevator owner when the division finds that the elevator complies with the requirements of this chapter.~~

(6) ~~(4)~~ "Division" means the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

(7) ~~(5)~~ "Elevator" means one of the following mechanical devices:

(a) A hoisting and lowering mechanism, equipped with a car and platform that moves in guide rails and serves two or more landings to transport material or passengers or both.

(b) An escalator, which is a power-driven, inclined continuous stairway used for raising or lowering passengers.

(c) A dumbwaiter, which is a hoisting and lowering mechanism equipped with a car of limited size which moves in guide rails and serves two or more landings.

(d) A moving walk, which is a type of passenger-carrying device on which passengers stand or walk and in which the passenger-carrying surface remains parallel to its direction of motion and is uninterrupted.

(e) An inclined stairway chairlift, which is a device used to transport physically handicapped persons over architectural barriers.

(f) An inclined or vertical wheelchair lift, which is a device used to transport wheelchair handicapped persons over architectural barriers.

(8) "Escalator" means an installation defined as an escalator in the Florida Building Code.

(9) "Existing installation" means an installation defined as an "installation, existing" in the Florida Building Code.

(10) "Elevator Safety Technical Advisory Committee" means the committee appointed by the secretary of the Department of Business and Professional Regulation.

(11) "Private residence" means a separate dwelling or a separate apartment in a multiple dwelling which is occupied by members of a single-family unit.

~~(6) "Elevator company" means any person that constructs, installs, inspects, maintains, or repairs any elevator.~~

(12)~~(7)~~ "Service maintenance contract" means a contract that provides for routine examination, lubrication, cleaning, adjustment, replacement of parts, and performance of applicable code-required safety tests *such as* on a traction elevator and annual relief pressure test on a hydraulic elevator and any other service, repair, and maintenance sufficient to ensure the safe operation of the elevator.

(13) "Temporarily dormant conveyance" means a conveyance whose power supply has been disconnected by removing fuses and placing a padlock on the mainline disconnect switch in the "OFF" position. The car is parked and the hoistway doors are in the closed and latched position. A wire seal is installed on the mainline disconnect switch by a certificate of competency elevator inspector. This installation may not be used again until it has been put in safe running order and is in condition for use. Annual inspections shall continue for the duration of the temporarily dormant status by a certificate of competency elevator inspector. The temporarily dormant status is renewable on an annual basis and may not exceed a 5-year period. The inspector shall file a report with the chief elevator inspector describing the current conditions. The wire seal and padlock may not be removed for any purpose without permission from the elevator inspector.

(14) "Temporary operation permit" means a document issued by the department which permits the temporary use of a noncompliant vertical conveyance as provided by rule.

(15) "Registered elevator company" means an entity registered with and authorized by the division employing persons to construct, install, inspect, maintain, or repair any vertical conveyance. Each registered elevator company must annually register with the division and maintain general liability insurance coverage in the minimum amounts set by the division.

(16) "Certified elevator inspector" is a natural person registered with and authorized by the division to construct, install, inspect, maintain, or repair any vertical conveyance, after having properly acquired the qualified elevator inspector credential from the National Association of Elevator Safety Authorities. Such person shall remain so authorized by the division only upon providing annual proof of completion of 8 hours of continuing education and the qualified elevator inspector credential remains in good standing with the National Association of Elevator Safety Authorities. A licensed mechanical engineer whose license is in good standing may be authorized as a certified elevator inspector by the division. Each certified elevator inspector must annually register with the division and maintain general liability insurance coverage in the minimum amounts set by the division.

(17) "Certified elevator technician" means a natural person authorized by the division to construct, install, maintain, or repair any vertical conveyance, after having been issued an elevator certificate of competency by the division. Each certified elevator technician must annually register with the division and maintain general liability insurance coverage in the minimum amounts set by the division.

(18) "Elevator helper" means a natural person performing work under the direct supervision of a certified elevator inspector or an elevator technician to construct, install, maintain, or repair any vertical conveyance.

(19) "Elevator certificate of competency" means a credential issued by the division to any individual natural person successfully completing an examination as prescribed by rule and paying a fee of $50. Such credential shall be valid for and expire at the end of 1 year, and may be renewed by the division when the division receives proof of the elevator certificate of competency holder's completion of 8 hours of continuing education and a renewal fee of $50.

All other building transportation terms are defined in the current Florida Building Code.

Section 6. Section 399.02, Florida Statutes, is amended to read:

399.02 General requirements.—

(1) The *Elevator Safety Technical Advisory Committee* ~~division~~ shall develop and submit to the *Director of Hotels and Restaurants regarding revisions to the elevator safety code so that it is the same as or similar to the latest versions of ASME A17.1, ASME A17.3, and ASME A18.1.*

~~Florida Building Commission for consideration an elevator safety code, which, when adopted within the Florida Building Code, applies to the installation, relocation, or alteration of an elevator for which a permit has been issued after October 1, 1990, and which must be the same as or similar to the latest revision of "The Safety Code for Elevators and Escalators ASME A17.1."~~

(2) This chapter covers the design, construction, operation, inspection, testing, maintenance, alteration, and repair of the following equipment and its associated parts and hoistways:

(a) Hoisting and lowering mechanisms equipped with a car or platform which move between two or more landings. This equipment includes, but is not limited to, elevators, platform lifts, and stairway chairlifts.

(b) Power-driven stairways and walkways for carrying persons between landings. This equipment includes, but is not limited to, escalators and moving walks.

(c) Hoisting and lowering mechanisms equipped with a car which serves two or more landings and is restricted to the carrying of material by its limited size or limited access to the car. This equipment includes, but is not limited to, dumbwaiters, material lifts, and dumbwaiters with automatic-transfer devices.

(3) Equipment not covered by this chapter includes, but is not limited to:

(a) Personnel hoists and material hoists within the scope of ASME A10, as adopted by the Florida Building Code.

(b) Man lifts within the scope of ASME A90.1, as adopted by the Florida Building Code.

(c) Mobile scaffolds, towers, and platforms within the scope of ANSI A92, as adopted by the Florida Building Code.

(d) Powered platforms and equipment for exterior and interior maintenance within the scope of ASME A120.1, as adopted by the Florida Building Code.

(e) Conveyors and related equipment within the scope of ASME B20.1, as adopted by the Florida Building Code.

(f) Cranes, derricks, hoists, hooks, jacks, and slings within the scope of ASME B30, as adopted by the Florida Building Code.

(g) Industrial trucks within the scope of ASME B56, as adopted by the Florida Building Code.

(h) Portable equipment, except for portable escalators that are covered by the Florida Building Code.

(i) Tiered or piling machines used to move materials to and from storage located and operating entirely within one story.

(j) Equipment for feeding or positioning materials at machine tools and printing presses.

(k) Skip or furnace hoists.

(l) Wharf ramps.

(m) Railroad car lifts or dumpers.

(n) Line jacks, false cars, shafters, moving platforms, and similar equipment used for installing an elevator by a contractor licensed in this state.

(o) Automated people movers at airports.

(p) Elevators in television and radio towers.

(q) Hand-operated dumbwaiters.

(r) Sewage pump station lifts.

(s) Automobile parking lifts.

(t) Equipment covered in s. 1.2 of the Elevator Safety Code.

(u) Elevators, inclined stairway chairlifts, and inclined or vertical wheelchair lifts located in private residences.

~~(2)(a) The requirements of this chapter apply to equipment covered by s. 1.1 of the Elevator Safety Code.~~

~~(b) The equipment not covered by this chapter includes, but is not limited to, the following: elevators, inclined stairway chairlifts, and inclined or vertical wheelchair lifts located in private residences; elevators in television and radio towers; hand-operated dumbwaiters; sewage pump station lifts; automobile parking lifts; and equipment covered in s. 1.2 of the Elevator Safety Code.~~

(4)~~(3)~~ Each elevator shall have a serial number assigned by the *department* ~~division~~ painted on or attached to the elevator car in plain view and also to the driving mechanism. This serial number shall be shown on all required certificates and permits.

(5)~~(4)~~(a) The construction permitholder is responsible for the correction of violations and deficiencies until the elevator has been inspected and a certificate of operation has been issued by the *department* ~~division~~. The construction permitholder is responsible for all tests of new and altered equipment until the elevator has been inspected and a certificate of operation has been issued by the *department* ~~division~~.

(b) The elevator owner is responsible for the safe operation and proper maintenance of the elevator after it has been inspected and a certificate of operation has been issued by the *department* ~~division~~. The responsibilities of the elevator owner may be assigned by lease.

(c) The elevator owner shall report to the *department* ~~division~~ 60 days before the expiration of the certificate of operation whether there exists a service maintenance contract, with whom the contract exists, and the details concerning the provisions and implementation of the contract which the *department* ~~division~~ requires. The *department* ~~division~~ shall keep the names of companies with whom the contract exists confidential pursuant to the public records exemption provided in s. 119.14(4)(b)3. This annual contract report must be made on forms supplied by the *department* ~~division~~. The elevator owner must report any material change in the service maintenance contract no fewer than 30 days before the effective date of the change. The *department* ~~division~~ shall determine whether the provisions of the service maintenance contract and its implementation ensure the safe operation of the elevator.

~~(d) Each elevator company must register and have on file with the division a certificate of comprehensive general liability insurance evidencing coverage limits in the minimum amounts of $100,000 per person and $300,000 per occurrence and the name of at least one employee who holds a current certificate of competency issued under s. 399.045.~~

(6)~~(5)~~ The *department* ~~division~~ is empowered to carry out all of the provisions of this chapter relating to the inspection and regulation of elevators and to enforce the provisions of the Florida Building Code ~~which govern elevators and conveying systems in conducting the inspections authorized under this part to provide for the protection of the public health, welfare, and safety~~.

(7)~~(6)~~ The *Elevator Safety Technical Advisory Committee* ~~division~~ shall annually review the provisions of the Safety Code for Elevators and Escalators ASME A17.1, *ASME A18.1,* or other related model codes and amendments thereto, *concurrent with the update of the Florida Building Code* and recommend to the Florida Building Commission revisions to the Florida Building Code to maintain the protection of the public health, safety, and welfare.

Section 7. Section 399.03, Florida Statutes, is amended to read:

399.03 Design, installation, and alteration of *conveyances* ~~elevators~~.—

(1) A conveyance covered by this chapter may not be erected, constructed, installed, or altered within buildings or structures unless a

permit has been obtained from the department before the work is commenced. When any material alteration is made, the device must conform to applicable requirements of the Florida Building Code for the alteration. A permit required hereunder may not be issued except to a person, firm, or corporation holding a current elevator contractor's license issued under this chapter. A copy of the permit must be kept at the construction site at all times while the work is in progress.

(2) The department shall provide by rule for permit application requirements and permit fees.

(3) Permits may be revoked for the following reasons:

(a) There are any false statements or misrepresentations as to the material facts in the application, plans, or specifications on which the permit was based.

(b) The permit was issued in error and not in accordance with the code or rules.

(c) The work detailed under the permit is not being performed in accordance with the provisions of the application, plans, or specifications or with the code or conditions of the permit.

(d) The construction permitholder to whom the permit was issued fails or refuses to comply with a stop work order.

(4) A permit expires if:

(a) The work authorized by the permit is not commenced within 6 months after the date of issuance, or within a shorter period of time as the department may specify at the time the permit is issued.

(b) The work is suspended or abandoned for a period of 60 days, or such shorter period of time as the department may specify at the time the permit is issued, after the work has been started. For good cause, the department may allow a discretionary extension for the foregoing period.

(5) All new conveyance installations must be performed by a person to whom a license to install or service a conveyance has been issued. Subsequent to installation, the licensed person, firm, or company must certify compliance with the applicable sections of this chapter and the Florida Building Code. Before any vertical conveyance is used, except those in a private residence it must be inspected by a licensed inspector not employed or associated with the elevator construction permitholder and certified as meeting the safety provisions of the Florida Building Code. Upon successful inspection, the owner or lessee must apply to the department for a certificate of operation from the department. A fee as prescribed in this chapter must be paid for the certificate of operation. It is the responsibility of the licensed elevator construction permitholder to complete and submit a first-time registration for a new installation. Vertical conveyances, including stairway chairlifts, and inclined or vertical wheelchair lifts located in private residences are not required to obtain a certificate of operation under this chapter.

(6) A certificate of operation expires July 31 of each year and must be renewed prior to continued use of the conveyance. A certificate of operation must be clearly displayed on or in each conveyance or in the machine room for use by and for the benefit of inspectors and code enforcement personnel. Certificates of operation may only be renewed for vertical conveyances having a current satisfactory inspection.

(7) The permitholder shall notify the department, in writing, at least 7 days before completion of the work and shall, in the presence of a licensed elevator inspector not associated with or employed by the installing company or contractor, subject the newly installed, relocated, or altered portions of the elevator to tests required to show that the elevator meets the applicable provisions of the Florida Building Code.

(8) ~~(1)~~ Each elevator shall comply with the edition of the Florida Building Code *or Elevator Safety Code* that was in effect at the time of receipt of application for the construction permit for the elevator.

(9) ~~(2)~~ Each alteration to, or relocation of, an elevator shall comply with the edition of the Florida Building Code *or Elevator Safety Code* that was in effect at the time of receipt of the application for the construction permit for the alteration or relocation.

(10) ~~(3)~~ When any change is made in the classification of an elevator, the elevator shall comply with all of the requirements of the version of the Florida Building Code *or Elevator Safety Code* that were in effect at the time of receipt of the application for the construction permit for the change in classification.

Section 8. Section 399.049, Florida Statutes, is created to read:

399.049 Certificate of competency.—

(1) SUSPENSION OR REVOCATION OF LICENSE OR CERTIFICATE OF COMPETENCY.—The department may suspend or revoke a license or certificate of competency issued under this chapter or impose an administrative penalty of up to $1,000 per violation upon any licensee or certificateholder who commits any one or more of the following violations:

(a) Any false statement as to a material matter in the application.

(b) Fraud, misrepresentation, or bribery in securing a license or certificate of competency.

(c) Failure to notify the department and the certificate-of-operation holder of a conveyance covered by this chapter that is not in compliance with the provisions of the elevator safety code incorporated into the Florida Building Code.

(d) Violation of any provision of this chapter.

(2) DISCIPLINARY ACTION.—Any disciplinary action taken under this chapter must comply with chapter 120 and any rules adopted thereunder.

Section 9. Section 399.061, Florida Statutes, is amended to read:

399.061 Inspections; correction of deficiencies.—

(1)(a) All elevators *or other conveyances* subject to this chapter must be *annually* inspected *by a certified elevator inspector through a third-party inspection service, or by a municipality or county under contract with the division,* pursuant to s. 399.13*. If the elevator or other conveyance is* ~~by a third-party inspection service certified as a qualified elevator inspector or~~ maintained pursuant to a service maintenance contract continuously in force*, it shall be inspected at least once every 2 years by a certified elevator inspector who is not employed by or otherwise associated with the maintenance company; however, if the elevator is not an escalator or a dumbwaiter, serves only two adjacent floors, and is covered by a service maintenance contract, an inspection is not required so long as the service contract remains in effect*. A statement verifying the existence, performance, and cancellation of each service maintenance contract must be filed annually with the division as prescribed by rule. ~~All elevators covered by a service maintenance contract shall be inspected by a certificate-of-competency holder at least once every 2 years; however, if the elevator is not an escalator or a dumbwaiter and the elevator serves only two adjacent floors and is covered by a service maintenance contract, no inspection shall be required so long as the service contract remains in effect.~~

(b) The division may inspect an elevator whenever necessary to ensure its safe operation *or when a third-party inspection service is not available for a routine inspection*.

(2) The division *may* ~~shall~~ employ state elevator inspectors to conduct the inspections *as* required by subsection (1) *and may charge an inspection fee for each inspection in an amount sufficient to cover the costs of that inspection, as provided by rule*. Each state elevator inspector shall hold a certificate of competency issued by the division.

(3) Whenever the division determines from the results of any inspection that, in the interest of the public safety, an elevator is in an unsafe condition, the division may seal the elevator or order the discontinuance of the use of the elevator until the division determines by inspection that such elevator has been satisfactorily repaired or replaced so that the elevator may be operated in a safe manner.

(4) When the division determines that an elevator is in violation of this chapter, the division may issue an order to the elevator owner requiring correction of the violation.

Section 10. Section 399.07, Florida Statutes, is amended to read:

399.07 Certificates of operation; temporary operation permits; fees.—

(1)(a) A certificate of operation may not be issued until the elevator company supervisor signs an affidavit stating that the elevator company supervisor directly supervised construction or installation of the elevator.

(b) The certificate of operation is valid for a period of 1 year unless sooner suspended or revoked. The *department* ~~division~~ shall by rule adopt a fee schedule for the renewal of certificates of operation. The renewal period commences on August 1 of each year.

(c) The certificate of operation must be posted in a conspicuous location on the elevator and must be framed with a transparent cover.

(d) The *department* ~~division~~ shall charge an annual fee for issuance of a certificate of operation *in amount to be set by rule*. ~~The fee must be set by rule in an amount not to exceed $100 for an elevator not covered by a service maintenance contract or $50 for an elevator covered by a service maintenance contract~~. However, a renewal application for a certificate of operation filed with the department after expiration date of the certificate must be accompanied by a delinquency fee of $50 in addition to the annual renewal fee and any other fees required by law. The fees must be deposited into the Hotel and Restaurant Trust Fund.

(2)(a) The *department* ~~division~~ may issue a temporary operation permit authorizing the temporary use of an elevator during installation or alteration to an elevator company or general contractor acting as a general agent of an elevator company. A temporary operation permit may not be issued until the elevator has been inspected by a state elevator inspector and tested under contract load; the hoistway is fully enclosed; the hoistway doors and interlocks are installed; the car is completely enclosed, including door or gate and top; all electrical safety devices are installed and properly functioning; and terminal stopping equipment is in place for a safe runby and proper clearance. When a car is provided with a temporary enclosure, the operating means must be by constant pressure push-button or lever-type switch. The car may not exceed the minimum safe operating speed of the elevator, and the governor tripping speed must be set in accordance with the operating speed of the elevator.

(b) A temporary operation permit must be issued for a period not to exceed 30 days. The permit may be renewed at the discretion of the *department* ~~division~~.

(c) When a temporary operation permit is issued, the permit, together with a notice bearing a statement that the elevator has not been finally approved by a state elevator inspector, must be conspicuously posted in the elevator.

(d) The *department* ~~division~~ shall charge a fee, set by rule in an amount not greater than $100, for each temporary operation permit. The fee must be deposited in the Hotel and Restaurant Trust Fund.

(3) The certificate of operation shall contain the text of s. 823.12, relating to the prohibition against smoking in elevators.

(4) In addition to subsection (3), the designation "NO SMOKING" along with the international symbol for no smoking shall be conspicuously displayed within the interior of the elevator in the plain view of the public.

(5) Except as authorized by a temporary operation permit, the operation or use of any newly installed, relocated, or altered elevator is prohibited until the elevator has passed the tests and inspections required by this chapter and a certificate of operation has been issued.

(6) The *department* ~~division~~ may suspend any certificate of operation if it finds that the elevator is not in compliance with this chapter or of rules adopted under this chapter. The suspension remains in effect until the *department* ~~division~~ determines, by inspection, that the elevator has been brought into compliance.

Section 11. Section 399.10, Florida Statutes, is amended to read:

399.10 Enforcement of law.—It shall be the duty of the *department* ~~division~~ to enforce the provisions of this chapter. The *department* ~~division~~ shall have rulemaking authority to carry out the provisions of this chapter.

Section 12. Section 399.105, Florida Statutes, is amended to read:

399.105 Administrative fines.—

(1) Any person who fails to comply with the reporting requirements of s. 399.02 or with the reasonable requests of the *department* ~~division~~ to determine whether the provisions of a service maintenance contract and its implementation assure safe elevator operation is subject to an administrative fine not greater than *$1,000* ~~$500~~ in addition to any other penalty provided by law.

(2) Any person who commences the operation, installation, relocation, or alteration of any elevator for which a permit or certificate is required by this chapter without having obtained from the *department* ~~division~~ the permit or certificate is subject to an administrative fine not greater than *$1,000* ~~$500~~ in addition to any other penalty provided by law. No fine may be imposed under this subsection for commencing installation without a construction permit if such permit is issued within 60 days after the actual commencement of installation.

(3) An elevator owner who continues to operate an elevator after notice to discontinue its use is subject to an administrative fine not greater than *$1,000* ~~$500~~ for each day the elevator has been operated after the service of the notice, in addition to any other penalty provided by law.

(4) An elevator owner who fails to comply with an order issued under s. 399.061(4) within 60 days after its issuance is subject, in addition to any other penalty provided by law, to an administrative fine set by the *department* ~~division~~ in an amount not to exceed *$1,000* ~~$500~~.

(5) All administrative fines collected shall be deposited into the Hotel and Restaurant Trust Fund.

Section 13. Section 399.106, Florida Statutes, is created to read:

399.106 Elevator Safety Technical Advisory Committee.—

(1) The Elevator Safety Technical Advisory Committee is created within the Department of Professional Regulation, Division of Hotel and Restaurants, consisting of seven members to be appointed by the Secretary of the Department of Business and Professional Regulation as follows: one representative from a major elevator manufacturing company or its authorized representative; one representative from an elevator servicing company; one representative from a building design profession; one representative of the general public; one representative of a local government in this state; one representative of a building owner or manager; one representative of labor involved in the installation, maintenance, and repair of elevators. The purpose of the Committee is to provide technical assistance to the division in support of protecting the health, safety, and welfare of the public; to give the division the benefit of the committee members' knowledge and experience concerning the industries and individual businesses affected by the laws and rules administered by the division.

(2) The committee members shall serve staggered terms of 4 years to be set by rule without salary, but may receive from the state expenses for per diem and travel. The commission shall appoint one of the members to serve as chair.

(3) The committee shall meet and organize not later than 45 days prior to the convening of the 2002 Legislature. This committee terminatesDecember 31, 2003.

(4) The committee may consult with engineering authorities and organizations concerned with standard safety codes for recommendations to the department regarding rules and regulations governing the operation, maintenance, servicing, construction, alteration, installation, or inspection of vertical conveyances subject to this chapter.

Section 14. Section 399.11, Florida Statutes, is amended to read:

399.11 Penalties.—

(1) Any person who violates any of the provisions of this chapter or the rules of the *department* ~~division~~ is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any person who falsely represents himself or herself as *credentialed under this chapter* ~~a holder of a certificate of competency issued pursuant to s. 399.045~~ is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 15. Section 399.125, Florida Statutes, is amended to read:

399.125 Reporting of elevator accidents *or incidents*; penalties.—Within 5 working days after any accident *or incident* occurring in or upon any elevator, *the certificate of operation holder shall report the accident or incident to the division on a forum prescribed by the division. Failure to timely file this report is a violation of this chapter and will subject the certificate of operation holder* ~~which accident results in bodily injury or death to any person and which is presumptively caused by the malfunction of the equipment or misuse by a passenger of the equipment, the elevator owner shall report to the division the date and time of the accident, the location of the elevator involved in the accident, whether there exists a service maintenance contract, and, if so, with whom. Any elevator owner who fails to file such report within 5 working days after an accident is subject~~ to an administrative fine, to be imposed by the division, in an amount not to exceed *$1,000* ~~$500~~.

Section 16. Section 399.13, Florida Statutes, is amended to read:

399.13 Delegation of authority to municipalities or counties.—

(1) The *department* ~~division~~ may enter into contracts with municipalities or counties under which such municipalities or counties will issue construction permits, temporary operation permits, and certificates of operation; will provide inspection of elevators; and will enforce the applicable provisions of the Florida Building Code, as required by this chapter. Each such agreement shall include a provision that the municipality or county shall maintain for inspection by the *department* ~~division~~ copies of all applications for permits issued, a copy of each inspection report issued, and proper records showing the number of certificates of operation issued; shall include a provision that each required inspection be conducted by the holder of a certificate of competency issued by the *department* ~~division~~; and may include such other provisions as the *department* ~~division~~ deems necessary.

(2) The *department* ~~division~~ may make inspections of elevators in such municipality or county for the purpose of determining that the provisions of this chapter are being met and may cancel the contract with any municipality or county which the *department* ~~division~~ finds has failed to comply with such contract or the provisions of this chapter. The amendments to chapter 399 by this act shall apply only to the installation, relocation, or alteration of an elevator for which a permit has been issued after October 1, 1990.

And the title is amended as follows:

On page 44, lines 7 and 8, of the amendment
remove: all of said lines,

and insert in lieu thereof: creating s. 399.001, F.S.; creating the "Elevator Safety Act"; amending s. 399.01, F.S.; defining terms; amending ss. 399.02, 399.03, F.S.; providing regulatory standards for elevators and similar conveyances; providing for permits for construction or alteration of elevators and similar conveyances; creating s. 399.049, F.S.; providing for licenses and certificates of competency; providing for disciplinary action; amending s. 399.061, F.S.; providing for annual inspections and fees; amending ss. 399.07, 399.10, 399.105, F.S.; revising administrative fines and fee-setting procedures; conforming provisions; creating s. 399.106, F.S.; creating the Elevator Safety Technical Advisory Committee; providing for its membership and authority; amending s. 399.11, 399.125, 399.13, F.S.; conforming provisions; repealing s. 399.045, F.S., which provides for a certificate of competency; repealing s. 399.05, F.S., which provides for construction permits;

Rep. Diaz-Balart moved the adoption of the amendment to the amendment.

On motion by Rep. Diaz-Balart, further consideration of **Amendment 3 to Amendment 1** was temporarily postponed under Rule 11.10.

Representative(s) Diaz-Balart offered the following:

(Amendment Bar Code: 320837)

Amendment 4 to Amendment 1—On page 11, lines 1 and 2,
remove from the amendment: *after January 1, 2002*

Rep. Diaz-Balart moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Diaz-Balart offered the following:

(Amendment Bar Code: 563731)

Amendment 5 to Amendment 1 (with title amendment)—On page 25, between lines 17 and 18,

insert:

Section 1. Effective upon this act becoming a law, section 553.84, Florida Statutes, is amended to read:

553.84 Statutory civil action.—Notwithstanding any other remedies available, any person or party, in an individual capacity or on behalf of a class of persons or parties, damaged as a result of a violation of this part or the State Minimum Building Codes, has a cause of action in any court of competent jurisdiction against the person or party who committed the violation*, provided that if the person or party obtains the required building permit and any local government or public agency with authority to enforce the building code approves the plans and the construction project passes all required inspections under the code, and there is no personal injury or damage to property other than the property that is the subject of the permits, plans, and inspections, this section shall not apply unless the person or party knew or should have known that the violation existed notwithstanding the approval of the permits, plans, and inspections*.

And the title is amended as follows:

On page 45, line 18, of the amendment

after the semicolon insert: amending s. 553.84, F.S.; providing for nonapplication of certain civil action provisions under certain circumstances;

Rep. Diaz-Balart moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Diaz-Balart offered the following:

(Amendment Bar Code: 102441)

Amendment 6 to Amendment 1—On page 40, lines 3 and 4,
remove from the amendment: all of said lines

and insert in lieu thereof:

(f) One member from the Florida Association of the American Institute of Architects; and

Rep. Diaz-Balart moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Diaz-Balart offered the following:

(Amendment Bar Code: 855761)

Amendment 7 to Amendment 1—On page 42, line 25,
remove from the amendment: *The*

and insert in lieu thereof: *Effective upon this act becoming a law, the*

Rep. Diaz-Balart moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Diaz-Balart offered the following:

(Amendment Bar Code: 740267)

Amendment 8 to Amendment 1—On page 43, line 10,
remove from the amendment: all of said line

and insert in lieu thereof: *Effective July 1, 2001,*

Rep. Diaz-Balart moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Wiles offered the following:

(Amendment Bar Code: 731155)

Amendment 9 to Amendment 1 (with title amendment)—On page 43, lines 19 & 20,
remove from the amendment: all of said lines

And the title is amended as follows:

On page 46, lines 26-30, of the amendment
remove: all of said lines

and insert in lieu thereof: providing an

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

The question recurred on the adoption of **Amendment 3 to Amendment 1**, which was withdrawn.

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

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

Continuation of Bills and Joint Resolutions on Third Reading

CS for SB 838—A bill to be entitled An act relating to landlord and tenant; amending s. 83.67, F.S.; exempting certain landlords from a requirement to give notice to former tenants regarding personal property; amending s. 475.011, F.S.; providing an exemption from the real estate brokers and salespersons regulatory law; amending ss. 715.105, 715.106, 715.109, F.S.; increasing the value of abandoned personal property that may be kept, sold, or destroyed by a landlord; conforming notice provisions; providing for termination of a rental agreement by a member of the United States Armed Forces; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 367

Yeas—109

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

Nays—4

Kendrick	Pickens	Romeo	Simmons

Votes after roll call:
Yeas—Ryan, Seiler

So the bill passed, as amended, and was immediately certified to the Senate.

CS for CS for SB 1258—A bill to be entitled An act relating to behavioral health services; providing legislative findings with respect to providing mental health and substance-abuse-treatment services; permitting the Department of Children and Family Services and the Agency for Health Care Administration to contract for the establishment of two behavioral health service delivery strategies to test methods and techniques for coordinating, integrating, and managing the delivery of mental health services and substance-abuse-treatment services for persons with emotional, mental, or addictive disorders; requiring a managing entity for each service delivery strategy; requiring that costs be shared by the Department of Children and Family Services and the Agency for Health Care Administration; specifying the goals of the service delivery strategies; specifying the target population of persons to be enrolled under each strategy; requiring a continuing care system; requiring an advisory body for each demonstration model; requiring certain cooperative agreements; providing reporting requirements; requiring an independent entity to evaluate the service delivery strategies; requiring annual reports; creating a Behavioral Health Services Integration Workgroup; requiring the Secretary of the Department of Children and Family Services to appoint members to the Workgroup; providing authority for a transfer of funds to support the Workgroup; requiring the Workgroup to report to the Governor and the Legislature; creating s. 394.499, F.S.; authorizing the Department of Children and Family Services, in consultation with the Agency for Health Care Administration, to establish children's behavioral crisis unit demonstration models to provide integrated emergency mental health and substance abuse services to persons under 18 years of age at facilities licensed as children's crisis stabilization units; providing for standards, procedures, and requirements for services; providing eligibility criteria; requiring the department to report on the initial demonstration models; providing for expanding the demonstration models; providing for independent evaluation and report; providing rulemaking authority; amending s. 394.66, F.S.; providing legislative intent; creating s. 394.741, F.S.; requiring the Agency for Health Care Administration and the Department of Children and Family Services to accept accreditation in lieu of its administrative and program monitoring under certain circumstances; amending s. 394.90, F.S.; requiring the Agency for Health Care Administration to accept accreditation in lieu of its onsite licensure reviews; amending s. 397.411, F.S.; requiring the Department of Children and Family Services to accept accreditation in lieu of its onsite licensure reviews; amending s. 397.403, F.S.; conforming provisions; providing an appropriation; providing an effective date.

—was read the third time by title.

Reconsideration

On motion by Rep. Murman, by the required two-thirds vote, the House reconsidered the vote by which **Amendment 1** was adopted (shown in the *Journal* on pages 867-872, April 26). The question recurred on the adoption of the amendment.

Representative(s) Murman and Maygarden offered the following:

(Amendment Bar Code: 212235)

Amendment 1 to Amendment 1 (with title amendment)—On page 16, between lines 20 and 21

insert:

(g) Medicaid contracts for Behavioral Health Overlay Services for dependent children or delinquent children will remain fee-for-service. Any provider who currently contracts to provide Medicaid behavioral health services with residential group care facilities under the Family Safety program of the Department of Children and Family Services or with the Department of Juvenile Justice to serve delinquent youth in residential commitment programs shall be included in the network of providers in both service delivery strategies and shall continue the existing staffing arrangements. During the operation of the service delivery strategies, any new behavioral health provider that enters into a contract with residential group care facilities under the Family Safety program of the Department of Children and Family Services or with the Department of Juvenile Justice for delinquent youth in residential commitment programs shall also be included in the network.

And the title is amended as follows:

On page 27, line 8 of the amendment after the semicolon

insert: requiring certain contracts for overlay services remain fee-for-services;

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

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS for CS for SB 1258. The vote was:

Session Vote Sequence: 368

Yeas—120

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

On motion by Rep. Goodlette, the House moved to the consideration of HB 915.

Bills and Joint Resolutions on Second Reading

HB 915—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the cities of Fort Lauderdale and Dania Beach; providing for annexation of specified unincorporated land; providing for an election; providing for an effective date of annexation; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 552503)

Amendment 1—On page pg 8, line 17,
remove from the bill: *November 5, 2002,*

and insert in lieu thereof: *March 12, 2002,*

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

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 175727)

Amendment 2—On page 9, line 3,
remove from the bill: *2003*

and insert in lieu thereof: *2002*

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

REPRESENTATIVE BALL IN THE CHAIR

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 073749)

Amendment 3—On page 9, line 17,
remove from the bill: November 5, 2002

and insert in lieu thereof: *March 12, 2002* ~~November 5, 2002~~

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

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 084101)

Amendment 4—On page 9, between lines 10 and 11, of the bill

insert:

Section 7. *Upon annexation into a municipality, the following shall govern the areas described in Section 2: for any use, building, or structure that is legally in existence at the time the Riverland area becomes a part of the municipality, such use shall not be made a prohibited use by the municipality, on the property of said use, for as long as the use shall continue and is not voluntarily abandoned.*

Section 8. *Subsequent to the effective date of this act, no change in land use designation or zoning shall be effective within the limits of the*

lands subject to annexation herein until the Riverland Area has been annexed into the municipality, nor shall annexation by any municipality occur during the period between the effective date of this act and the effective date of the annexation.

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

Representative(s) Ritter offered the following:

(Amendment Bar Code: 094637)

Amendment 5—On page 9, lines 13-20, remove from the bill: all of said lines

and insert in lieu thereof:

Section 8. This act shall take effect upon becoming a law.

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

On motion by Rep. Ritter, the rules were waived and HB 915, as amended, was read the third time by title. On passage, the vote was:

Session Vote Sequence: 369

Yeas—114

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

Nays—1

Smith

Votes after roll call:
Yeas—Davis

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

On motion by Rep. Goodlette, the House moved to the consideration of SB 272 on Bills and Joint Resolutions on Third Reading.

Bills and Joint Resolutions on Third Reading

SB 272—A bill to be entitled An act relating to law enforcement officers; amending s. 817.564, F.S.; providing an exemption from civil or criminal liability for the sale of imitation controlled substances by law enforcement officers and other persons acting at their direction; providing an effective date.

—was read the third time by title.

Reconsideration

On motion by Rep. Atwater, by the required two-thirds vote, the House reconsidered the vote by which **Amendment 1** to **SB 272** was adopted (shown in the *Journal* on page 1082, April 27).

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

The question recurred on the passage of SB 272. The vote was:

Session Vote Sequence: 370

Yeas—119

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

Nays—None

So the bill passed and was immediately certified to the Senate.

On motion by Rep. Goodlette, the House moved to the consideration of HB 1221 on Bills and Joint Resolutions on Third Reading.

HB 1221—A bill to be entitled An act relating to water resources; amending s. 373.1961, F.S.; allowing certain alternative water supply facilities to recover the cost of such facilities through rate structures; amending s. 373.083, F.S.; authorizing water management districts to solicit donations; amending s. 373.093, F.S.; authorizing water management districts to lease certain personal property; creating s. 373.608, F.S.; authorizing water management districts to obtain and enforce patents, copyrights, and trademarks on work products of the district; providing for rules; creating s. 373.610, F.S.; authorizing water management districts to suspend contractors who have defaulted on contracts; providing procedure; providing for rules; creating s. 373.611, F.S.; authorizing water management districts to enter into contracts to limit or alter the measure of damages recoverable from a vendor; amending s. 373.0693, F.S.; providing for membership on the Manasota Basin Board and for the resolution of tie votes; amending s. 73.015, F.S.; clarifying time-frame for providing specific information to fee-owners; requiring agencies to provide specified portions of statute to fee-owners;

amending s. 270.11, F.S.; providing discretion to water management districts, local governments, board of trustees and other state agencies to determine whether to reserve mineral interests when selling lands; clarifying the types of information to be given by land-owner wanting a release of a reservation; amending s. 373.056, F.S.; granting water management districts the authority to grant utility easements on district-owned land for providing utility service; amending s. 373.093, F.S.; granting additional time to water management districts to provide notification before executing lease agreements; amending s. 373.096, F.S.; providing for release of certain easements, reservations, or right-of-way interests; amending s. 373.139, F.S.; authorizing water management districts to cure title defects after a land sale is executed; allowing water management districts to disclose appraisal information, offers and counter offers to third parties working on the district's behalf; allowing third party appraisals to be used under specific circumstances; amending s. 373.1401, F.S.; allowing water management districts to contract with private entities for management, improvement, or maintenance of land held by the districts; amending s. 110.152, F.S.; specifying employees who are entitled to receive such benefits for adopting a special-needs child; deleting references to water management district employees; prescribing the manner of establishing the amount of such benefits; amending s. 110.15201, F.S.; providing that rules for administering such adoption benefits may provide for an application process; deleting a reference to water management district employees; amending s. 215.32, F.S.; requiring the Comptroller and the Department of Management Services to transfer funds to water management districts to pay monetary benefits to water management district employees; creating s. 373.6065, F.S.; providing child-adoption monetary benefits to water management district employees; amending s. 373.536, F.S.; revising notice and hearing provisions relating to the adoption of a final budget for the water management districts; specifying to whom a copy of the water management districts' tentative budget must be sent for review; specifying the contents of the tentative budget; requiring the Executive Office of the Governor to file with the Legislature a report summarizing its review of the water management districts' tentative budgets and displaying the adopted budget allocations by program area; requiring the water management districts to submit certain budget documents to specified officials; amending s. 373.079, F.S.; deleting a requirement that the water management districts submit a 5-year capital improvement plan and fiscal report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Secretary of Environmental Protection; amending s. 373.59, F.S.; providing for the transfer of certain funds; amending s. 373.501, F.S.; providing for the release of moneys from the Water Management Lands Trust Fund; repealing s. 373.507, F.S., relating to postaudits and budgets of water management districts and basins; repealing s. 373.589, F.S., relating to audits of water management districts; providing an effective date.

—was read the third time by title.

The Procedural & Redistricting Council offered the following:

(Amendment Bar Code: 093489)

Technical Amendment 8—On page 2 line 25, after the semicolon,

insert: amending s. 374.984, F.S.; revising powers and duties of the Board of Commissioners of the Florida Inland Navigation District;

and on page 19, line 11, after "*110.15201*"

insert: .

and on page 28, line 6,
remove from the bill: *;*

and insert in lieu thereof: *:*

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

Representative(s) Lacasa offered the following:

(Amendment Bar Code: 184931)

Amendment 9 (with title amendment)—On page 31, between lines 22 and 23,

insert:

Section 25. *Funds from Specific Appropriations 1591G of Chapter 2000-166, Laws of Florida, in the amount of $1,000,000 for Wastewater (Sewer) Infrastructure - City of South Miami shall revert and are hereby reappropriated for drinking water facility construction for the City of South Miami.*

And the title is amended as follows:

On page 4, line 9, after the semicolon

insert: providing an appropriation;

Rep. Lacasa moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of HB 1221. The vote was:

Session Vote Sequence: 371

Yeas—116

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

Nays—None

Votes after roll call:
Yeas—Wishner

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

Reconsideration of CS/CS/HB 1053

On motion by Rep. Russell, the House reconsidered the vote by which **CS/CS/HB 1053**, as amended, passed earlier today.

CS/CS/HB 1053—A bill to be entitled An act relating to transportation; amending s. 333.03, F.S.; requiring an airport authority or other governing body operating a publicly owned public-use airport to utilize the most recently approved noise exposure map; amending s. 20.23, F.S.; revising language with respect to the organization of the department; deleting responsibilities assigned to the secretary; providing that the secretary or his or her designee shall submit a report on major actions at each meeting of the Florida Transportation Commission; s. 315.031, F.S.; authorizing certain entertainment expenditures for seaport; revising language with respect to assistant

secretaries; creating the Office of Comptroller; deleting language with respect to the inspector general and comptroller; changing the Turnpike District into a turnpike enterprise; giving the Secretary of Transportation the authority to exempt the turnpike enterprise from department policies, procedures, and standards; giving the secretary authority to promulgate rules that will assist the turnpike enterprise in using best business practices; amending s. 110.205, F.S.; correcting cross references, to conform; amending s. 189.441, F.S.; removing an exemption to s. 287.055, F.S.; amending s. 206.46, F.S.; revising language with respect to the State Transportation Trust Fund; increasing the debt service cap; amending s. 255.20, F.S.; exempting certain transportation projects for certain competitive bidding requirements; amending s. 287.005, F.S.; increasing the amount defining a continuing contract; amending s. 311.07, F.S.; adding seaport security projects to the types of projects eligible for these funds; exempting seaport security projects from matching requirements; amending s. 311.09, F.S.; directing seaports to abide by the provisions of s. 287.055, F.S., related to competitive negotiation; amending s. 316.302, F.S.; revising a date concerning commercial motor vehicles to conform to federal regulations; amending s. 316.3025, F.S.; updating a cross reference to federal trucking regulations; amending s. 316.515, F.S.; deleting a requirement for a department permit with respect to the height of automobile transporters; amending s. 316.535, F.S.; adding weight requirements for certain commercial trucks; amending s. 316.545, F.S.; correcting a cross reference; amending s. 330.27, F.S.; revising definitions relating to aviation; providing definitions; amending s. 316.650, F.S.; requiring the issuance of a copy of the Traffic School Reference Guide with traffic citations; amending s. 318.14, F.S.; deleting reference to a restriction on the number of elections a person may make to attend a basic driver improvement course; amending s. 318.1451, F.S.; providing an assessment fee with respect to driver improvement courses for persons who are ordered by the court to attend and for certain other violations; amending s. 322.0261, F.S.; deleting reference to a time period and increasing the amount of damage required with respect to a crash for the screening of certain crash reports; creating s. 322.02615, F.S.; providing for mandatory driver improvement courses for certain violations; amending s. 322.05, F.S.; adding a condition for the issuance of a driver's license to certain persons; amending s. 330.29, F.S.; clarifying the department's rulemaking authority with respect to airports; amending s. 330.30, F.S.; eliminating airport license fees; revising language with respect to the department's site approval process; eliminating on-site inspections of private airports; creating a registration process for private airports; providing conditions; deleting obsolete language; providing exceptions; amending s. 330.35, F.S.; deleting obsolete language with respect to airport zoning; amending s. 330.36, F.S.; providing conditions under which municipalities may prohibit or otherwise regulate seaplanes; amending s. 332.004, F.S.; adding off-airport noise mitigation projects to the projects eligible for federal and state matching funds; amending s. 334.044, F.S.; authorizing the department to expend promotional money on scenic highway projects; authorizing the department to delegate its drainage permitting responsibilities to other governmental entities under certain circumstances; amending s. 334.193, F.S.; providing for employee bidding by department employees; amending s. 334.30, F.S.; clarifying existing program for public-private transportation projects; deleting requirement for legislative approval except for projects requiring more than $50 million from the State Transportation Trust Fund; specifying notice and selection requirements for projects under this section; allowing Internal Revenue Service Code chapter 63-20 corporations to participate in these public-private transportation projects; providing conditions for using loans from Toll Facilities Revolving Trust Fund; deleting obsolete language; creating s. 335.066, F.S.; creating the Safe Paths to Schools Program; directing the department to establish the program and to authorize establishment of a grant program for purposes of funding the program; authorizing the department to adopt rules to administer the program; amending s. 335.141, F.S.; eliminating the requirement that the department regulate all train speeds; amending s. 336.12, F.S.; creating process for homeowners' associations to be conveyed roads and rights-of-way abandoned by a county governing board for the purpose of converting a subdivision to a gated neighborhood; amending s. 336.41, F.S.; clarifying that a contract already qualified by the Department of Transportation is presumed qualified to bid on county road projects; amending s. 336.44, F.S.; replacing the term "competent" with "responsible bidder"; amending s. 337.107, F.S.; authorizing the department to enter into design-build contracts that include right-of-acquisition services; amending s. 337.11, F.S.; raising the cap on certain contracts into which the department can enter without first obtaining bids; adding enhancement projects to the types of projects that can be combined into a design-build contract; specifying that construction on design-build projects may not begin until certain conditions have been met; amending s. 337.14, F.S.; clarifying that contractors qualified by the Department of Transportation are presumed qualified to bid on projects for expressway authorities; amending s. 337.401, F.S.; providing that for projects on public roads or rail corridors under the department's jurisdiction, a utility relocation schedule and relocation agreement may be executed in lieu of a written permit; amending s. 339.08, F.S.; clarifying language with respect to the use of moneys in the State Transportation Trust Fund; amending s. 339.12, F.S.; providing that local governments which perform projects for the department are reimbursed promptly; specifying that certain counties that use revenues from a 1-cent local option sales tax for state transportation improvement projects not be penalized by receiving fewer state transportation funds; amending s. 339.135, F.S.; conforming language with respect to the tentative work program; conforming a reference to the turnpike district; amending s. 339.137, F.S.; revising definitions; amending criteria for program eligibility; directing the advisory council to develop methodology for ranking and prioritizing project proposals; directing the Florida Transportation Commission to review the proposed project list before submittal to the Legislature; amending s. 341.051, F.S.; deleting obsolete language; amending s. 341.302, F.S.; deleting language requiring the department to perform certain railroad regulation tasks which are federal responsibilities; amending s. 348.0003, F.S.; giving a county governing body authority to set qualifications, terms of office, and obligations for the members of expressway authorities within their jurisdictions; amending ss. 348.0012, 348.754, 348.7543, 348.7544, 348.7545, 348.755, and 348.765, F.S.; giving the Orlando-Orange County Expressway Authority the ability to issue bonds, rather than issuance through the state Division of Bond Finance; amending s. 373.4137, F.S.; allowing transportation authorities created pursuant to chs. 348 and 349, F.S., to create environmental impact inventories and participate in a mitigation program to offset adverse impacts caused by their transportation projects; amending s. 373.414, F.S.; providing for legislative review of the uniform wetland mitigation assessment method rule; amending s. 475.011, F.S.; granting exemption from Florida licensing for certain firms or their employees under contract with the state or a local governmental entity to provide right-of-way acquisition services for property subject to condemnation; amending s. 479.15, F.S.; revising language with respect to harmony of regulations concerning lawfully erected signs; creating s. 479.25, F.S.; authorizing local governments to enter into agreements which allow outdoor signs to be erected above sound barriers; creating s. 70.20, F.S.; creating process for governmental entities and sign owners to enter into relocation and reconstruction agreements related to outdoor advertising signs; providing for just compensation to sign owners under certain conditions; amending s. 496.425, F.S.; redefining the term "facility"; creating s. 496.4256, F.S.; providing that a governmental entity or authority that owns or operates welcome centers, wayside parks, service plazas, or rest areas on the state highway system are not required to issue a permit to, or grant access to, any person for the purpose of soliciting funds; repealing s. 316.3027, F.S.; relating to identification requirements on certain commercial motor vehicles; amending s. 337.408, F.S.; revising language with respect to the regulation of benches, transit shelters, and waste disposal receptacles within rights-of-way; providing for regulation of street light poles; amending s. 380.0651, F.S.; excluding certain wholesaling facilities from development-of-regional-impact review; deleting provision which provides the development-of-regional-impact statewide guidelines and standards for airports; deleting provision which provides for certain residential developments located in one county to be treated as located in an adjacent less populated county; amending s. 768.28, F.S.; providing that certain operators of rail services and providers of security for rail services are agents of the state for certain purposes; providing for indemnification; repealing s. 316.610(3), F.S.; relating to certain inspections of certain commercial motor vehicles; amending s. 337.025, F.S.; eliminating cap on innovative highway projects for the turnpike enterprise; amending s. 337.11, F.S.;

providing an exemption for a turnpike enterprise project; amending s. 338.22, F.S.; redesignating the Florida Turnpike Law as the Florida Turnpike Enterprise Law; amending s. 338.221, F.S.; redefining the term "economically feasible" as used with respect to turnpike projects; creating s. 338.2215, F.S.; providing legislative findings, policy, purpose, and intent for the Florida Turnpike Enterprise; creating s. 338.2216, F.S.; prescribing the power and authority of the turnpike enterprise; amending s. 338.223, F.S.; increasing the maximum loan amount for the turnpike enterprise; amending ss. 338.165 and 338.227, F.S.; conforming provisions; amending s. 338.2275, F.S.; authorizing the turnpike enterprise to advertise for bids for contracts prior to obtaining environmental permits; amending s. 338.234, F.S.; authorizing the turnpike enterprise to expand business opportunities; amending s. 338.235, F.S.; authorizing the consideration of goods instead of fees; amending s. 338.239, F.S.; providing that approved expenditure to the Florida Highway Patrol be paid by the turnpike enterprise; amending s. 338.241, F.S.; lowering the required cash reserve for the turnpike enterprise; amending s. 338.251, F.S.; conforming provisions; amending s. 553.80, F.S.; providing for self-regulation; amending s. 333.06, F.S.; requiring each licensed publicly owned and operated airport to prepare an airport master plan; providing notice to affected local governments with respect thereto; amending s. 380.06, F.S., relating to developments of regional impact; removing the rebuttable presumptions with respect to application of the statewide guidelines and standards; removing provisions which specify that certain changes in airport facilities or increases in the storage capacity for chemical or petroleum storage facilities constitute a substantial deviation and require further development-of-regional-impact review; exempting certain proposed facilities for the storage of any petroleum product from development-of-regional-impact requirements; amending ss. 163.3180 and 331.303, F.S.; correcting references; providing application with respect to airports and petroleum storage facilities which have received a development-of-regional-impact development order, or which have an application for development approval or notification of proposed change pending, on the effective date of the act; providing for severability; authorizing a board of county commissioners to require by ordinance that an additional amount be collected with each civil fine and used to fund traffic education and awareness programs; providing an effective date.

The question recurred on the passage of CS/CS/HB 1053.

Reconsideration

On motion by Rep. Russell, by the required two-thirds vote, the House reconsidered the vote by which **Amendment 8**, as amended, was adopted, earlier today.

Representative(s) Russell offered the following:

(Amendment Bar Code: 961675)

Amendment 7 to Amendment 8—On page 66, line 29 through page 76, line 19,
remove from the amendment: all of said lines

and insert in lieu thereof:

Section 1. Section 339.137, Florida Statutes, is amended to read:

339.137 Transportation Outreach Program (TOP) supporting economic development; administration; definitions; eligible projects; Transportation Outreach Program (TOP) advisory council created; limitations; funding.—

(1) There is created within the Department of Transportation, a Transportation Outreach Program (TOP) dedicated to funding transportation projects of a high priority based on the ~~prevailing~~ principles of ~~preserving the existing transportation infrastructure;~~ enhancing Florida's economic growth and competitiveness *in national and international markets; promoting intermodal transportation linkages for passengers and freight*; and improving travel choices to ensure *efficient and cost-competitive* mobility *for Florida citizens, visitors, services, and goods*.

(2) For purposes of this section, words and phrases shall have the following meanings:

(a) ~~Preservation. Protecting the state's transportation infrastructure investment. Preservation includes:~~

~~1. Ensuring that 80 percent of the pavement on the State Highway System meets department standards;~~

~~2. Ensuring that 90 percent of department-maintained bridges meet department standards; and~~

~~3. Ensuring that the department achieves 100 percent of acceptable maintenance standards on the State Highway System.~~

~~(b)~~ Economic growth and competitiveness.—Ensuring that state transportation investments promote economic activities which result in development or retention of income generative industries which increase per capita earned income in the state, and that such investments improve the state's economic competitiveness.

(b)~~(c)~~ Mobility.—Ensuring a cost-effective, statewide, interconnected transportation system.

(c)~~(d)~~ The term "regionally significant transportation project ~~of critical concern~~" means a transportation facility improvement project located in one *or more counties* ~~county~~ which provides significant enhancement of economic development opportunities in *that region* ~~an adjoining county or counties and which provides improvements to a hurricane evacuation route~~.

(3) Transportation Outreach Program projects may be proposed by any local government, regional organization, economic development board, public or private partnership, metropolitan planning organization, state agency, or other entity engaged in economic development activities.

(4)~~(3)~~ *Proposed* ~~Eligible~~ projects *that meet the minimum eligibility threshold* include those for planning, designing, acquiring rights-of-way for, or constructing the following:

(a) Major highway improvements *to:*~~.~~

1. *The* Florida Intrastate Highway System.

2. *Major roads and* feeder roads which provide linkages to *the Florida Intrastate Highway System* ~~major highways~~.

3. Bridges of statewide or regional significance.

4. Trade and economic development corridors.

5. Access projects for freight and passengers.

6. Hurricane evacuation routes.

(b) Major public transportation projects*:*~~.~~

1. Seaport projects which improve cargo and passenger movements *or connect the seaports to other modes of transportation*.

2. Aviation projects which increase passenger enplanements and cargo activity *or connect airports to other modes of transportation*.

3. Transit projects which improve mobility on interstate highways, ~~or which~~ improve regional or localized travel*, or connect to other modes of transportation*.

4. Rail projects that facilitate the movement of passengers and cargo*,* including ancillary pedestrian facilities*, or connect rail facilities to other modes of transportation*.

5. Spaceport Florida Authority projects which improve space transportation capacity and facilities consistent with the provisions of s. 331.360.

~~6. Bicycle and pedestrian facilities that add to or enhance a statewide system of public trails.~~

(c) Highway and bridge projects that facilitate retention and expansion of military installations, or that facilitate reuse and development of any military base designated for closure by the Federal Government.

Each proposed project must be able to document that it promotes economic growth and competitiveness, as defined in paragraph (2)(a).

(5) In addition to the above minimum eligibility requirements, each proposed project must comply with the following eligibility criteria:

(a) The project or project phase selected can be made production-ready within a 5-year period following the end of the current fiscal year.

(b) The project is consistent with a current transportation system plan such as the Florida Intrastate Highway System, aviation, intermodal/rail, seaport, spaceport, or transit system plans.

(c) The project is not inconsistent with an approved local comprehensive plan of any local government within whose boundaries the project is located in whole or in part, or, if inconsistent, is accompanied by an explanation of why the project should be undertaken.

One or more of the minimum criteria listed in paragraphs (a)-(c) may be waived for a regionally significant transportation project.

~~(4) Transportation Outreach projects may be proposed by any local government, regional organization, economic development board, public or private partnership, metropolitan planning organization, state agency, or other entity engaged in economic development activities.~~

(6)~~(5)~~ *The following criteria shall be used* ~~Transportation funding under this section shall use the following mechanisms~~ to prioritize *the eligible* ~~proposed~~ projects:

(a) *The project must promote economic growth and competitiveness.* ~~Economic development-related transportation projects may compete for funding under the program. Projects funded under this program should provide for increased mobility on the state's transportation system. Projects which have local or private matching funds may be given priority over other projects.~~

(b) *The project must promote intermodal transportation linkages for passengers and freight.* ~~Establishment of a funding allocation under this program reserved to quickly respond to transportation needs of emergent economic competitiveness development projects that may be outside of the routine project selection process. This funding may be used to match local or private contributions for transportation projects which meet the definition of economic competitiveness contained in this section.~~

(c) *The project must broaden transportation choices for Florida residents, visitors, and commercial interests in order to ensure efficient and cost-competitive mobility of people, services, and goods.* ~~Establish innovative financing methods to enable the state to respond in a timely manner to major or emergent economic development-related transportation needs that require timely commitments. These innovative financing methods include, but are not limited to, the state infrastructure bank, state bonds for right-of-way acquisition and bridge construction, state bonds for fixed guideway transportation systems, state bonds for federal aid highway construction, funds previously programmed by the department for high-speed rail development, and any other local, state, or federal funds made available to the department.~~

(d) Projects that have local, federal, or private matching funds shall be given priority over projects that meet all the other criteria.

(7) Eligible projects shall also utilize innovative financing methods that enable the state to respond in a timely manner to major or emergent economic development-related transportation needs that require timely commitments. These innovative financing methods include, but are not limited to, private investment strategies, use of the state infrastructure bank, state bonds for right-of-way acquisition and bridge construction, state bonds for fixed guideway transportation systems, state bonds for federal aid highway construction, funds previously programmed by the department for high-speed rail development, and any other local, state, or federal funds made available to the department.

~~(6) In addition to complying with the prevailing principles provided in subsection (1), to be eligible for funding under the program, projects must also meet the following minimum criteria:~~

~~(a) The project or project phase selected can be made production-ready within a 5-year period following the end of the current fiscal year.~~

~~(b) The project is listed in an outer year of the 5-year work program and can be made production-ready and advanced to an earlier year of the 5-year work program.~~

~~(c) The project is consistent with a current transportation system plan including, but not limited to, the Florida Intrastate Highway System, aviation, intermodal/rail, seaport, spaceport, or transit system plans.~~

~~(d) The project is not inconsistent with an approved local comprehensive plan of any local government within whose boundaries the project is located in whole or in part or, if inconsistent, is accompanied by an explanation of why the project should be undertaken.~~

~~(e) One or more of the minimum criteria listed in paragraphs (a)-(d) may be waived for a statewide or regionally significant transportation project of critical concern.~~

(8)~~(7)~~ The Transportation Outreach Program (TOP) advisory council is created to annually make recommendations to the Legislature on prioritization and selection of economic growth projects as provided in this section.

(a) The council shall consist of:

1. Two representatives of private interests*, chosen by the Speaker of the House of Representatives,* who are directly involved in or affected by any mode of transportation or tourism ~~chosen by the Speaker of the House of Representatives~~.

2. Two representatives of private interests*, chosen by the President of the Senate,* who are directly involved in or affected by any mode of transportation or tourism ~~chosen by the President of the Senate~~.

3. Three representatives of private or governmental interests*, chosen by the Governor,* who are directly involved in or affected by any mode of transportation or tourism ~~chosen by the Governor~~.

(b) Terms for council members shall be 2 years, and each member shall be allowed one vote. *Every 2 years, the council shall select from among its membership a chair and vice chair.*

(c) ~~Initial appointments must be made no later than 60 days after this act takes effect.~~ Vacancies in the council shall be filled in the same manner as the initial appointments.

(d) ~~The council shall hold its initial meeting no later than 30 days after the members have been appointed in order to organize and select a chair and vice chair from the council membership.~~ Meetings shall be held at the call of the chair, but not less frequently than quarterly.

(e) The members of the council shall serve without compensation, but shall be reimbursed for per diem and travel expenses as provided in s. 112.061.

(f) The department shall provide administrative staff support, *ensuring that council meetings are electronically recorded. Such recordings and all documents received, prepared for, or used by the council in conducting its business shall be preserved pursuant to chapters 119 and 257. In addition, the department shall provide in its annual budget for* travel and per diem expenses for the council.

(g) The council shall develop a methodology for scoring and ranking project proposals, based on the prioritization criteria in subsection (6). The council may change a project's ranking based on other factors as determined by the council. However, such other factors must be fully documented in writing by the council.

(h) The council is encouraged to seek input from transportation or economic-development entities and to consider the reports and recommendations of task forces, study commissions, or similar entities charged with reviewing issues relevant to the council's mission.

(9)~~(8)~~ Because transportation investment plays a key role in economic development, the council and the department shall actively

participate in state and local economic development programs, including:

(a) Working in partnership with other state and local agencies in business recruitment, expansion, and retention activities to ensure early transportation input into these activities.

(b) Providing expertise and rapid response in analyzing the transportation needs of emergent economic development projects.

(c) *Developing* ~~The council and department must develop~~ a macroeconomic analysis of the linkages between transportation investment and economic performance, as well as a method to quantifiably measure the economic benefits of the investments.

(d) Identifying long-term strategic transportation projects that will promote the principles listed in subsection (1).

(10)~~(9)~~ The council shall review and prioritize projects submitted for funding under the program ~~with priority given to projects which comply with the prevailing principles provided in subsection (1),~~ and shall recommend to the Legislature a transportation outreach program. The department shall provide technical expertise and support as requested by the council, and shall develop financial plans, cash forecast plans, and program and resource plans necessary to implement this program. These supporting documents shall be submitted with the Transportation Outreach Program.

(11)(a)~~(10)~~ Projects recommended for funding under the Transportation Outreach Program shall be submitted to the *Florida Transportation Commission at least 30 days before the start of the regular legislative session. The Florida Transportation Commission shall review the projects to determine whether they are in compliance with this section and prepare a report detailing its findings.*

(b) The council shall submit its list of recommended projects to the Governor and the Legislature as a separate *budget request submitted at the same time as* ~~section of~~ the department's tentative work program*, which is 14 days before the start of the regular session. The Florida Transportation Commission shall submit its written report at the same time to the Governor and the Legislature*. Final approval of the Transportation Outreach Program *project list* shall be made by the Legislature through the General Appropriations Act. Program projects approved by the Legislature must be included in the department's adopted work program.

(12)~~(11)~~ For purposes of funding projects under the *Transportation Outreach* Program, the department shall allocate from the State Transportation Trust Fund in its program and resource plan a minimum of $60 million each year beginning in fiscal *year* 2001-2002 ~~for a transportation outreach program~~. This funding is to be reserved for projects to be funded *pursuant to this section* ~~under the Transportation Outreach Program~~. This allocation of funds is in addition to any funding provided to this program by any other provision of law.

(13)~~(12)~~ Notwithstanding any other law to the contrary the requirements of ss. 206.46(3), 206.606(2), 339.135, 339.155, and 339.175 shall not apply to the Transportation Outreach Program.

(14)~~(13)~~ The department is authorized to adopt rules to implement the Transportation Outreach Program supporting economic development.

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

The question recurred on the adoption of **Amendment 8**, as amended, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/CS/HB 1053. The vote was:

Session Vote Sequence: 372

Yeas—112

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

Nays—2

Bilirakis	Justice

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

On motion by Rep. Goodlette, the House moved to the consideration of SB 1424 on Bills and Joint Resolutions on Third Reading.

SB 1424—A bill to be entitled An act relating to real estate professionals; amending s. 475.25, F.S.; providing an exception to provisions governing the return of escrowed personal property; amending s. 475.22, F.S.; requiring supervisors of registered assistant real estate appraisers to sign appraisals and make certain disclosures; creating s. 475.6221, F.S.; requiring registered assistant real estate appraisers to be supervised by licensed or certified appraisers; providing supervisory guidelines; prohibiting direct payments for services to registered assistant real estate appraisers with the supervising appraiser's agreement; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 373

Yeas—119

The Chair	Bilirakis	Feeney	Henriquez
Alexander	Bowen	Fields	Heyman
Allen	Brown	Fiorentino	Hogan
Andrews	Brummer	Flanagan	Holloway
Argenziano	Brutus	Frankel	Jennings
Arza	Bucher	Gannon	Johnson
Attkisson	Bullard	Garcia	Jordan
Atwater	Byrd	Gardiner	Joyner
Ausley	Cantens	Gelber	Justice
Baker	Clarke	Gibson	Kallinger
Barreiro	Crow	Goodlette	Kendrick
Baxley	Cusack	Gottlieb	Kilmer
Bean	Davis	Green	Kosmas
Bendross-Mindingall	Detert	Greenstein	Kottkamp
Bennett	Diaz de la Portilla	Haridopolos	Kravitz
Bense	Diaz-Balart	Harper	Kyle
Benson	Dockery	Harrell	Lacasa
Berfield	Farkas	Harrington	Lee
Betancourt	Fasano	Hart	Lerner

Littlefield	Miller	Romeo	Sorensen
Lynn	Murman	Ross	Spratt
Machek	Needelman	Rubio	Stansel
Mack	Negron	Russell	Trovillion
Mahon	Paul	Ryan	Wallace
Mayfield	Peterman	Seiler	Waters
Maygarden	Pickens	Simmons	Weissman
McGriff	Prieguez	Siplin	Wiles
Meadows	Rich	Slosberg	Wilson
Mealor	Richardson	Smith	Wishner
Melvin	Ritter	Sobel	

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

SB 810—A bill to be entitled An act relating to law enforcement officers; amending s. 901.252, F.S.; providing authority to municipal law enforcement officers to patrol property and facilities leased by the municipality but located outside its territorial jurisdiction; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 374

Yeas—117

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

Nays—None

Votes after roll call:
Yeas—Frankel, Greenstein, Kosmas

So the bill passed and was immediately certified to the Senate.

On motion by Rep. Lynn, consideration of **CS/CS/HB 1533** was temporarily postponed under Rule 11.10.

CS for CS for SB 108—A bill to be entitled An act relating to the transfer of structured settlements; specifying the purpose of the act; providing definitions; providing requirements for the direct or indirect transfer of structured-settlement-payment rights; requiring that any such transfer be approved by a court; requiring that the court make certain findings with respect to the transfer; authorizing an interested party to file an objection to a proposed transfer; providing requirements for an order approving a transfer; requiring that an obligor make certain disclosures to a claimant in negotiating a settlement of claims; requiring a transferee to provide certain notice with respect to a proposed transfer of structured-settlement-payment rights; providing for penalties to be imposed for certain violations of the act; authorizing the state attorney to bring an action for injunctive relief; providing an effective date.

—was read the third time by title.

Reconsideration

On motion by Rep. Brown, by the required two-thirds vote, the House reconsidered the vote by which **Amendment 1** was adopted on April 27 (shown in the *Journal* on pages 1083-1085).

The question recurred on the adoption of Amendment 1.

Representative(s) Brown offered the following:

(Amendment Bar Code: 592189)

Amendment 1 to Amendment 1—On page 2, lines 28 and 29, remove from the amendment: *in the secondary market, that is, purchases*

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

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS for CS for SB 108. The vote was:

Session Vote Sequence: 375

Yeas—118

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

HB 731 was taken up. On motion by Rep. Kottkamp, the rules were waived and—

SB 1766—A bill to be entitled An act relating to public records; amending s. 119.07, F.S.; exempting from disclosure under s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution, certain information pertaining to county and municipal code enforcement officers and their families; providing for future repeal and prior legislative review of these exemptions; providing a statement of public necessity for the exemptions; amending s. 119.07, F.S.; expanding the exemption for code enforcement officers to include additional information and to include such officers' spouses and children; providing for future review and repeal; providing findings of public necessity; providing an effective date.

—was substituted for HB 731 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

Representative(s) Kottkamp offered the following:

(Amendment Bar Code: 435285)

Amendment 1 (with title amendment)—On page 1, line 21 through page 4, line 6,
remove from the bill: all of said lines

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to public records; amending s. 119.07, F.S.; providing exemptions from public records requirements for specified identifying information relating to local government or water management district human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers and their spouses and children; expanding the exemption for code enforcement officers to include additional information and to include such officers' spouses and children; providing for future review and repeal; providing findings of public necessity; providing an effective date.

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

On motion by Rep. Kottkamp, the rules were waived and SB 1766 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 376

Yeas—120

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

CS for SB 1524—A bill to be entitled An act relating to water management; creating s. 373.1502, F.S.; creating the Comprehensive Everglades Restoration Plan Regulation Act; providing an expedited permitting program for project components as part of the comprehensive plan; amending s. 373.026, F.S.; providing that state funds for land purchases are authorized if contained within the Florida Forever Water Management District Work Plan; amending s. 373.470, F.S.; revising the due date for the annual comprehensive plan report; amending s. 403.088, F.S.; providing standards for the permitting of construction, operation, and maintenance of facilities in the South Florida ecosystem; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 377

Yeas—120

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

HB 1513 was taken up. On motion by Rep. Simmons, the rules were waived and—

SB 1428—A bill to be entitled An act relating to the State Group Insurance Program; amending ss. 110.123, 287.022, F.S.; prohibiting limitations by the state on competition for an insurance product or plan on the basis of the compensation arrangement used by the insurer or organization; providing an effective date.

—was substituted for HB 1513 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Simmons, the rules were waived and SB 1428 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 378

Yeas—118

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

Nays—None

So the bill passed and was immediately certified to the Senate.

CS/HB 1529 was taken up. On motion by Rep. Simmons, the rules were waived and—

CS for SB 1932—A bill to be entitled An act relating to controlled substances; authorizing the creation of a pilot program in Orange County to intercept illegal drug shipments through package delivery services; amending ss. 823.10, 823.01, F.S.; providing that a person who willfully keeps or maintains or aids or abets another in keeping or maintaining certain types of places where controlled substances are unlawfully used, kept, sold, or delivered commits the offense of keeping or maintaining a public nuisance; providing a penalty; amending s. 877.111, F.S., relating to inhalation, ingestion, sale, purchase, or transfer of certain harmful chemical substances; providing exceptions to applications of offenses relating to unlawful distribution, sale, purchase, transfer, or possession of nitrous oxide; amending s. 893.03, F.S., relating to controlled substance standards and schedules; adding 4-methoxymethamphetamine, 1, 4-Butanediol, Gamma-butyrolactone (GBL), Gamma-hydroxybutyric acid (GBH), methaqualone, and mecloqualone to Schedule I; deleting 1, 4-Butanediol and Gamma-hydroxybutyric acid from Schedule II; adding drug products containing Gamma-hydroxybutyric acid which are approved under the Federal Food, Drug, and Cosmetic Act to Schedule III; amending s. 893.033, F.S., relating to listed chemicals; adding chloroephedrine and chloropseudoephedrine to the list of precursor chemicals; amending s. 893.135, F.S., relating to drug trafficking; creating offenses for trafficking in Gamma-butyrolactone (GBL) and lysergic acid diethylamide (LSD); providing penalties; amending scheduling references for trafficking in Gamma-hydroxybutyric acid (GHB) and 1, 4-Butanediol; providing effective dates.

—was substituted for CS/HB 1529 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Simmons, the rules were waived and CS for SB 1932 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 379

Yeas—120

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

Nays—None

So the bill passed and was immediately certified to the Senate.

HB 1915 was taken up. On motion by Rep. Spratt, the rules were waived and—

CS for SB 1922—A bill to be entitled An act relating to agriculture and consumer services; amending s. 121.0515, F.S., relating to special risk membership; revising criteria for firefighters; amending s. 120.80, F.S.; providing that marketing orders under ch. 527, F.S., are not rules; amending s. 125.27, F.S.; authorizing the Department of Agriculture and Consumer Services to lease or lend equipment to governmental entities that have fire/rescue responsibilities; limiting liability for civil damages resulting from use or possession of such equipment; amending s. 193.461, F.S.; providing that, for purposes of the income methodology approach to such assessment, certain litter containment and animal waste nutrient containment structures shall be considered a part of the average yields per acre and have no separately assessable contributory value; amending s. 201.15, F.S.; authorizing the department to adopt rules regarding the distribution of funds for best management practices; amending s. 316.228, F.S.; revising requirements for lamps on projecting loads; amending s. 320.08, F.S.; redefining the term "goat" to include certain additional farm equipment for purposes of the annual license tax imposed on trucks; amending s. 403.714, F.S.; deleting a requirement that the department coordinate development of uniform product specifications for compost used by state agencies; amending s. 487.041, F.S.; authorizing the department to require and review data relating to the claims of pesticide products used as preventive treatment for termites; authorizing the department to adopt rules; amending s. 500.09, F.S.; authorizing fees for certain reinspection of food establishments; amending s. 500.12, F.S.; increasing the maximum fee

for a food permit; limiting the use of such fees; amending ss. 502.012, 502.014, F.S.; revising references relating to the pasteurized milk ordinance and milk sanitation; deleting a requirement that a copy of a federal temporary marketing permit for milk and milk products be forwarded to the department; amending s. 502.053, F.S.; clarifying milk testing requirements; amending s. 502.091, F.S.; authorizing the department to forgo the grading of certain milk products in an emergency; providing for labeling; amending s. 503.041, F.S.; providing that an attempted or purported transfer of a frozen dessert plant license is grounds for its suspension or revocation; repealing ss. 504.21, 504.22, 504.23, 504.24, 504.25, 504.26, 504.27, 504.28, 504.29, 504.31, 504.32, 504.33, 504.34, 504.35, 504.36, F.S.; eliminating the Florida Organic Farming and Food Law; providing an effective date; repealing ss. 536.20, 536.21, 536.22, F.S., relating to timber and lumber; repealing s. 570.381, F.S., relating to Appaloosa racing; amending ss. 550.2625, 550.2633, F.S.; conforming cross-references; amending s. 570.07, F.S.; authorizing the department to conduct investigations of violations of laws relating to consumer protection; amending s. 503.071, F.S.; providing for the embargo, detainment, or destruction of food or food processing equipment of a frozen dessert manufacturer; amending s. 570.244, F.S.; clarifying powers and duties of the department relating to the development of agribusinesses; amending s. 570.249, F.S.; clarifying aquacultural crops eligible for Agricultural Economic Development Program disaster loans; revising loan application requirements; directing the department to establish an agribusiness market development grant program; amending s. 570.38, F.S.; increasing membership of the Animal Industry Technical Council; amending s. 580.031, F.S.; revising definitions; amending s. 580.051, F.S.; revising label requirements for feed; amending s. 580.065, F.S.; revising feed laboratory procedures; amending s. 580.091, F.S.; removing intent language regarding feed sampling and analysis; amending s. 580.112, F.S.; expanding prohibited acts; amending s. 581.211, F.S.; providing a penalty for violation of rules relating to plant industry; amending s. 585.145, F.S.; prescribing requirements with respect to veterinarians who may inspect animals for disease; amending s. 585.155, F.S.; revising vaccination requirements for calves; amending s. 589.19, F.S.; naming a state forest; amending s. 616.242, F.S.; providing additional exemptions from amusement ride safety standards; amending s. 828.22, F.S.; creating the "Humane Slaughter Act"; revising provisions relating to humane slaughter and livestock euthanasia; amending s. 828.23, F.S.; revising definitions; amending s. 828.24, F.S.; revising provisions relating to prohibited acts; amending s. 828.25, F.S.; revising provisions relating to administration of the act by the department; creating s. 828.251, F.S.; directing the department to make current technical information available to slaughterers; creating s. 828.252, F.S.; providing for humane treatment of nonambulatory animals; amending s. 828.26, F.S.; revising penalties; amending ss. 427.804, 559.921, F.S.; conforming cross-references; creating s. 604.60, F.S.; providing that certain agricultural growers or producers shall have a right to recover damages as a result of willful and knowing damage or destruction of specified agricultural products; providing considerations and limits in award of damages; providing for costs and attorney's fees; amending s. 810.09, F.S.; prohibiting trespass upon specified legally posted agricultural sites; providing a penalty; reenacting ss. 260.0125(5)(b) and 810.011(5)(b), F.S., to incorporate the amendment to s. 810.09, F.S., in references thereto; repealing s. 570.544(10) and (11), F.S., relating to authority of the Division of Consumer Services of the department to conduct investigations of violations of laws relating to consumer protection; creating s. 373.621, F.S.; providing consideration for certain applicants who implement water conservation practices; amending section 601.48, F.S.; eliminating provisions relating to inspection of processed citrus products for grade and subsequent grading and designation thereof; authorizing the Florida Department of Citrus or its successor, to collect dues, contributions, or any other financial payment upon request by and on behalf of any not-for-profit corporation; amending s. 232.246, F.S.; authorizing Agriscience Foundations I to count as a science credit; providing an effective date; abolishing specified authorities and councils advisory to the department; creating s. 570.085, F.S.; creating an agricultural water conservation program within the department; designating the official citrus archive of Florida; providing for severability; requiring the Department of Agriculture and Consumer Services to administer a residential citrus canker compensation program; providing for sources of funds; providing for homeowners to receive compensation for citrus trees removed on or after a specified date as part of a citrus canker eradication program; providing eligibility criteria for receiving compensation; specifying the amount of compensation provided under the program, subject to availability of funds; requiring that the department notify homeowners of the program and develop a dispute-resolution process; creating the "Rural and Family Lands Protection Act"; defining terms; creating s. 570.70, F.S.; providing legislative intent; creating s. 570.71, F.S.; providing for the purchase of rural-lands-protection easements by the Department of Agriculture and Consumer Services; providing criteria; providing for resource conservation agreements and agricultural protection agreements; prescribing allowable land uses; providing for an application process; providing for the sale of an easement; requiring the department to adopt rules; authorizing the use of specified funds; authorizing the removal of property from lists and maps; providing for the deposit of funds; directing the completion of a needs assessment and a report; amending s. 163.3177, F.S.; directing the department to authorize up to five local governments to designate rural land stewardship areas; requiring a written agreement; providing requirements for comprehensive plan amendments for such designations; providing that owners of land within such areas may convey development rights in return for the assignment of transferable rural land use credits; providing requirements with respect to such credits; specifying incentives that should be provided such landowners; requiring reports; providing intent; providing effective dates.

—was substituted for HB 1915 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

Representative(s) Greenstein offered the following:

(Amendment Bar Code: 491933)

Amendment 1 (with title amendment)—On page 11, line 8 through page 12, line 14
remove from the bill: all of said lines

and insert in lieu thereof:

Section 3. Subsections (1) and (8) of section 205.15, Florida Statutes, as amended by chapters 99-247, 2000-151, 2000-170, and 2000-197, Laws of Florida, is amended to read:

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

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

(a) Amounts as shall be necessary to pay the debt service on, or fund debt service reserve funds, rebate obligations, or other amounts payable with respect to Preservation 2000 bonds issued pursuant to s. 375.051 and Florida Forever bonds issued pursuant to s. 215.618, shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund to be used for such purposes. The amount transferred to the Land Acquisition Trust Fund for such purposes shall not exceed $300 million in fiscal year 1999-2000 and thereafter for Preservation 2000 bonds and bonds issued to refund Preservation 2000 bonds, and $300 million in fiscal year 2000-2001 and thereafter for Florida Forever bonds. The annual amount transferred to the Land Acquisition Trust Fund for Florida Forever bonds shall not exceed $30 million in the first fiscal year in which bonds are issued. The limitation on the amount transferred shall be increased by an additional $30 million in each subsequent fiscal year, but shall not exceed a total of $300 million in any fiscal year for all bonds issued. It is the intent of the Legislature that all bonds issued to fund the Florida Forever Act be retired by December 31, 2030. Except for bonds issued to refund previously issued bonds, no series of bonds may be issued pursuant to this paragraph unless such bonds are approved and the debt service for the remainder of the fiscal year in

which the bonds are issued is specifically appropriated in the General Appropriations Act. For purposes of refunding Preservation 2000 bonds, amounts designated within this section for Preservation 2000 and Florida Forever bonds may be transferred between the two programs to the extent provided for in the documents authorizing the issuance of the bonds. The Preservation 2000 bonds and Florida Forever bonds shall be equally and ratably secured by moneys distributable to the Land Acquisition Trust Fund pursuant to this section, except to the extent specifically provided otherwise by the documents authorizing the issuance of the bonds. *Notwithstanding the provisions of this subsection, for Fiscal Year 2000-2001 only, any remainder of funds above 100 percent of the current official forecast collected from the tax in this chapter shall be distributed to the Preservation 2000 Trust Fund created pursuant to s. 375.045, Florida Statutes.* No moneys transferred to the Land Acquisition Trust Fund pursuant to this paragraph, or earnings thereon, shall be used or made available to pay debt service on the Save Our Coast revenue bonds.

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

And the title is amended as follows:

On page 1, line 21,

insert: providing for the distribution of remainder funds for FY 2000-2001;

Rep. Greenstein moved the adoption of the amendment. Subsequently, **Amendment 1** was withdrawn.

On motion by Rep. Spratt, the rules were waived and CS for SB 1922 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 380

Yeas—115

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

Nays—3

Haridopolos	Hart	Mack

Votes after roll call:
Yeas—Wiles, Wilson
Yeas to Nays—Baker, Kyle

So the bill passed and was immediately certified to the Senate.

Consideration of **CS/HB 1819** was temporarily postponed under Rule 11.10.

HB 159 was taken up. On motion by Rep. Rubio, the rules were waived and—

CS for SB 1568—A bill to be entitled An act relating to health care service programs; amending s. 641.51, F.S.; requiring that only certain physicians licensed in this state may render adverse determinations for health maintenance organizations and prepaid health clinics; clarifying the authority of the Board of Medicine and the Board of Osteopathic Medicine; providing an effective date.

—was substituted for HB 159 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Rubio, the rules were waived and CS for SB 1568 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 381

Yeas—116

The Chair	Byrd	Haridopolos	Machek
Alexander	Cantens	Harper	Mack
Allen	Carassas	Harrell	Mahon
Andrews	Clarke	Harrington	Mayfield
Argenziano	Crow	Hart	Maygarden
Arza	Cusack	Henriquez	McGriff
Attkisson	Davis	Heyman	Meadows
Atwater	Detert	Hogan	Mealor
Ausley	Diaz de la Portilla	Holloway	Melvin
Baker	Diaz-Balart	Jennings	Miller
Barreiro	Dockery	Johnson	Murman
Baxley	Farkas	Jordan	Needelman
Bean	Fasano	Justice	Negron
Bendross-Mindingall	Feeney	Kallinger	Paul
Bennett	Fiorentino	Kendrick	Peterman
Bense	Flanagan	Kilmer	Pickens
Benson	Frankel	Kosmas	Prieguez
Berfield	Garcia	Kottkamp	Rich
Betancourt	Gardiner	Kravitz	Richardson
Bilirakis	Gelber	Kyle	Ritter
Bowen	Gibson	Lacasa	Romeo
Brown	Goodlette	Lee	Ross
Brummer	Gottlieb	Lerner	Rubio
Brutus	Green	Littlefield	Russell
Bucher	Greenstein	Lynn	Ryan

Seiler	Smith	Stansel	Weissman
Simmons	Sobel	Trovillion	Wiles
Siplin	Sorensen	Wallace	Wilson
Slosberg	Spratt	Waters	Wishner

Nays—3

Bullard	Gannon	Joyner

Votes after roll call:
Yeas—Fields
Nays to Yeas—Bullard

So the bill passed and was immediately certified to the Senate.

CS for SB 684—A bill to be entitled An act relating to organ transplantation; providing for the Agency for Health Care Administration to create the Organ Transplant Task Force to study organ transplantation programs; requiring the task force to study and make recommendations on the necessity of the issuance of certificates of need for such programs and funding for organ transplantation; providing a date for the task force to report to the Governor and the Legislature; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 382

Yeas—118

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

Nays—None

So the bill passed and was immediately certified to the Senate.

CS for CS for SB 870—A bill to be entitled An act relating to construction; amending s. 218.72, F.S.; redefining the terms "proper invoice," "local government entity," "purchase," and "construction services" and defining the terms "payment request" and "agent" for the purpose of the Florida Prompt Payment Act; amending s. 218.73, F.S.; providing for timely payment for nonconstruction services; amending s. 218.735, F.S.; revising provisions with respect to timely payment for purchases of construction services; providing for disputed payment requests; providing for payment of undisputed amounts; amending s. 218.74, F.S.; revising provisions with respect to procedures for calculation of payment due dates; amending s. 218.75, F.S.; revising provisions with respect to mandatory interest; amending s. 218.76, F.S.; revising provisions with respect to improper invoices and resolution of disputes; providing for the recovery of court costs and attorney's fees under certain circumstances; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 383

Yeas—119

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

Nays—None

So the bill passed and was immediately certified to the Senate.

Consideration of **CS for SB 972** was temporarily postponed under Rule 11.10.

CS/CS/HB 1121—A bill to be entitled An act relating to driver licenses; amending s. 322.02, F.S.; providing legislative intent with regard to the delivery of driver license services; authorizing county tax collectors to serve as exclusive agents of the Department of Highway Safety and Motor Vehicles; amending s. 322.135, F.S.; providing an application process for county tax collectors to serve as exclusive agents; creating the Cost Determination and Allocation Task Force; establishing the duties and responsibilities of the task force; providing for the development of transition plans to transfer certain responsibilities to tax collectors; providing an effective date.

—was read the third time by title.

Representative(s) Byrd offered the following:

(Amendment Bar Code: 442037)

Amendment 1 (with title amendment)—On page 1, line 18,

insert:

Section 1. Section 24 of chapter 2000-237, Laws of Florida, is amended to read:

Section 24. This act shall take effect upon becoming a law, except for section 8 of this act, which shall take effect July 1, *2003* ~~2001~~.

And the title is amended as follows:

On page 1, line 2,
remove from the title of the bill: driver licenses;

and insert in lieu thereof: county funds; amending s. 24 of ch. 2000-237, Laws of Florida, to revise the effective date thereof;

Rep. Murman moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/CS/HB 1121. The vote was:

Session Vote Sequence: 384

Yeas—117

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

THE SPEAKER IN THE CHAIR

CS/HB 1889 was taken up. On motion by Rep. Ritter, the rules were waived and—

CS for CS for SB 1878—A bill to be entitled An act relating to tax on communications services; creating s. 202.105, F.S.; providing legislative findings and intent with respect to the Communications Services Tax Simplification Law; amending s. 202.11, F.S.; revising and providing definitions; amending s. 202.12, F.S.; specifying the rates for the state tax; revising provisions relating to application of the tax; providing for application of the tax rate to private communications services and mobile communications services; providing the initial method for determining the sales price of private communications services and a revised method effective January 1, 2004; relieving service providers of certain liability; revising provisions relating to direct-pay permits; creating s. 202.155, F.S.; providing special rules for mobile communications services; providing duties of home service providers and the Department of Revenue in determining a customer's place of primary use and determining the correct taxing jurisdiction; relieving service providers of certain liability; providing requirements with respect to identifying and separately stating the sales price of mobile communications services not subject to the taxes administered under ch. 202, F.S.; amending s. 202.16, F.S.; revising provisions relating to responsibility for payment of taxes and tax amounts and brackets; amending s. 202.17, F.S.; specifying that registration as a dealer of communications services does not constitute registration for purposes of placing and maintaining communications facilities in municipal or county rights-of-way; removing the registration fee for such dealers; revising provisions relating to resale certificates; amending s. 202.18, F.S.; revising provisions relating to distribution of a portion of the proceeds of the tax on direct-to-home satellite service and to distribution of local communications services taxes and adjustment of such distribution; amending s. 202.19, F.S.; revising provisions which authorize imposition of local communications services taxes and provide for use of revenues and certain credits; specifying the maximum rates of such taxes; providing the initial method for determining the sales price of private communications services for local communications services taxes and for the discretionary sales surtax under s. 212.055, F.S., that is imposed as a local communications services tax, and providing a revised method effective January 1, 2004; relieving service providers of certain liabilities; revising requirements relating to the direct-pay permit required to qualify for the limitation on local communications services taxes on interstate communications services; providing for application of local communications services taxes to mobile communications services; amending s. 202.20, F.S.; specifying the local communications services tax conversion rates; revising requirements with respect to adjustment by a local government of its tax rate when tax revenues are less than received from replaced revenue sources; requiring adjustment of the tax rate if revenues received for a specified period exceed a specified threshold; authorizing local governments to increase the tax rate established by the Revenue Estimating Conference and approved by the Legislature to the maximum tax rate so established and approved; amending s. 202.21, F.S.; conforming provisions; amending s. 202.22, F.S., relating to determination of local tax situs for a local communications services tax; revising requirements relating to use of enhanced zip codes; revising requirements relating to certification or recertification of a database by the department; specifying effect when certain applications for certification are not approved or denied within the required time period; revising provisions relating to a dealer's duty to update a database and to the amount of dealer's credit allowed when an alternative method of assigning service addresses is used; amending s. 202.23, F.S.; providing requirements for refunds when excess communications services tax has been paid; creating s. 202.231, F.S.; providing requirements for provision of information by the department to local taxing jurisdictions; amending s. 202.24, F.S., relating to limitations on local taxes and fees imposed on dealers of communications services; deleting provisions relating to legislative review; repealing s. 202.26(3)(i), F.S., which provides for adoption of rules by the department with respect to collection of information no longer required; amending s. 202.27, F.S.; deleting provisions which allow certain dealers making sales in more than one location to file a single return; amending s. 202.28, F.S.; including persons collecting the gross receipts tax in provisions relating to the dealer's credit; amending s. 202.37, F.S.; providing requirements for audits conducted with respect to local communications services taxes; providing that certain persons or entities may provide evidence to the department regarding failure to report taxable sales and providing authority of the department with respect thereto; creating s. 202.38, F.S.; providing for credits or refunds under ch. 202, F.S., for certain bad debts or adjustments with respect to taxes under ch. 212, F.S., or ch. 166, F.S., billed prior to October 1, 2001, and no longer subject to tax; creating s. 202.381, F.S.; providing requirements with respect to implementation of ch. 202, F.S., and ch. 2000-260, Laws of Florida, and transition from the previous tax structure; amending s. 203.01, F.S.; specifying the rate of the gross receipts tax on communications services; amending s. 212.031, F.S.; conforming provisions; amending s. 212.054, F.S.; clarifying that a discretionary sales surtax applies to transactions taxed under ch. 202, F.S.; amending s. 212.20, F.S.; removing provisions relating to deposit of certain proceeds under ch. 212, F.S., in the Mail Order Sales Tax Clearing Trust Fund; amending ss. 11.45, 218.65, and 288.1169, F.S.; correcting

references; amending s. 212.202, F.S.; renaming the Mail Order Sales Tax Clearing Trust Fund as the Communications Services Tax Clearing Trust Fund; amending s. 337.401, F.S.; revising dates for notice of election by municipalities and counties regarding imposition of permit fees to the department; providing that a municipality or county that elects not to impose permit fees on communications services providers may increase its local tax rate by resolution; requiring notice to the department; prescribing regulations governing the amounts that may be imposed by municipalities and counties against certain persons or entities in connection with the placement or maintenance of communications facilities in municipal or county roads or rights-of-way; repealing s. 337.401(3)(f) and (g), F.S., relating to the authority of municipalities and counties to request in-kind requirements from cable service providers and to negotiate cable service franchises, and revising and relocating such provisions under that section; providing relationship of provisions relating to regulation of placement or maintenance of communications facilities in public roads or rights-of-way by counties or municipalities to zoning or land use authority; providing status of registration under such provisions; authorizing municipalities and counties to change their election regarding imposition of permit fees and providing for adjustment of tax rates; providing notice requirements; revising definitions; specifying continued application of s. 166.234, F.S., relating to administration and rights and remedies, to municipal public service taxes on telecommunications services imposed prior to October 1, 2001; providing for payment of franchise fees by cable or telecommunications service providers with respect to services provided prior to October 1, 2001; providing for severability; repealing s. 52 of ch. 2000-260, Laws of Florida, which provides for a legislative study during the 2001 session; repealing s. 58(1) of ch. 2000-260, Laws of Florida, which provides for the June 30, 2001, repeal of those administrative sections of ch. 202, F.S., which have taken effect; repealing s. 58(2) of ch. 2000-260, Laws of Florida, which provides for the June 30, 2001, repeal of the following provisions prior to their October 1, 2001, effective date: the remainder of ch. 202, F.S., which provides for the taxation of the sale of communications services; other statutory amendments which provide related administrative provisions; provisions which remove levy of the municipal public service tax on telecommunication services; provisions which provide for a gross receipts tax on communications services to be applied pursuant to ch. 202, F.S.; provisions which remove the imposition of tax under ch. 212, F.S., on telecommunication service; provisions relating to the authority of counties and municipalities to regulate the placement of telecommunications facilities in roads and rights-of-way and to impose permit fees and franchise fees; and provisions relating to the application of amendments made by ch. 2000-260, Laws of Florida; repealing s. 59 of ch. 2000-260, Laws of Florida, which, effective June 30, 2001, amends s. 337.401, F.S., relating to the authority of counties and municipalities to regulate the placement of telecommunications facilities in roads and rights-of-way and to impose permit fees and franchise fees, to remove amendments made by ch. 2000-260, Laws of Florida, which took effect January 1, 2001; providing effective dates.

—was substituted for CS/HB 1889 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

REPRESENTATIVE MAYGARDEN IN THE CHAIR

On motion by Rep. Ritter, the rules were waived and CS for CS for SB 1878 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 385

Yeas—99

Alexander	Baker	Bilirakis	Byrd
Allen	Barreiro	Bowen	Cantens
Andrews	Bendross-Mindingall	Brown	Carassas
Arza	Bennett	Brummer	Clarke
Attkisson	Benson	Brutus	Crow
Atwater	Berfield	Bucher	Cusack
Ausley	Betancourt	Bullard	Davis
Detert	Haridopolos	Lacasa	Romeo
Diaz de la Portilla	Harper	Lee	Ross
Diaz-Balart	Harrell	Lerner	Ryan
Dockery	Henriquez	Lynn	Seiler
Farkas	Heyman	Machek	Simmons
Fasano	Hogan	Mahon	Siplin
Feeney	Holloway	Mayfield	Slosberg
Fields	Jennings	McGriff	Smith
Fiorentino	Johnson	Meadows	Sobel
Flanagan	Jordan	Mealor	Sorensen
Frankel	Joyner	Melvin	Stansel
Gannon	Justice	Murman	Wallace
Garcia	Kallinger	Negron	Waters
Gelber	Kendrick	Peterman	Weissman
Gibson	Kilmer	Prieguez	Wiles
Gottlieb	Kosmas	Rich	Wilson
Green	Kottkamp	Richardson	Wishner
Greenstein	Kyle	Ritter	

Nays—15

Ball	Gardiner	Kravitz	Paul
Baxley	Goodlette	Mack	Pickens
Bean	Harrington	Miller	Russell
Bense	Hart	Needelman	

Votes after roll call:
Yeas to Nays—Kilmer, Kyle

So the bill passed and was immediately certified to the Senate.

CS/HB 1891 was taken up. On motion by Rep. Ritter, the rules were waived and—

CS for SB 1836—A bill to be entitled An act relating to public records; amending s. 213.053, F.S.; providing an exemption from public records requirements for information contained in specified documents received by the Department of Revenue in connection with ch. 202, F.S., the Communications Services Tax Simplification Law; authorizing the department to provide certain information relative to said chapter to local governments imposing a local communications services tax; providing for application of confidentiality and penalty provisions to such local governments; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

—was substituted for CS/HB 1891 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Ritter, the rules were waived and CS for SB 1836 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 386

Yeas—118

The Chair	Berfield	Diaz-Balart	Haridopolos
Alexander	Betancourt	Dockery	Harper
Allen	Bilirakis	Farkas	Harrell
Andrews	Bowen	Fasano	Harrington
Argenziano	Brown	Feeney	Hart
Arza	Brummer	Fields	Henriquez
Attkisson	Brutus	Fiorentino	Heyman
Atwater	Bucher	Flanagan	Hogan
Ausley	Bullard	Frankel	Holloway
Baker	Byrd	Gannon	Jennings
Ball	Cantens	Garcia	Johnson
Barreiro	Carassas	Gardiner	Jordan
Baxley	Clarke	Gelber	Joyner
Bean	Crow	Gibson	Justice
Bendross-Mindingall	Cusack	Goodlette	Kallinger
Bennett	Davis	Gottlieb	Kendrick
Bense	Detert	Green	Kilmer
Benson	Diaz de la Portilla	Greenstein	Kosmas

Kottkamp	Meadows	Richardson	Sorensen
Kravitz	Mealor	Ritter	Spratt
Lacasa	Melvin	Romeo	Stansel
Lee	Miller	Ross	Trovillion
Lerner	Murman	Russell	Wallace
Littlefield	Needelman	Ryan	Waters
Lynn	Negron	Seiler	Weissman
Machek	Paul	Simmons	Wiles
Mack	Peterman	Siplin	Wilson
Mahon	Pickens	Slosberg	Wishner
Mayfield	Prieguez	Smith	
McGriff	Rich	Sobel	

Nays—None

Votes after roll call:
Yeas—Kyle

So the bill passed and was immediately certified to the Senate.

CS/HB 1893 was taken up. On motion by Rep. Ritter, the rules were waived and—

CS for SB 1540—A bill to be entitled An act relating to trust funds; creating s. 202.193, F.S.; creating the Local Communications Services Tax Clearing Trust Fund within the Department of Revenue; providing for sources of moneys and purposes; providing for annual carryforward of fund balances; providing that the trust fund is exempt from constitutional termination; providing a contingent effective date.

—was substituted for CS/HB 1893 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Ritter, the rules were waived and CS for SB 1540 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 387

Yeas—116

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

Nays—None

Votes after roll call:
Yeas—Fiorentino

So the bill passed by the required constitutional three-fifths vote of the membership and was immediately certified to the Senate.

THE SPEAKER IN THE CHAIR

On motion by Rep. Crow, consideration of **HB 25** was temporarily postponed under Rule 11.10.

On motion by Rep. Byrd, the rules were waived and the House moved to the order of—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1692, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Regulated Industries and Senators Wasserman Schultz and Crist—

CS for SB 1692—A bill to be entitled An act relating to pari-mutuel wagering; providing a title; requiring dogracing permitholders to provide a greyhound-adoption booth at each dogracing facility in the state; requiring that the booth be operated by certain qualified persons on weekends; requiring that information concerning the adoption of a greyhound be made available to the public at the facility; requiring the permitholder to provide adoption information in racing programs and to identify greyhounds that will become available for adoption; authorizing the permitholder to hold an additional charity day that is designated as "Greyhound Adopt-A-Pet Day"; requiring that profits derived from the charity day be used to fund activities promoting the adoption of greyhounds; authorizing the Division of Pari-mutuel Wagering within the Department of Business and Professional Regulation to adopt rules; providing penalties; amending s. 550.1647, F.S., relating to unclaimed tickets and breaks with respect to greyhound racing; defining the term "bona fide organization that promotes or encourages the adoption of greyhounds"; providing an effective date.

—was read the first time by title. On motion by Rep. Fasano, the rules were waived and the bill was read the second time by title.

Representative(s) Ryan offered the following:

(Amendment Bar Code: 365109)

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

and insert in lieu thereof:

Section 1. Paragraph (4) of section 550.5251, Florida Statutes, is amended to read:

550.5251 Florida thoroughbred racing; certain permits; operating days.—

(4) A thoroughbred racing permitholder may not begin any race later than 7 p.m. ~~However, a~~ *A*ny thoroughbred permitholder in a county in which the authority for cardrooms has been approved by the board of county commissioners may ~~elect not to~~ operate a cardroom *and,* when conducting live races during its current race meet*, may* ~~and instead to~~ receive and rebroadcast out-of-state races after the hour of 7 p.m. on any day during which the permitholder conducts live races. ~~However, such permitholder may not engage in both operating a cardroom and receiving or rebroadcasting out-of-state races after 7 p.m. Permitholders shall be required to elect between either operating a cardroom or engaging in simulcasting after 7 p.m. at the time of submitting its application for its annual license pursuant to this section.~~

Section 2. *Greyhound adoptions.*—

(1) Each dogracing permitholder operating a dogracing facility in this state shall provide for a greyhound-adoption booth to be located at

the facility. The greyhound-adoption booth must be operated on weekends by personnel or volunteers from a bon fide organization that promotes or encourages the adoption of greyhounds pursuant to s. 550.1647. As used in this section, the term "weekend" includes the hours during which live greyhound racing is conducted on Friday, Saturday, or Sunday. Information pamphlets and application forms shall be provided to the public upon request. In addition, the kennel operator or owner shall notify the permitholder that a greyhound is available for adoption and the permitholder shall provide information concerning the adoption of a greyhound in each race program and shall post adoption information at conspicuous locations throughout the dogracing facility. Any greyhound that is participating in a race and that will be available for future adoption must be noted in the race program. The permitholder shall allow greyhounds to be walked through the track facility to publicize the greyhound-adoption program.

(2) In addition to the charity days authorized under section 550.0351, Florida Statutes, a greyhound permitholder may fund the greyhound-adoption program by holding a charity racing day designated as "Greyhound Adopt-A-Pet Day." All profits derived from the operation of the charity day must be placed into a fund used to support activities at the racing facility which promote the adoption of greyhounds. The division may adopt rules for administering the fund. Proceeds from the charity day authorized in this subsection may not be used as a source of funds for the purposes set forth in s. 550.1647.

(3)(a) Upon a violation of this section by a permitholder or licensee, the division may impose a penalty as set forth in s. 550.0251(10) and require the permitholder to take corrective action.

(3)(b) A penalty imposed under 550.0201(10) does not exclude a prosecution for cruelty to animals or for any other criminal act.

Section 3. Section 550.1647, Florida Statutes, is amended to read.

550.1647 Greyhound permitholders; unclaimed tickets; breaks.—All money or other property represented by any unclaimed, uncashed, or abandoned pari-mutuel ticket which has remained in the custody of or under the control of any permitholder authorized to conduct greyhound racing pari-mutuel pools in this state for a period of 1 year after the date the pari-mutuel ticket was issued, if the rightful owner or owners thereof have made no claim or demand for such money or other property within that period of time, shall, with respect to live races conducted by the permitholder, be remitted to the state pursuant to s. 550.1645; however, such permitholder shall be entitled to a credit in each state fiscal year in an amount equal to the actual amount remitted in the prior state fiscal year which may be applied against any taxes imposed pursuant to this chapter. In addition, each permitholder shall pay, from any source, including the proceeds from performances conducted pursuant to s. 550.0351, an amount not less than 10 percent of the amount of the credit provided by this section to any bona fide organization that promotes or encourages the adoption of greyhounds. *As used in this section, the term "bona fide organization that promotes or encourages the adoption of greyhounds" means any organization that provides evidence of compliance with chapter 496 and possesses a valid exemption from federal taxation issued by the Internal Revenue Service. Such bona fide organization, as a condition of adoption, must provide sterilization of greyhounds by a licensed veterinarian before relinquishing custody of the greyhound to the adoptor. The fee for sterilization may be included in the cost of adoption.*

Section 4. Paragraph (a) of subsection (2), paragraphs (b) and (d) of subsection (5), subsections (7) and (8), and paragraphs (a) and (d) of subsection (13) of section 849.086, Florida Statutes, are amended to read:

849.086 Cardrooms authorized.—

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

(a) *"Authorized game* ~~"Authorized games"~~ means *a game or series of games of poker, pinochle, bridge, rummy, canasta, hearts, dominoes, or mah-jongg* ~~only those games authorized by s.849.085(2)(a) and~~which *is* ~~are~~ played in a nonbanking manner.

(5) LICENSE REQUIRED; APPLICATION; FEES.—No person may operate a cardroom in this state unless such person holds a valid cardroom license issued pursuant to this section.

(b) After the initial cardroom license is granted, the application for the annual license renewal shall be made in conjunction with the applicant's annual application for its pari-mutuel license. *If a permitholder operated a cardroom during the previous fiscal year and fails to include a renewal request for the operation of the cardroom in its annual application for license renewal, the permitholder may amend its annual application to include operation of the cardroom.* In order for a cardroom license to be renewed the applicant must have requested, as part of its pari-mutuel annual license application, to conduct at least 90 percent of the total number of live performances conducted by such permitholder during either the state fiscal year in which its initial cardroom license was issued or the state fiscal year immediately prior thereto. *If the application is for a harness permitholder cardroom, the applicant must have requested authorization to conduct a minimum of 140 live performances during the state fiscal year immediately prior thereto. If more than one permitholder is operating at a facility, each permitholder must have applied for a license to conduct a full schedule of live racing or games.*

(d) The annual cardroom license fee *for each facility* shall be $1,000 for the first table and $500 for each additional table to be operated at the cardroom. This license fee shall be deposited by the division with the Treasurer to the credit of the Pari-mutuel Wagering Trust Fund.

(7) CONDITIONS FOR OPERATING A CARDROOM.—

(a) A cardroom may ~~only~~ be operated *only* at the location specified on the cardroom license issued by the division, and such location may only be the location at which the pari-mutuel permitholder is authorized to conduct pari-mutuel wagering activities pursuant to such permitholder's valid pari-mutuel permit *or as otherwise authorized by law* ~~and current license~~.

(b) A cardroom may be operated at the facility only when the facility is authorized to accept wagers on pari-mutuel events ~~during its authorized meet~~. A cardroom may begin operations within 2 hours prior to the post time of the first pari-mutuel event ~~conducted live at the pari-mutuel facility~~ on which wagers are accepted *by the facility* and must cease operations *by 2 a.m. on the following day* ~~within 2 hours after the conclusion of the last pari-mutuel event conducted live at the pari-mutuel facility on which wagers are accepted~~.

(c) A cardroom operator must at all times employ and provide a nonplaying dealer for each table on which authorized card games which traditionally utilize a dealer are conducted at the cardroom. Such dealers may not have any participatory interest in any game other than the dealing of cards and may not have an interest in the outcome of the game. The providing of such dealers by a licensee shall not be construed as constituting the conducting of a banking game by the cardroom operator.

(d) A facility that operates a cardroom may award giveaways or prizes to players who hold combinations of cards specified by the cardroom operator.

(e) ~~(d)~~ Each cardroom operator shall conspicuously post upon the premises of the cardroom a notice which contains a copy of the cardroom license; a list of authorized games offered by the cardroom; the wagering limits imposed by the house, if any; any additional house rules regarding operation of the cardroom or the playing of any game; and all costs to players to participate, including any rake by the house. In addition, each cardroom operator shall post at each table a notice of the minimum and maximum bets authorized at such table and the fee for participation in the game conducted.

(f) ~~(e)~~ The cardroom facility shall be subject to inspection by the division or any law enforcement agency during the licensee's regular business hours. The inspection will specifically encompass the permitholder internal control procedures approved by the division.

(g) ~~(f)~~ A cardroom operator may refuse entry to or refuse to allow to play any person who is objectionable, undesirable, or disruptive, but

such refusal shall not be on the basis of race, creed, color, religion, sex, national origin, marital status, physical handicap, or age, except as provided in this section.

(8) METHOD OF WAGERS; LIMITATION.—

(a) No wagering may be conducted using money or other negotiable currency. Games may only be played utilizing a wagering system whereby all players' money is first converted by the house to tokens or chips which shall be used for wagering only at that specific cardroom.

(b) *The cardroom operator may limit the amount wagered in any game or series of games, but the maximum bet* ~~The winnings of any player in a single round, hand, or game~~ may not exceed *$2* ~~$10~~ in value. *There may not be more than three raises in any round of betting.* The fee charged by the cardroom for participation in the game shall not be included in the calculation of the limitation on the *bet amount* ~~pot size~~ provided in this paragraph.

(13) TAXES AND OTHER PAYMENTS.—

(a) Each cardroom operator shall pay a tax to the state of *2* ~~10~~ percent of the cardroom operation's monthly gross receipts.

(d) Each greyhound and jai alai permitholder *that* ~~which~~ operates a cardroom facility shall *use* ~~utilize~~ at least *10* 4 percent of such permitholder's cardroom monthly gross receipts to supplement greyhound purses or jai alai prize money, respectively, during the permitholder's next ensuing pari-mutuel meet. Each thoroughbred and harness horse racing permitholder *that* ~~which~~ operates cardroom facility shall *use* ~~utilize~~ at least 50 percent of such permitholder's cardroom monthly net proceeds as follows: 47 percent to supplement purses and 3 percent to supplement breeders' awards during the permitholder's next ensuing racing meet.

Section 5. Subsection (2) of section 550.0351, Florida Statutes, is amended to read:

550.0351 Charity racing days.—

(2) The proceeds of charity performances shall be paid to qualified beneficiaries selected by the permitholders from an authorized list of charities on file with the division. Eligible charities include *the Racing Scholarship Trust Fund, the Historical Resources Operating Trust Fund, major state and private institutions of higher learning in Florida, Florida community colleges, and* any charity that provides evidence of compliance with the provisions of chapter 496 and evidence of possession of a valid exemption from federal taxation issued by the Internal Revenue Service. *However, all proceeds donated to a charity under the provisions of this statute must be used to directly fund programs and operations within the state of Florida and may not be used to fund, directly or indirectly, any program or operation outside of the state of Florida.* ~~In addition, the authorized list must include the Racing Scholarship Trust Fund, the Historical Resources Operating Trust Fund, major state and private institutions of higher learning, and Florida community colleges.~~

Section 6. This act shall take effect July 1, 2001.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled
An act relating to pari-mutuel wagering; requiring dogracing permitholders to provide a greyhound-adoption booth at each dogracing facility in the state; requiring that information concerning the adoption of a greyhound be made available to the public at the facility; requiring the permitholder to provide adoption information in racing programs and to identify greyhounds that will become available for adoption; authorizing the permitholder to hold an additional charity day that is designated as "Greyhound Adopt-A-Pet Day"; requiring that profits derived from the charity day be used to fund activities promoting the adoption of greyhounds; authorizing the Division of Pari-mutuel Wagering within the Department of Business and Professional Regulation to adopt rules; providing penalties; amending s. 550.1647, F.S.; relating to unclaimed tickets and breaks with respect to greyhound racing; defining the term "bona fide organization that promotes or encourages the adoption of greyhounds"; amending s. 550.5251, F.S.; revising requirements for the operation of cardrooms by thoroughbred racing permitholders; amending s. 849.086, F.S.; revising requirements for the operation of cardrooms; redefining the term "authorized games"; authorizing a permitholder to amend an application for license renewal; providing requirements for licensure of certain permitholders; providing for licensing fees; revision the conditions for operating a cardroom; authorizing cardrooms to award prizes; limiting the amount of a bet; revising the rate of the gross receipts tax on admissions; revising the percentage of the tax which must be used for specified purposes; amending s. 550.0351, F.S.; requiring charity day proceeds to be used to fund programs and operations within the state of Florida; providing an effective date.

Rep. Ryan moved the adoption of the amendment.

Representative(s) Garcia offered the following:

(Amendment Bar Code: 105891)

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

insert:

Section 1. *There is hereby created a committee of the Legislature to study the condition of thoroughbred horse racing in South Florida within Miami-Dade and Broward Counties. Such committee shall be composed of three members of the House of Representatives, appointed by the Speaker of the House of Representatives, and three members of the Senate appointed by the President of the Senate. The committee shall appoint a chair and cochairs from its members and shall have the use of and support of the staffs of either chamber as the Speaker and the President shall determine. The committee shall hold hearings and hear testimony on the condition of South Florida thoroughbred racing in those counties and shall hear evidence regarding it. The committee shall issue a report to the Speaker and the President on or before June 15, 2002. The committee shall consider the historical, cultural, and economic importance of the industry to the state and whether any or all of the thoroughbred facilities in such counties shall be preserved or acquired by the state for the best interest of the people of the state.*

Section 6. Section 9 of chapter 98-190, Laws of Florida, is amended to read:

Section 9. Effective July 1, *2003* ~~2001~~, subsection (11) of s. 550.615, Florida Statutes, is repealed.

Section 7. Section 10 of chapter 2000-354, Laws of Florida, is amended to read:

Section 10. Effective July 1, *2003* ~~2001~~, paragraph (a) of subsection (2) of section 550.09515, Florida Statutes, as amended by section 4 of chapter 98-190, Laws of Florida, is reenacted to read:

550.09515 Thoroughbred horse taxes; abandoned interest in a permit for nonpayment of taxes.—

(2)(a) ~~Notwithstanding the provisions of s. 550.0951(3)(a),~~ The tax on handle for live thoroughbred *horserace* ~~horse~~ performances shall be *0.5 percent.* ~~subject to the following:~~

~~1. The tax on handle per performance for live thoroughbred performances is 2.25 percent of handle for performances conducted during the period beginning on January 3 and ending March 16; .70 percent of handle for performances conducted during the period beginning March 17 and ending May 22; and 1.5 percent of handle for performances conducted during the period beginning May 23 and ending January 2.~~

~~2. However, any thoroughbred permitholder whose total handle on live performances during the 1991-1992 state fiscal year was not greater than $34 million is authorized to conduct live performances at any time of the year and shall pay 0.5 percent on live handle per performance.~~

And the title is amended as follows:

On page 9, line 5, after the semicolon,

insert: providing for a study of thoroughbred racing in Miami-Dade and Broward Counties; requiring a report; amending s. 9 of ch. 98-190, Laws of Florida; postponing repeal of provisions relating to intertrack wagering broadcasts; amending s. 10 of ch. 2000-354, Laws of Florida; postponing effective date of provisions modifying the tax on handle for live thoroughbred performances;

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

Further consideration of **CS for SB 1692**, with pending amendments, was temporarily postponed under Rule 11.10.

On motion by Rep. Byrd, the House moved to the consideration of CS for SB 466.

CS for SB 466—A bill to be entitled An act relating to public employment; amending s. 20.23, F.S.; eliminating provisions requiring that the inspector general position in the Department of Transportation be within the Career Service System; repealing ss. 110.108, 110.109, F.S., relating to personnel pilot projects, productivity improvement, and personnel audits of executive branch agencies; amending s. 110.1091, F.S.; providing requirements for a program to assist state employees; repealing s. 110.1095, F.S., relating to supervisory and management training and continuing education for executive branch agencies; amending s. 110.1099, F.S.; providing for state employees to receive vouchers or grants to attend public educational institutions under specified circumstances; requiring the Department of Management Services to adopt rules; conforming language; amending s. 110.1127, F.S.; providing for security background checks for certain state employee positions; amending s. 110.113, F.S.; requiring all state employees except those who receive an exemption to participate in the direct deposit program; amending s. 110.1245, F.S.; providing for a savings-sharing program for employees whose proposals result in savings; providing for bonus payments; eliminating the meritorious service awards program; requiring that such bonuses be paid from funds authorized by the Legislature; repealing s. 110.1246, F.S., relating to lump-sum bonus payments; amending s. 110.129, F.S.; authorizing the Department of Management Services to furnish technical assistance to improve personnel administration for municipalities or other political subdivisions; amending s. 110.131, F.S.; requiring approval by the Executive Office of the Governor for an extension in hours of other-personal-services temporary employment; providing certain exceptions; amending s. 110.203, F.S.; revising definitions; including the outsourcing and privatization of an activity or function within the definition of the term "layoff"; defining the term "firefighter" and "law enforcement or correctional officer"; creating s. 110.2035, F.S.; requiring the Department of Management Services to develop a classification and compensation program for certain employees; providing requirements for the program; requiring that the department submit a proposed plan to the Governor and the Legislature; requiring the department to adopt rules; amending s. 110.205, F.S.; providing for managerial employees and certain employees under a collective bargaining agreement to be exempt from the Career Service System; providing for carrying leave forward; amending s. 110.211, F.S.; authorizing the Department of Management Services to contract for recruitment services; amending s. 110.213, F.S.; requiring a probationary period for new employees; revising requirements for agency heads in selecting employees; providing certain restrictions for leave benefits for Senior Management Service employees; providing for annual payouts for a specified amount of unused annual leave for career service employees; amending s. 110.219, F.S.; revising provisions governing attendance and leave; providing for a year-end cash-out of annual leave by specified employees under specified circumstances; amending s. 110.224, F.S.; providing for a public employee performance evaluation system; providing requirements for the system; authorizing the department to adopt rules; amending s. 110.227, F.S.; prohibiting "bumping"; providing certain exceptions; prescribing layoff procedures; amending the definition of cause for suspensions or dismissals; establishing grievance procedures; providing procedures for suspensions, reductions in pay, demotions, and dismissals; providing for appeals to the Public Employees Relations Commission; providing for hearings and final orders by the Public Employees Relations Commission; amending s. 110.233, F.S.; prohibiting certain political activity by a career service employee; amending s. 110.235, F.S.; requiring state agencies to implement training programs; amending s. 110.401, F.S.; providing for training and management-development programs for senior-level management; amending s. 110.403, F.S.; requiring the department to administer a professional development program; increasing the percentage of authorized positions within the Senior Management Service; amending s. 110.601, F.S.; providing for a system of personnel management; amending s. 110.602, F.S.; eliminating a limitation on the percentage of authorized positions within the Selected Exempt Service; amending s. 110.605, F.S.; providing for personnel rules, records, reports, and performance appraisals; amending s. 110.606, F.S.; requiring the department to collect certain data with respect to classifications with the Selected Exempt Service; amending ss. 288.708 and 440.4416, F.S.; providing for the executive director of the Florida Black Business Investment Board and the members of the Workers' Compensation Oversight Board to be subject to the Senior Management Service System; amending s. 216.262, F.S.; providing for the Legislative Budget Commission to authorize a state agency to retain moneys associated with eliminated positions under certain circumstances; amending s. 447.201, F.S.; providing public policy with respect to public employees; amending s. 447.205, F.S.; removing reference to the Department of Labor and Employment Security; conforming language; amending s. 447.207, F.S.; revising authority of the commission to hear certain appeals; conforming provisions to changes made by the act; amending s. 447.208, F.S.; conforming language; amending procedures for specified appeals; amending s. 447.507, F.S.; revising requirements for the probation served by certain public employees; amending s. 112.215, F.S.; authorizing certain pretax, trustee-to-trustee transfer of deferred compensation accounts; repealing s. 125.0108(2)(d), F.S., relating to the former Career Service Commission; transferring the Public Employees Relations Commission from the Department of Labor and Employment Security to the Agency for Workforce Innovation; transferring powers, duties, functions, rules, records, personnel, property, and unexpended balances; providing for the commission's independence under specified circumstances; requiring the Department of Management Services to adopt rules; requiring that the department develop a performance agreement between management employees and agency heads; creating s. 110.1315, F.S.; authorizing the department to contract for an alternative retirement program for temporary and seasonal employees; providing requirements for selecting a vendor; amending s. 447.403, F.S.; revising requirements for resolving an impasse in collective bargaining negotiations; prohibiting the appointment of a mediator if the Governor is the employer; providing a procedure for resolving such impasse; amending s. 216.163, F.S., relating to an impasse in collective bargaining negotiations; conforming provisions to changes made by the act; creating a Career Service Advisory Board; providing for selection of members; providing powers and duties; authorizing the Governor to develop a tax-sheltered plan for leave and special compensation pay for specified employees; providing effective dates.

—was taken up, having been read the second time, earlier today; now pending on motion by Rep. Diaz-Balart to adopt Amendment 1.

Rep. Diaz-Balart suggested the absence of a quorum. A quorum was present [Session Vote Sequence: 388].

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

Session Vote Sequence: 389

Yeas—71

The Chair	Barreiro	Brown	Diaz de la Portilla
Allen	Baxley	Brummer	Diaz-Balart
Andrews	Bean	Byrd	Dockery
Argenziano	Bennett	Cantens	Farkas
Arza	Bense	Carassas	Fasano
Attkisson	Benson	Clarke	Fiorentino
Atwater	Berfield	Crow	Garcia
Baker	Bilirakis	Davis	Gardiner
Ball	Bowen	Detert	Gibson

Goodlette	Kallinger	Mayfield	Ross
Green	Kottkamp	Maygarden	Rubio
Haridopolos	Kravitz	Mealor	Russell
Harper	Kyle	Melvin	Simmons
Harrell	Lacasa	Murman	Sorensen
Harrington	Littlefield	Negron	Spratt
Hart	Lynn	Paul	Wallace
Hogan	Mack	Pickens	Waters
Jordan	Mahon	Prieguez	

Nays—47

Alexander	Gottlieb	Lerner	Seiler
Ausley	Greenstein	Machek	Siplin
Bendross-Mindingall	Henriquez	McGriff	Slosberg
Betancourt	Heyman	Meadows	Smith
Brutus	Holloway	Miller	Sobel
Bucher	Jennings	Needelman	Stansel
Bullard	Joyner	Peterman	Trovillion
Cusack	Justice	Rich	Weissman
Fields	Kendrick	Richardson	Wiles
Frankel	Kilmer	Ritter	Wilson
Gannon	Kosmas	Romeo	Wishner
Gelber	Lee	Ryan	

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

Reconsideration of CS/CS/HB 1121

On motion by Rep. Byrd, the House reconsidered the vote by which **CS/CS/HB 1121**, as amended, passed earlier today.

CS/CS/HB 1121—A bill to be entitled An act relating to driver licenses; amending s. 322.02, F.S.; providing legislative intent with regard to the delivery of driver license services; authorizing county tax collectors to serve as exclusive agents of the Department of Highway Safety and Motor Vehicles; amending s. 322.135, F.S.; providing an application process for county tax collectors to serve as exclusive agents; creating the Cost Determination and Allocation Task Force; establishing the duties and responsibilities of the task force; providing for the development of transition plans to transfer certain responsibilities to tax collectors; providing an effective date.

Reconsideration

On motion by Rep. Byrd, by the required two-thirds vote, the House reconsidered the vote by which **Amendment 1** was adopted. The question recurred on the adoption of the amendment, which was withdrawn.

The question recurred on the passage of CS/CS/HB 1121. The vote was:

Session Vote Sequence: 390

Yeas—114

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

Nays—2

Fields	McGriff

Votes after roll call:
Nays to Yeas—Fields

So the bill passed and was immediately certified to the Senate.

On motion by Rep. Byrd, the House returned to consideration of CS for SB 1692.

CS for SB 1692—A bill to be entitled An act relating to pari-mutuel wagering; providing a title; requiring dogracing permitholders to provide a greyhound-adoption booth at each dogracing facility in the state; requiring that the booth be operated by certain qualified persons on weekends; requiring that information concerning the adoption of a greyhound be made available to the public at the facility; requiring the permitholder to provide adoption information in racing programs and to identify greyhounds that will become available for adoption; authorizing the permitholder to hold an additional charity day that is designated as "Greyhound Adopt-A-Pet Day"; requiring that profits derived from the charity day be used to fund activities promoting the adoption of greyhounds; authorizing the Division of Pari-mutuel Wagering within the Department of Business and Professional Regulation to adopt rules; providing penalties; amending s. 550.1647, F.S., relating to unclaimed tickets and breaks with respect to greyhound racing; defining the term "bona fide organization that promotes or encourages the adoption of greyhounds"; providing an effective date.

—was taken up, having been read the second time earlier today; now pending on motion by Rep. Garcia to adopt Amendment 1 to Amendment 1.

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

Point of Order

Rep. Greenstein raised a point of order, under Rule 12.9, that the amendment to the amendment was not germane.

The Chair [Speaker Feeney] referred the point to the Chair of the Committee on Rules, Ethics & Elections. Pending a ruling, further consideration of the bill, with pending amendments, was temporarily postponed.

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed HBs 69 and 115; CS/HB 157; HB 395; CS/HB 479; HBs 559, 585, 629, 763, 775, and 777; CS/HB 795; HBs 799, 845, 847, 849, 851, 853, 855, 857, 859, 863, 867, 873, 879, 885, 887, 891, 897, 901, 903, 905, 911, 917, 919, 927, 929, 931, 937, 939, 941, 943, 945, 975, 1037, 1041, 1115, 1125, and 1183; CS/CS/HB 1193; and HBs 1323, 1519, 1785, 1815, 1851, 1855, 1857, 1859, 1887, 1897, and 1899.

Faye W. Blanton, Secretary

The above bills were ordered enrolled.

Motion to Adjourn

Rep. Maygarden moved that the House adjourn for the purpose of holding committee and council meetings and conducting other House business, to reconvene at 10:00 a.m., Thursday, May 3. The motion was agreed to.

Recorded Votes

Rep. Atwater:

Change from Yeas to Nays—Amendment 2 to CS for SB 924

Rep. Bean:

Yeas—CS for CS for SB 710; CS/HB 1921; motion to reconsider the vote by which HB 1943 failed to pass

Nays—motion to consider a late-filed amendment to HJR 951

Rep. Bendross-Mindingall:

Yeas—HB 559; HB 853

Rep. Carassas:

Change from Yeas to Nays—passage of CS/CS/HB 1053 after reconsideration; SB 1766

Rep. Crow:

Yeas—CS for SB 1306

Nays—motion to reconsider the vote by which HB 1943 failed to pass; passage of HB 1943 after reconsideration

Rep. Feeney:

Yeas—HB 251; HB 489; CS/HB 1253; CS for SB 1610; HB 1711; HB 1715; HB 1719; HB 1737

Change from Yeas to Nays—CS/HB 795; HB 821

Rep. Fields:

Change from Yeas to Nays—CS/HB 1927

Rep. Harrington:

Change from Yeas to Nays—CS/HB 949

Rep. Joyner:

Nays—HB 1545

Change from Nays to Yeas—CS for SB 1568

Rep. Lee:

Change from Nays to Yeas—CS for CS for CS for SB 1202

Rep. Sorensen:

Change from Nays to Yeas—SB 226

Prime Sponsors
HB 651—Cantens
HB 1637—Slosberg

Cosponsors
HB 45—Fiorentino
HB 69—Fiorentino
CS/HB 85—Fiorentino
HB 95—Fiorentino
CS/HB 137—Fiorentino
CS/HB 141—Fiorentino
HB 149—Bucher
CS/HB 213—Brummer
CS/HB 249—Bucher
HB 251—Fiorentino
HB 329—Fiorentino
CS/HB 341—Bucher
HB 373—Detert, Fiorentino, Murman
CS/HB 409—Fiorentino
CS/CS/HB 411—Joyner
CS/HB 475—Detert, Fiorentino, Lynn, Murman
CS/CS/HB 503—Haridopolos
HB 505—Fiorentino
CS/HB 605—Argenziano
HB 613—Bilirakis
HB 649—Bucher
HB 651—Fiorentino, Kravitz
CS/HB 973—Argenziano
CS/CS/HB 1509—Wiles
HB 1601—Holloway
CS/HB 1633—Brummer
HB 1673—Wiles
HB 1777—Arza, Hogan, Lynn
HB 1845—Wiles
HR 9003—Baxley, Kottkamp

Withdrawals as Cosponsor
CS/HB 255—Gibson

Introduction and Reference

By the Procedural & Redistricting Council; Representatives Goodlette, Smith, and Rubio—

HB 1987—A bill to be entitled An act relating to elections; creating the "Florida Election Reform Act of 2001"; amending s. 97.021, F.S.; revising certain definitions applicable to the Florida Election Code to remove provisions relating to voting systems that use voting machines or paper ballots and to restrict such definitions to electronic or electromechanical voting systems; amending s. 101.015, F.S.; requiring the Division of Elections to review the voting systems certification standards to ensure that new technologies are available and appropriately certified for use; amending s. 101.151, F.S.; providing general specifications for ballots; deleting provisions specific to certain elections and voting systems; requiring the Department of State to adopt rules prescribing uniform primary and general election ballots for each certified voting system; amending s. 101.5603, F.S.; revising definitions relating to the Electronic Voting Systems Act to specify touchscreen voting systems as electronic or electromechanical voting systems and to remove provisions relating to voting machines; amending s. 101.5604, F.S.; requiring any electronic or electromechanical voting system used by a county to be a precinct tabulation system; prohibiting at a specified time the use of any voting system that uses an apparatus or device for the piercing of ballots by the voter; amending s. 101.5606, F.S.; providing additional requirements for electronic or electromechanical voting systems; amending s. 101.5607, F.S.; conforming a cross reference; amending s. 101.5608, F.S.; providing procedures to be followed after a vote tabulation device rejects a ballot; amending s. 101.5612, F.S.; providing standards and requirements for the testing of electronic or electromechanical voting systems; providing recordkeeping requirements; amending s. 101.5614, F.S.; removing references to the canvassing of returns at central or regional locations, to conform; revising requirements for the transmission of precinct returns; providing for adoption of security guidelines by rule; creating s. 101.595, F.S.; requiring supervisors of elections and the Department of State to report on voter errors following the general election; amending s. 101.292, F.S.; modifying the definition of "voting equipment," applicable to purchasing requirements, to remove provisions relating to voting machines; amending s. 102.012, F.S.; providing the time for each election board to arrive at the polling place; removing provisions relating to voting machines; amending s. 104.30, F.S.; prohibiting any unauthorized person from unlawfully possessing any voting system or component thereof; prohibiting any person from tampering or attempting to tamper with or destroying any voting system or equipment with the intention of interfering with the election process or the results thereof; providing penalties; removing references to voting machines, to conform; amending ss. 98.471, 100.341, 100.361,

101.21, 101.24, 101.34, 101.341, 101.43, 101.49, 101.58, 101.71, 101.75, 103.101, 138.05, and 582.18, F.S.; removing provisions relating to voting systems that use voting machines or paper ballots and revising references to conform to changes made by the act; repealing ss. 100.071, 101.141, 101.181, 101.191, 101.251, and 101.5609, F.S., relating to the specifications and form of ballots, to conform; repealing ss. 101.011, 101.27, 101.28, 101.29, 101.32, 101.33, 101.35, 101.36, 101.37, 101.38, 101.39, 101.40, 101.445, 101.45, 101.46, 101.47, 101.54, 101.55, and 101.56, F.S., relating to voting systems that use voting machines or paper ballots, to conform; amending s. 97.021, F.S.; providing definitions; creating s. 101.048, F.S.; providing procedures for voting and counting provisional ballots; amending s. 101.045, F.S.; requiring verification of an elector's eligibility if the elector's name is not on the precinct register; amending s. 101.5614, F.S.; providing for the return of provisional ballots to the supervisor of elections; providing for the canvass of provisional ballots; clarifying the standard for counting votes on spoiled ballots; providing a penalty for releasing the results of an election prior to the closing of the polls; amending s. 101.69, F.S.; allowing a voter who has requested an absentee ballot and who decides to vote at the polls on election day to vote a provisional ballot, if the absentee ballot is not returned; amending s. 102.111, F.S.; changing the composition of the Elections Canvassing Commission; revising provisions for filling vacancies on the commission; amending s. 102.112, F.S.; revising the deadline for submission of county returns to the Department of State following the general election; providing that late returns shall be ignored; providing an exception due to an emergency; eliminating provisions establishing fines for late reporting; amending s. 102.141, F.S.; clarifying canvassing procedures relating to election recounts; providing conditions under which a manual recount is required; amending s. 102.166, F.S., relating to election protest; providing procedures for requesting a manual recount; providing for the use of certain standards for determining voter intent; repealing s. 102.167, F.S., relating to the form of protest of election returns; amending s. 102.168, F.S.; revising requirements for contesting an election; providing that the Elections Canvassing Commission is a defendant in certain contested elections; removing certain authority of circuit judges to fashion orders relating to contests; creating s. 97.0555, F.S.; providing for registration of certain military and overseas persons; requiring the Department of State to adopt rules specifying eligibility; creating s. 101.6951, F.S.; providing for a state write-in absentee ballot for overseas voters; creating s. 101.6952, F.S.; providing for absentee ballots for overseas voters, including advance ballots; creating s. 101.697, F.S.; providing for absentee ballot requests and voting via electronic transmission by overseas voters under certain circumstances; creating s. 101.698, F.S.; authorizing the Elections Canvassing Commission to adopt emergency rules during crises to facilitate absentee voting; amending s. 101.62, F.S.; modifying information on absentee ballot requests; amending s. 101.64, F.S.; modifying absentee ballot certificates; amending s. 101.65, F.S.; modifying instructions to absent electors; amending s. 101.657, F.S., relating to voting absentee ballots; conforming provisions; amending s. 101.68, F.S.; modifying information that must be included on an absentee ballot; authorizing the processing of absentee ballots through tabulations for a specified period before the election; prohibiting the release of the results of a canvassing or processing of absentee ballots prior to the closing of the polls; providing a penalty; amending s. 104.047, F.S.; deleting a prohibition against persons witnessing more than five ballots in an election and a prohibition against returning more than two ballots in an election, and the penalties therefor; repealing ss. 101.647 and 101.685, F.S., relating to returning absentee ballots and absentee ballot coordinators; amending s. 98.255, F.S.; providing for voter education; amending s. 101.031, F.S.; providing for a Voter's Bill of Rights and Responsibilities; providing responsibilities of supervisors of elections; amending s. 101.131, F.S.; eliminating a requirement to call out names of voters; amending s. 97.073, F.S.; revising procedures to be followed when a voter registration application is incomplete; creating s. 102.014, F.S.; providing for pollworker recruitment and training; repealing s. 102.012(8) and (9), relating to pollworker training, to conform; amending s. 102.021, F.S.; to correct a cross-reference; providing for a study of the elections process in multiple time zones; creating s. 98.0977, F.S.; providing for development of a statewide voter registration database; providing for update of information in the database; requiring quarterly progress reports to the Legislature until fully implemented; providing for an operational date; creating s. 98.0979, F.S.; providing that voter registration information is public except for information made confidential by law; providing requirements for securing copies of any voter registration information; repealing s. 98.0975, F.S., relating to the central voter file maintained by the Division of Elections; providing for distribution of funds appropriated for voter education; providing for the appropriation from the General Appropriations Act to be used to implement the provisions of the act; providing severability; providing effective dates.

First reading by publication (Art. III, s. 7, Florida Constitution).

Conference Committee Managers Excused

The following Conference Committee Managers were excused from time to time:

CS/SB 1118 (elections): Rep. Byrd, Chair; Reps. Goodlette, Rubio, and Smith.

SBs 2000 and 2002 (appropriations): Rep. Lacasa, Chair; At Large—Reps. Fasano, Greenstein, Murman, Wallace, Wilson, and Sobel (alternate); Transportation & Economic Development Appropriations—Rep. Johnson, Chair, Reps. Bense, Hart, Jennings, Ritter, Rubio, Berfield (alternate), and Hogan (alternate); Health & Human Services Appropriations—Rep. Maygarden, Chair, Reps. Brummer, Farkas, Green, Rich, Slosberg, Benson (alternate), Brutus (alternate), and Garcia (alternate); Education Appropriations—Rep. Lynn, Chair, Reps. Alexander, Flanagan, Justice, Melvin, Stansel, Arza (alternate), Bucher (alternate), and Mealor (alternate); Criminal Justice Appropriations—Rep. Ball, Chair, Reps. Barreiro, Bilirakis, Mahon, Meadows, Seiler, and Bowen (alternate); General Government Appropriations—Rep. Dockery, Chair, Reps. Holloway, Kilmer, Miller, Siplin, Spratt, and Brown (alternate).

Adjourned

Pursuant to the motion previously agreed to, the House adjourned at 7:24 p.m., to reconvene at 10:00 a.m., Thursday, May 3.