The Journal OF THE *House of Representatives*

Number 30 **Thursday, May 5, 2005**

The House was called to order by the Speaker at 9:00 a.m.

Prayer

The following prayer was offered by Pastor Rebecca Hyvonen of Covenant United Methodist Church of Ponce Inlet, upon invitation of Rep. Hukill:

Almighty God, we come before You this morning, grateful that it's the National Day of Prayer. Thank You, Lord, that there are people throughout this country praying all day long, together, in unity. Remind us, O God, remind us to keep this country in prayer all day. Remind us that it begins with us. For Your word tells us if Your people who are called by Your name will humble ourselves and turn from our wicked ways, then You will hear from heaven and heal our land.

Thank You for Your word that tells us that Your throne is built on justice and righteousness. Thank You for these precious legislators who give of their lives and their time to serve You, Lord—to establish Your justice in this land. Grant them extra strength right now, as they press in on the end of this session Lord, give them Your strength, Your energy, and Your wisdom, I pray.

Holy Father, thank You that the other side of justice is righteousness. I pray this morning—this sacred and holy morning—that You will bless these beloved men and women with a closer relationship with You, their Creator. Help us all to get to know You better, O God. I pray that the Florida Legislature will be known as men and women after God's own heart.

And now, dear Lord, please impart Your healing upon these, Your servants gathered here this morning. You, better than anyone, Lord, know what we endure in serving the public. I ask You to heal any hurts this morning; to bind up any broken hearts; to set us free to serve You and Your people joyfully. Heal us this morning. Create in us clean hearts, O God, and renew within us right spirits.

And now, Most High God, empower Your servants with Your wisdom, Your presence, and Your power this day. In the name of the one true God, the way, the truth, and the life, we pray. Amen.

The following members were recorded present:

Session Vote Sequence: 536

Speaker Bense in the Chair.

Adams	Davis, D.	Hukill	Proctor
Altman	Davis, M.	Jennings	Quinones
Ambler	Dean	Johnson	Reagan
Anderson	Detert	Jordan	Rice
Antone	Domino	Joyner	Richardson
Arza	Evers	Justice	Rivera
Attkisson	Farkas	Kendrick	Robaina
Ausley	Fields	Kottkamp	Roberson
Barreiro	Flores	Kreegel	Ross
Baxley	Galvano	Kyle	Rubio
Bean	Gannon	Legg	Russell
Bendross-Mindingall	Garcia	Littlefield	Ryan
Bense	Gardiner	Llorente	Sands
Benson	Gelber	Lopez-Cantera	Sansom
Berfield	Gibson, A.	Machek	Seiler
Bilirakis	Gibson, H.	Mahon	Simmons
Bogdanoff	Glorioso	Mayfield	Slosberg
Bowen	Goldstein	McInvale	Smith
Brandenburg	Goodlette	Meadows	Sobel
Brown	Gottlieb	Mealor	Stansel
Brummer	Grant	Murzin	Stargel
Brutus	Greenstein	Needelman	Taylor
Bucher	Grimsley	Negron	Traviesa
Bullard	Harrell	Patterson	Troutman
Cannon	Hasner	Peterman	Vana
Carroll	Hays	Pickens	Waters
Clarke	Henriquez	Planas	Williams
Culp	Holloway	Poppell	Zapata
Cusack	Homan	Porth	

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

A quorum was present.

Pledge

The members, led by the following, pledged allegiance to the Flag: Katie Scott of Panama City at the invitation of the Speaker; Robert Stargel of Lakeland at the invitation of his father, Rep. Stargel; Sarah Swanner of Geneva at the invitation of Rep. Adams.

House Physician

The Speaker introduced Dr. Robert Fedor of Madeira Beach, who served in the Clinic today upon invitation of Rep. Rice.

Correction of the *Journal*

The *Journal* of May 4 was corrected and approved as corrected.

Motion

On motion by Rep. Goodlette, the House moved to the consideration of HB 1935 on the Order of Business of Unfinished Business.

HB 1935—A bill to be entitled An act relating to the state judicial system; amending s. 27.40, F.S., relating to circuit registries for court-appointed counsel; requiring that a list of attorneys compiled by the Eleventh Judicial Circuit provide certain information on assigned attorneys; requiring that an attorney enter into a contract to be included on the registry; revising requirements for private court-appointed counsel; specifying certain information to be contained in a report by the Eleventh Judicial Circuit; requiring the Justice Administrative Commission to approve uniform procedures and forms for use in billing for attorney's fees, costs, and related expenses; requiring that a withdrawal order be filed with the commission; revising fee payment provisions; providing that withdrawal from a case creates a rebuttable presumption of nonentitlement to the entire flat fee; amending s. 27.42, F.S.; requiring the circuit Article V indigent services committee to establish the compensation rates for court-appointed counsel or in cases of indigency; requiring each committee to establish a schedule of allowances for due-process expenses; authorizing alternate models for providing criminal and civil due-process representation; requiring the Justice Administrative Commission to track and issue a report containing certain information on court-appointed counsel in the Eleventh Judicial Circuit; amending s. 27.52, F.S., relating to the determination of indigent status; providing for application to the clerk of court for such a determination and appointment of a public defender; providing application requirements; requiring an application fee; providing for transfer and deposit of such fees into the Indigent Criminal Defense Trust Fund to be used for certain purposes; authorizing clerks of courts to retain a portion of the fees for certain purposes; prescribing duties of the clerk of court and the public defender relating to an application; prescribing application requirements and review criteria; providing for determinations by a clerk on the basis of an applicant's indigency; providing criteria; providing for appointment of counsel on an interim basis; providing for review by the court of a clerk's determination; providing criteria; authorizing the court to determine a person indigent for costs and eligible for payment of due-process expenses; providing criteria and requirements for such determination; requiring certain parents or legal guardians to furnish legal services and costs to certain persons relating to delinquency proceedings or criminal prosecutions; providing for imposition of a lien for certain liabilities and lien enforcement; providing for a reevaluation of indigent status and referral to the state attorney upon evidence of financial discrepancies or fraud; providing for recovery and disposition of certain amounts recovered; providing criminal penalties for the provision of false information; amending s. 27.5304, F.S.; requiring certain private court-appointed counsel to enter into a uniform contract with Justice Administrative Commission and use the commission's uniform procedures and form for certain billing purposes; authorizing the Justice Administrative Commission to pay attorney's fees without court approval under certain conditions; requiring the attorney to provide the commission with advance notice of a court hearing on payment of fees and costs; authorizing the commission to participate in such hearings using certain equipment; entitling private court-appointed counsel to compensation upon final disposition; providing exceptions; specifying intervals other than final disposition of a case at which private court-appointed counsel may request payment; clarifying a prohibition against allowing an attorney who is not on the registry to appear; restricting the reimbursement allowed for the preparation of invoices; requiring the Justice Administrative Commission to develop a schedule to provide partial payment for attorney fees under certain circumstances; amending s. 27.54, F.S.; requiring a county or municipality to pay certain costs for due-process services in local ordinance violation cases; prescribing assessment of fees to recover such costs; providing for determination and collection of such fees; amending s. 28.24, F.S.; requiring the clerk of the court to charge for certain recording services and performing certain duties; requiring the clerk of the court to provide without charge copies to court-appointed counsel paid by the state; requiring clerks of the court to participate in the Comprehensive Case Information System by a certain date; providing an exception to the designation of the clerk of court as custodian of official records; amending s. 28.2402, F.S.; prohibiting a county or municipality from being required to pay more than one filing fee for a single filing containing multiple allegations; prohibiting a filing fee for initiating certain enforcement proceedings; excluding certain counties having a consolidated government from the term "municipality"; amending s. 28.245, F.S.; requiring the clerks of the court to remit collections to the Department of Revenue within a specified period; amending s. 28.246, F.S.; conforming a reference to the Florida Clerks of Court Operations Corporation; revising provisions authorizing an individual to enter into a payment plan for the payment of fees, costs, or fines; requiring the clerk to enter into a payment plan with certain persons; providing payment plan criteria; providing for the court to review the payment plan; amending s. 28.345, F.S.; exempting certain court staff and court-appointed counsel from the payment of fees and charges assessed by the clerk of the circuit court; amending s. 28.36, F.S.; revising the date for the county clerk to submit a proposed budget; conforming a reference to the Florida Clerks of Court Operations Corporation; conforming a cross reference; conforming a reference to the Chief Financial Officer; providing conditions and requirements by which the corporation may approve adjustments to the clerk's maximum annual budget for court-related duties; amending s. 28.37, F.S.; expanding the types of excess funds that clerks of the court must remit to the Department of Revenue over the amount needed to meet approved budgets; creating s. 28.44, F.S.; providing a method by which the clerk of court may discontinue or substantially modify court-related functions; providing a definition; amending s. 29.004, F.S.; providing for state appropriations to be used for expert witnesses who are appointed by the court rather than requested by any party; amending s. 29.005, F.S.; deleting certain appointed mental health professionals from elements of state attorneys' offices provided from state revenues; amending s. 29.007, F.S.; providing for state funds to be used in providing mental health professionals in certain civil cases; clarifying the use of state funds at the trial or appellate level to pay certain costs on behalf of a litigant who is indigent; amending s. 29.008, F.S.; requiring that the county where the appellate district is located fund the appellate division of the public defender's office; expanding the definition of the term "facility" to include items necessary for court-reporting services; narrowing a limitation on the application of certain requirements to specified facilities; including hearing rooms within those facilities funded by the county as a court-related function; including audio equipment within county-funded communications services; creating s. 29.0081, F.S.; authorizing counties and judicial circuits to agree to the funding of personnel positions for the circuit; providing requirements for such agreements; providing for the effect and limitation of such agreements; amending s. 29.015, F.S.; requiring the Justice Administrative Commission to adjust certain allocations of funds among circuits under certain circumstances; requiring notice of such adjustment; requiring the commission to request a budget amendment under certain circumstances to address budget deficits relating to due-process services; amending s. 29.018, F.S.; eliminating the authority for court-appointed counsel to contract to share in court and due-process services; providing that the Justice Administrative Commission may contract for such cost-sharing on behalf of court-appointed counsel; creating s. 29.0185, F.S.; prohibiting the provision of due process services with state revenues to individuals under certain circumstances; amending s. 34.045, F.S.; proscribing a county or municipality from being required to pay more than one filing fee for a single filing containing multiple allegations; prohibiting

assessment of a filing fee for initiating certain enforcement proceedings in county court; expanding conditions under which the county or municipality is the prevailing party; requiring an assessment of a filing fee; amending s. 34.191, F.S.; excluding certain counties having a consolidated government from the term municipality; amending s. 39.0132, F.S.; authorizing the Justice Administrative Commission to inspect certain court dockets; authorizing the commission to petition the court for certain additional documentation; amending s. 39.821, F.S.; requiring the Guardian Ad Litem Program rather than the chief judge to request the federal criminal records check for purposes of certifying guardians ad litem; amending s. 39.822, F.S.; directing agencies, persons, and other organizations to provide a guardian ad litem access to certain records related to the best interests of a child; providing a definition; amending s. 40.29, F.S.; revising procedures for the payments made by the state to the clerk of the court for the costs of witnesses; creating s. 40.355, F.S.; requiring the clerk of the court to report on, and refund to the state attorneys and public defenders, certain moneys collected for payment of jurors and due-process costs; amending s. 43.16, F.S.; removing the Judicial Qualifications Commission from the duties of the Justice Administrative Commission and adding the Guardian ad Litem Program; providing that the Justice Administrative Commission is not subject to the Administrative Procedure Act; amending s. 43.26, F.S.; providing responsibilities of the chief judge of each circuit; amending s. 44.102, F.S.; revising conditions under which nonvolunteer court mediators may be compensated by the county or parties; amending s. 44.108, F.S.; clarifying the fees charged for scheduled mediation services provided by a circuit court's mediation program; requiring the clerk of the court to report to the chief judge the amount of such fees collected; amending s. 57.081, F.S.; providing a cross-reference to conform; creating s. 57.082, F.S., relating to the determination of civil indigent status; providing for application to the clerk of court for such a determination and appointment of a private attorney in certain civil cases; providing application requirements; prescribing duties of the clerk of court relating to an application; prescribing application requirements and review criteria; providing for determinations by a clerk of the basis of an applicant's indigency; providing criteria; providing for appointment of counsel on an interim basis; providing for review by the court of a clerk's determination; providing criteria; authorizing a court to determine a person indigent and eligible for appointed counsel; providing criteria and requirements for such determination; requiring persons determined to be indigent for civil proceedings to be enrolled in a payment plan and charged an administrative processing charge; providing plan criteria; providing for a reevaluation of indigent status and referral to the state attorney upon evidence of financial discrepancies or fraud; providing for recovery and disposition of certain amounts recovered; providing criminal penalties for the provision of false information; amending s. 92.142, F.S.; deleting a provision that provides for payment of per diem and travel expenses for a witness in a criminal case at the discretion of the court; amending s. 92.231, F.S.; removing a reference to the Article V Indigent Services Advisory Board; amending s. 110.205, F.S.; specifying that members, officers, and employees of the Justice Administrative Commission and certain related organizations are exempt positions under career service provisions; amending s. 116.01, F.S.; providing procedures for the clerk of the court to remit funds to the Department of Revenue; amending s. 116.21, F.S.; authorizing sheriffs and clerks of the courts to pay certain deposited or collected funds into a specific fine and forfeiture fund; requiring the clerk to pay for the cost of publication of the list of unclaimed court-related funds; requiring unclaimed funds to be deposited into the fine and forfeiture fund; amending s. 119.07, F.S.; extending the time period during which certain social security numbers and other data included in court or official county records may be available for public inspection unless redaction is requested; extending the deadline by which court clerks and county recorders must keep such data confidential; amending s. 142.01, F.S.; clarifying those moneys to be included within the fine and forfeiture fund of the clerk of the circuit court; amending s. 213.13, F.S.; requiring that the court-related collections remitted by the clerk to the state be transmitted electronically within a specified period; amending s. 219.07, F.S.; revising disbursement requirements for the clerk as part of his or her court-related functions; amending s. 219.075, F.S.; exempting funds collected by the clerk from the requirements for the investment of surplus funds of a county; amending s. 318.121, F.S.; specifying that certain surcharges may not be added to civil traffic penalties; amending s. 318.18, F.S.; authorizing a portion of certain surcharge revenues to be used for local law libraries; requiring the clerk of the court to quarterly report the amount of certain surcharges collected to the chief judge, the Governor, and the Legislature; authorizing certain local governments to impose by ordinance a surcharge on any infraction or violation in addition to certain noncriminal traffic infractions and certain criminal violations; providing for transfer of revenues from such surcharge for certain purposes; prohibiting a court from waiving the surcharge; providing for repeal; amending s. 318.21, F.S.; providing for the disposition of traffic-infraction penalties for violations occurring in unincorporated areas of certain counties having a consolidated government or unincorporated areas of certain municipalities having a consolidated government; amending s. 318.31, F.S.; deleting provisions concerning the appointment of a civil traffic infraction hearing officer; amending s. 328.32, F.S.; providing additional limitation on a hearing officer's authority; amending s. 318.325, F.S.; deleting provisions specifying the funding of such hearing officer; amending s. 322.29, F.S.; increasing the fees charged for reinstating a driver's license; amending s. 372.72, F.S.; requiring that the proceeds from unclaimed bonds be deposited into the clerk's fine and forfeiture fund; amending s. 903.26, F.S.; revising the procedure for determining the amount of the costs incurred in returning a defendant to the county of jurisdiction; amending s. 903.28, F.S.; revising certain notice requirements following the surrender or apprehension of a defendant for purposes of remission of a forfeiture; authorizing clerks of circuit courts to enter into contracts or interagency agreements to represent the clerk in certain actions; providing that the clerk is the real party in interest for all appeals arising from such an action; authorizing the clerk to withhold unpaid fines, fees, costs, and charges under certain circumstances; amending s. 916.115, F.S.; revising requirements for the payment of experts; specifying which fees are to be paid by the state, the office of the public defender, the office of the state attorney, or the Justice Administrative Commission; amending s. 916.12, F.S.; revising the procedures under which the court may take action following a finding that the defendant is incompetent to proceed; requiring evaluation of a defendant; providing criteria; authorizing a court to commit a defendant or take other action under certain circumstances; amending s. 916.301, F.S.; requiring the court to pay for certain expert witnesses appointed by the court; amending s. 938.29, F.S.; providing for a judgment lien for the payment of certain attorney's fees to be filed without cost; amending s. 939.06, F.S.; clarifying that an acquitted defendant is not liable for certain costs or fees; providing a procedure for such a defendant to request a refund from the Justice Administrative Commission of costs or fees paid; amending s. 939.185, F.S.; authorizing certain local governments to impose by ordinance in addition to certain court costs and other costs, fines, and penalties imposed by law a surcharge to be imposed by court on persons pleading guilty or nolo contendere to certain criminal offenses; providing for transfer of revenues from such surcharge for certain purposes; providing for repeal; amending s. 985.05, F.S.; authorizing the Justice Administrative Commission to have access to certain court records; authorizing circuit courts to share certain juvenile delinquency restitution orders; amending s. 985.201, F.S.; revising the manner in which a court may retain jurisdiction over a child and the child's parent when the court has ordered restitution for certain delinquent acts; requiring the party calling a witness in traffic court to bear the costs; requiring the office of the state attorney to pay such costs if the witness is required to testify on behalf of the prosecution; authorizing the trial court administrator to recover expenditures for state-funded services if those services were furnished to a user possessing the ability to pay; providing for deposit of such funds; authorizing the trial court administrator to recover certain costs under certain circumstances;

requiring the chief judge to determine the rate, which may not exceed the cost of the service and recovery; providing legislative intent for revisions to ss. 28.2402, 34.191, and 318.21, F.S.; revising the maximum annual budget amount for the Clerk of Court for the Eleventh Judicial Circuit; repealing s. 29.014, F.S., relating to the Article V Indigent Service Advisory Board; repealing s. 318.37, F.S., relating to funding for a Civil Traffic Infraction Hearing Officer Program; amending s. 938.19, F.S.; authorizing a board of county commissioners to adopt an ordinance that incorporates the provisions of the act; providing funding for a teen court through the assessment of an additional court cost against each person who pleads guilty or nolo contendere to, or is convicted of, a violation of a criminal law, an ordinance, or a traffic offense in the county; providing exceptions; providing for administration by the clerk of the circuit court; authorizing the clerk of the circuit court to retain a specified percentage of the assessments collected; requiring the teen court to account for all funds received; requiring an annual report to the board of county commissioners by a specified date; authorizing specified organizations to administer a teen court program; prohibiting teen courts in counties adopting an ordinance from receiving court costs under s. 939.185, F.S.; providing for expiration of amendments to s. 938.19, F.S., and reversion of section text; providing for expiration of specified court costs; amending s. 939.185, F.S.; providing an exception for teen court funding; providing appropriations; providing effective dates.

—was taken up, having been read the third time, and amended, on May 3; now pending on motion by Rep. Seiler to adopt **Amendment 36** (shown in the *Journal* on page 1245, May 3).

The question recurred on the adoption of **Amendment 36**.

Representative(s) Simmons offered the following:

(Amendment Bar Code: 189633)

Substitute Amendment 36 (with title amendment)—Between lines 2403 and 2404, insert:

Section 43. Effective July 1, 2006, subsection (3) of section 218.245, Florida Statutes, is amended to read:

218.245 Revenue sharing; apportionment.--

(3) Revenues attributed to the increase in distribution to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 212.20(6)(d)6. from 1.0715 percent to 1.3409 percent provided in chapter 2003-402, Laws of Florida, shall be distributed to each eligible municipality and any unit of local government which is consolidated as provided by s. 9, Art. VIII of the State Constitution of 1885, as preserved by s. 6(e), Art. VIII, 1968 revised constitution, as follows: each eligible local government's allocation shall be based on the amount it received from the half-cent sales tax under s. 218.61 in the prior state fiscal year divided by the total receipts under s. 218.61 in the prior state fiscal year for all eligible local governments; provided, however, for the purpose of calculating this distribution, the amount received from the half-cent sales tax under s. 218.61 in the prior state fiscal year by a unit of local government which is consolidated as provided by s. 9, Art. VIII of the State Constitution of 1885, as amended, and as preserved by s. 6(e), Art. VIII, of the Constitution as revised in 1968, shall be reduced by 50 percent for such local government and for the total receipts. For eligible municipalities that began participating in the allocation of half-cent sales tax under s. 218.61 in the previous state fiscal year, their annual receipts shall be calculated by dividing their actual receipts by the number of months they participated, and the result multiplied by 12.

Between line(s) 246 and 247, insert:
amending s. 218.245, F.S.; revising the requirements for revenue sharing with respect to certain local governments;

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

The question recurred on the adoption of **Amendment 32**, which was withdrawn.

Representative Negron offered the following:

(Amendment Bar Code: 683693)

Amendment 41 (with title amendment)—Remove lines 2755-2758 and insert:

Section 55. Section 903.286, Florida Statutes, is created to read:

903.286 Return of cash bond; requirement to withhold unpaid fines, fees, and court costs.--Notwithstanding the provisions of s. 903.31(2), the clerk of the court shall withhold from the return of a cash bond posted on behalf of a criminal defendant by a person other than a bail bond agent licensed pursuant to chapter 648 sufficient funds to pay any unpaid court fees, court costs, and criminal penalties. In the event that sufficient funds are not available to pay all unpaid court fees, court costs, and criminal penalties, the clerk of the court shall immediately obtain payment from the defendant or enroll the defendant in a payment plan pursuant to s. 28.246.

Remove lines 288-290 and insert:
all appeals arising from such an action; creating s. 903.286, F.S.; authorizing the clerk to withhold sufficient funds to pay any unpaid court fees, court costs, and criminal penalties under certain circumstances; authorizing the clerk to obtain payment from the defendant or enroll the defendant in a payment plan under certain circumstances; amending s. 916.115, F.S.;

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

The question recurred on the passage of HB 1935. The vote was:

Session Vote Sequence: 537

Speaker Bense in the Chair.

Yeas—115

Adams	Cretul	Harrell	Murzin
Altman	Culp	Hasner	Needelman
Ambler	Cusack	Hays	Negron
Anderson	Davis, D.	Henriquez	Patterson
Antone	Davis, M.	Holloway	Peterman
Arza	Dean	Homan	Pickens
Attkisson	Detert	Hukill	Planas
Ausley	Domino	Jennings	Poppell
Barreiro	Evers	Johnson	Porth
Baxley	Farkas	Jordan	Proctor
Bean	Fields	Joyner	Quinones
Bendross-Mindingall	Flores	Justice	Reagan
Bense	Galvano	Kendrick	Rice
Benson	Gannon	Kottkamp	Richardson
Berfield	Garcia	Kreegel	Rivera
Bilirakis	Gardiner	Kyle	Robaina
Bogdanoff	Gelber	Legg	Roberson
Bowen	Gibson, A.	Littlefield	Ross
Brandenburg	Gibson, H.	Llorente	Rubio
Brown	Glorioso	Lopez-Cantera	Russell
Brummer	Goldstein	Machek	Ryan
Brutus	Goodlette	Mahon	Sands
Bullard	Gottlieb	Mayfield	Sansom
Cannon	Grant	McInvale	Seiler
Carroll	Greenstein	Meadows	Simmons
Clarke	Grimsley	Mealor	Slosberg

Smith	Stargel	Troutman	Williams
Sobel	Taylor	Vana	Zapata
Stansel	Traviesa	Waters	

Nays—1

Bucher

Votes after roll call:
Yeas—Allen

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

Messages from the Senate

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1019, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 1019—A bill to be entitled An act relating to asbestos and silica claims; providing a popular name; providing legislative findings; providing purposes; providing definitions; requiring physical impairment as an essential element of a claim; providing criteria for prima facie evidence of physical impairment for claims and certain actions; providing an exception; providing additional requirements for evidence relating to physical impairment; specifying absence of certain presumptions at trial; providing procedures for claims and certain actions; providing for consolidation; providing for venue; providing for preliminary proceedings; requiring new asbestos and silica claims to include certain information; specifying certain limitation periods for certain claims; specifying distinct causes of action for certain conditions; limiting damages under certain circumstances; prohibiting a general release from liability; prohibiting award of punitive damages; providing for collateral source payments; specifying liability rules applicable to certain persons; providing construction; providing legislative intent; providing severability; providing application to certain civil actions; providing an effective date.

(Amendment Bar Code: 324490)

Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause

and insert:

Section 1. Short title.--This act may be cited as the "Asbestos and Silica Compensation Fairness Act".

Section 2. Purpose.--It is the purpose of this act to:

(1) Give priority to true victims of asbestos and silica, claimants who can demonstrate actual physical impairment caused by exposure to asbestos or silica;

(2) Fully preserve the rights of claimants who were exposed to asbestos or silica to pursue compensation if they become impaired in the future as a result of the exposure;

(3) Enhance the ability of the judicial system to supervise and control asbestos and silica litigation; and

(4) Conserve the scarce resources of the defendants to allow compensation to cancer victims and others who are physically impaired by exposure to asbestos or silica while securing the right to similar compensation for those who may suffer physical impairment in the future.

Section 3. Definitions.--As used in this act, the term:

(1) "AMA Guides to the Evaluation of Permanent Impairment" means the American Medical Association's Guides to the Evaluation of Permanent Impairment.

(2) "Asbestos" includes all minerals defined as 'asbestos' in 29 C.F.R. section 1910, as amended.

(3) "Asbestos claim" means a claim for damages or other civil or equitable relief presented in a civil action, arising out of, based on, or related to the health effects of exposure to asbestos, including loss of consortium, wrongful death, and any other derivative claim made by or on behalf of an exposed person or a representative, spouse, parent, child, or other relative of an exposed person. The term does not include claims for benefits under a workers' compensation law or veterans' benefits program, or claims brought by a person as a subrogee by virtue of the payment of benefits under a workers' compensation law.

(4) "Asbestosis" means bilateral diffuse interstitial fibrosis of the lungs caused by inhalation of asbestos fibers.

(5) "Board-certified in internal medicine" means a physician who is certified by the American Board of Internal Medicine or the American Osteopathic Board of Internal Medicine.

(6) "Board-certified in occupational medicine" means a physician who is certified in the subspecialty of occupational medicine by the American Board of Preventive Medicine or the American Osteopathic Board of Preventive Medicine.

(7) "Board-certified in oncology" means a physician who is certified in the subspecialty of medical oncology by the American Board of Internal Medicine or the American Osteopathic Board of Internal Medicine.

(8) "Board-certified in pathology" means a physician who holds primary certification in anatomic pathology or clinical pathology from the American Board of Pathology or the American Osteopathic Board of Internal Medicine and whose professional practice:

(a) Is principally in the field of pathology; and

(b) Involves regular evaluation of pathology materials obtained from surgical or postmortem specimens.

(9) "Board-certified in pulmonary medicine" means a physician who is certified in the subspecialty of pulmonary medicine by the American Board of Internal Medicine or the American Osteopathic Board of Internal Medicine.

(10) "Bankruptcy proceeding" means a case brought under Title 11, United State Code, or any related proceeding as provided in section 157 of Title 28, United States Code.

(11) "Certified B-reader" means an individual qualified as a "final" or "B-reader" under 42 C.F.R. section 37.51(b), as amended.

(12) "Civil action" means all suits or claims of a civil nature in court, whether cognizable as cases at law or in equity or in admiralty. The term does not include an action relating to a workers' compensation law, or a proceeding for benefits under a veterans' benefits program.

(13) "Exposed person" means a person whose exposure to asbestos or to asbestos-containing products is the basis for an asbestos claim.

(14) "FEV1" means forced expiratory volume in the first second, which is the maximal volume of air expelled in one second during performance of simple spirometric tests.

(15) "FVC" means forced vital capacity, which is the maximal volume of air expired with maximum effort from a position of full inspiration.

(16) "ILO Scale" means the system for the classification of chest x-rays set forth in the International Labour Office's Guidelines for the Use of ILO International Classification of Radiographs of Pneumoconioses.

(17) "Lung cancer" means a malignant tumor in which the primary site of origin of the cancer is inside of the lungs, but the term does not include an asbestos claim based upon mesothelioma.

(18) "Mesothelioma" means a malignant tumor with a primary site in the pleura or the peritoneum, which has been diagnosed by a board-certified pathologist, using standardized and accepted criteria of microscopic morphology or appropriate staining techniques.

(19) "Nonmalignant condition" means any condition that can be

caused by asbestos or silica other than a diagnosed cancer.

(20) "Nonsmoker" means the exposed person has not smoked cigarettes or used other tobacco products on a consistent and frequent basis within the last 15 years.

(21) "Pathological evidence of asbestosis" means a statement by a board-certified pathologist that more than one representative section of lung tissue uninvolved with any other disease process demonstrates a pattern of peribronchiolar or parenchymal scarring in the presence of characteristic asbestos bodies and that there is no other more likely explanation for the presence of the fibrosis.

(22) "Predicted lower limit of normal" for any test means the fifth percentile of healthy populations based on age, height, and gender, as referenced in the AMA Guides to the Evaluation of Permanent Impairment.

(23) "Qualified physician" means a medical doctor, who:

(a) Is a board-certified pathologist licensed to practice and actively practices in this country who performed services requested or authorized by a physician who:

1. Has conducted a physical examination of the exposed person or, if the person is deceased, has reviewed all available records relating to the exposed person's medical condition;

2. Is actually treating or treated the exposed person, and has or had a doctor-patient relationship with the person; and

3. Is licensed to practice and actively practices in this country; or

(b) Is a board-certified oncologist, pulmonary specialist, or specialist in occupational and environmental medicine who:

1. Has conducted a physical examination of the exposed person or, if the person is deceased, has reviewed all available records relating to the exposed person's medical condition;

2. Is actually treating or treated the exposed person, and has or had a doctor-patient relationship with the person; and

3. Is licensed to practice and actively practices in this country.

(24) "Radiological evidence of asbestosis" means a quality 1 chest x-ray under the ILO System of classification (in a death case where no pathology is available, the necessary radiologic findings may be made with a quality 2 film if a quality 1 film is not available) showing small, irregular opacities (s, t, u) graded by a certified B-reader as at least 1/1 on the ILO scale.

(25) "Radiological evidence of diffuse pleural thickening" means a quality 1 chest x-ray under the ILO System of classification (in a death case where no pathology is available, the necessary radiologic findings may be made with a quality 2 film if a quality 1 film is not available) showing bilateral pleural thickening of at least B2 on the ILO scale and blunting of at least one costophrenic angle.

(26) "Silica" means a respirable crystalline form of silicon dioxide, including, but not limited to, alpha, quartz, cristobalite, and trydmite.

(27) "Silica claim" means a claim for damages or other civil or equitable relief presented in a civil action, arising out of, based on, or related to the health effects of exposure to silica, including loss of consortium, wrongful death, and any other derivative claim made by or on behalf of an exposed person or a representative, spouse, parent, child, or other relative of an exposed person. The term does not include claims for benefits under a workers' compensation law or veterans' benefits program, or claims brought by a person as a subrogee by virtue of the payment of benefits under a workers' compensation law.

(28) "Silicosis" means nodular interstitial fibrosis of the lungs caused by inhalation of silica.

(29) "Smoker" means a person who has smoked cigarettes or used other tobacco products on a consistent and frequent basis within the last 15 years.

(30) "Substantial occupational exposure" means employment for an extended period of time in industries and occupations in which, for a substantial portion of a normal work year for that occupation, the exposed person did any of the following:

(a) Handled raw asbestos fibers;

(b) Fabricated asbestos-containing products so that the person was exposed to raw asbestos fibers in the fabrication process;

(c) Altered, repaired, or otherwise worked with an asbestos-containing product in a manner that exposed the person on a regular basis to asbestos fibers; or

(d) Worked in close proximity to other persons engaged in any of the activities described in paragraphs (a)-(c) in a manner that exposed the person on a regular basis to asbestos fibers.

(31) "Veterans benefits program" means a program for benefits in connection with military service administered by the Veterans' Administration under Title 38, United States Code.

(32) "Workers' compensation law" means a law respecting a program administered by this state or the United States to provide benefits, funded by a responsible employer or its insurance carrier, for occupational diseases or injuries or for disability or death caused by occupational diseases or injuries. The term includes the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. sections 901-944, 948-950, and the Federal Employees Compensation Act, chapter 81 of Title 5, United States Code, but does not include the Act of April 22, 1908, the Federal Employers Liability Act, 45 U.S.C. 51 et seq.

Section 4. Physical impairment.--

(1) Physical impairment of the exposed person, to which asbestos or silica exposure was a substantial contributing factor, is an essential element of an asbestos or silica claim.

(2) A person may not file or maintain a civil action alleging a nonmalignant asbestos claim in the absence of a prima facie showing of physical impairment as a result of a medical condition to which exposure to asbestos was a substantial contributing factor. The prima facie showing must include all of the following requirements:

(a) Evidence verifying that a qualified physician, or someone working under the direct supervision and control of a qualified physician, has taken a detailed occupational and exposure history of the exposed person or, if the person is deceased, from a person who is knowledgeable about the exposures that form the basis of the nonmalignant asbestos claim, including:

1. Identification of all of the exposed person's principal places of employment and exposures to airborne contaminants; and

2. Whether each place of employment involved exposures to airborne contaminants, including but not limited to asbestos fibers or other disease causing dusts, that can cause pulmonary impairment and the nature, duration and level of any such exposure.

(b) Evidence verifying that a qualified physician, or someone working under the direct supervision and control of a qualified physician, has taken detailed medical and smoking history, including a thorough review of the exposed person's past and present medical problems and their most probable cause.

(c) Evidence sufficient to demonstrate that at least 10 years have elapsed between the date of first exposure to asbestos and the date the diagnosis is made.

(d) A determination by a qualified physician, on the basis of a medical examination and pulmonary function testing, that the exposed person has a permanent respiratory impairment rating of at least Class 2 as defined by and evaluated pursuant to the AMA Guides to the Evaluation of Permanent Impairment.

(e) A diagnosis by a qualified physician of asbestosis or diffuse pleural thickening, based at a minimum on radiological or pathological evidence of asbestosis or radiological evidence of diffuse pleural thickening.

(f) A determination by a qualified physician that asbestosis or diffuse pleural thickening, rather than chronic obstructive pulmonary disease, is a substantial contributing factor to the exposed person's physical impairment, based at a minimum on a determination that the exposed person has:

1. Total lung capacity, by plethysmography or timed gas dilution, below the predicted lower limit of normal;

2. Forced vital capacity below the lower limit of normal and a ratio of FEV1 to FVC that is equal to or greater than the predicted lower limit of

normal; or

3. A chest x-ray showing small, irregular opacities (s, t, u) graded by a certified B-reader at least 2/1 on the ILO scale.

(g) If the exposed person meets the requirements of paragraphs (a), (b), and (c), and if a qualified physician determines that the exposed person has a physical impairment, as demonstrated by meeting the criteria set forth in paragraphs (d) and (f)1. or 2., but the exposed person's chest x-ray does not demonstrate radiological evidence of asbestosis, the exposed person may meet the criteria of paragraph (e) if his or her chest x-ray is graded by a certified B-reader as at least 1/0 and a qualified physician, relying on high-resolution computed tomography, determines to a reasonable degree of medical certainty that the exposed person has asbestosis and forms the conclusion set forth in paragraph (h).

(h) A conclusion by a qualified physician that the exposed person's medical findings and impairment were not more probably the result of causes other than the asbestos exposure revealed by the exposed person's employment and medical history. A diagnosis that states that the medical findings and impairment are "consistent with" or "compatible with" exposure to asbestos does not meet the requirements of this subsection.

(i) If a plaintiff files a civil action alleging a nonmalignant asbestos claim, and that plaintiff alleges that his or her exposure to asbestos was the result of extended contact with another exposed person who, if the civil action had been filed by the other exposed person, would have met the requirements of paragraph (a) and the plaintiff alleges that he or she had extended contact with the exposed person during the time period in which that exposed person met the requirements of paragraph (a), the plaintiff has satisfied the requirements of paragraph (a). The plaintiff in such a civil action must individually satisfy the requirements of paragraphs (b), (c), (d), (e), (f), (g), and (h).

(3) A person who is a smoker may not file or maintain a civil action alleging an asbestos claim which is based upon cancer of the lung, larynx, pharynx, or esophagus in the absence of a prima facie showing that includes all of the following requirements:

(a) A diagnosis by a qualified physician who is board-certified in pathology, pulmonary medicine, or oncology, as appropriate for the type of cancer claimed, of a primary cancer of the lung, larynx, pharynx, or esophagus, and that exposure to asbestos was a substantial contributing factor to the condition.

(b) Evidence sufficient to demonstrate that at least 10 years have elapsed between the date of first exposure to asbestos and the date of diagnosis of the cancer.

(c) Radiological or pathological evidence of asbestosis or diffuse pleural thickening or a qualified physician's diagnosis of asbestosis based on a chest x-ray graded by a certified B-reader as at least 1/0 on the ILO scale and high-resolution computed tomography supporting the diagnosis of asbestosis to a reasonable degree of medical certainty.

(d) Evidence of the exposed person's substantial occupational exposure to asbestos. If a plaintiff files a civil action alleging an asbestos-related claim based on cancer of the lung, larynx, pharynx, or esophagus, and that plaintiff alleges that his or her exposure to asbestos was the result of extended contact with another exposed person who, if the civil action had been filed by the other exposed person, would have met the substantial occupational exposure requirement of this subsection, and the plaintiff alleges that he or she had extended contact with the exposed person during the time period in which that exposed person met the substantial occupational exposure requirement of this subsection, the plaintiff has satisfied the requirements of this paragraph. The plaintiff in such a civil action must individually satisfy the requirements of this subsection.

(e) If the exposed person is deceased, the qualified physician, or someone working under the direct supervision and control of a qualified physician, may obtain the evidence required in paragraph (b) and paragraph (d) from the person most knowledgeable about the alleged exposures that form the basis of the asbestos claim.

(f) A conclusion by a qualified physician that the exposed person's medical findings and impairment were not more probably the result of causes other than the asbestos exposure revealed by the exposed person's employment and medical history. A conclusion that the medical findings and impairment are "consistent with" or "compatible with" exposure to asbestos does not meet the requirements of this subsection.

(4) In a civil action alleging an asbestos claim by a nonsmoker based on cancer of the lung, larynx, pharynx, or esophagus, a prima facie showing of an impairment due to asbestos exposure is not required.

(5) A person may not file or maintain a civil action alleging an asbestos claim which is based on cancer of the colon, rectum, or stomach in the absence of a prima facie showing that includes all of the following requirements:

(a) A diagnosis by a qualified physician who is board-certified in pathology, pulmonary medicine, or oncology, as appropriate for the type of cancer claimed, of cancer of the colon, rectum, or stomach, and that exposure to asbestos was a substantial contributing factor to the condition.

(b) Evidence sufficient to demonstrate that at least 10 years have elapsed between the date of first exposure to asbestos and the date of diagnosis of the cancer.

(c)1.a. Radiological or pathological evidence of asbestosis or diffuse pleural thickening or a qualified physician's diagnosis of asbestosis based on a chest x-ray graded by a certified B-reader as at least 1/0 on the ILO scale and high-resolution computed tomography supporting the diagnosis of asbestosis to a reasonable degree of medical certainty; or

b. Evidence of the exposed person's substantial occupational exposure to asbestos. If a plaintiff files a civil action alleging an asbestos-related claim based on cancer of the colon, rectum, or stomach, and that plaintiff alleges that his or her exposure to asbestos was the result of extended contact with another exposed person who, if the civil action had been filed by the other exposed person, would have met the substantial occupational exposure requirement of this subsection, and the plaintiff alleges that he or she had extended contact with the exposed person during the time period in which that exposed person met the substantial occupational exposure requirement of this subsection, the plaintiff has satisfied the requirements of this sub-subparagraph. The plaintiff in such a civil action must individually satisfy the requirements of this subsection.

2. In the case of an exposed person who is a smoker, the criteria in sub-subparagraphs 1.a. and b. must be met.

3. If the exposed person is deceased, the qualified physician, or someone working under the direct supervision and control of a qualified physician, may obtain the evidence required in sub-subparagraph 1.b. and paragraph (b) from the person most knowledgeable about the alleged exposures that form the basis of the asbestos claim.

(d) A conclusion by a qualified physician that the exposed person's medical findings and impairment were not more probably the result of causes other than the asbestos exposure revealed by the exposed person's employment and medical history. A conclusion that the medical findings and impairment are "consistent with" or "compatible with" exposure to asbestos does not meet the requirements of this subsection.

(6) In a civil action alleging an asbestos claim based upon mesothelioma a prima facie showing of an impairment due to asbestos exposure is not required.

(7) A person may not file or maintain a civil action alleging a silicosis claim in the absence of a prima facie showing of physical impairment as a result of a medical condition to which exposure to silica was a substantial contributing factor. The prima facie showing must include all of the following requirements:

(a) Evidence verifying that a qualified physician, or someone working under the direct supervision and control of a qualified physician, has taken a detailed occupational and exposure history of the exposed person or, if the person is deceased, from a person who is knowledgeable about the exposures that form the basis of the nonmalignant silica claim, including:

1. All of the exposed person's principal places of employment and exposures to airborne contaminants; and

2. Whether each place of employment involved exposures to airborne contaminants, including but not limited to silica particles or other disease causing dusts, that can cause pulmonary impairment and the nature, duration, and level of any such exposure.

(b) Evidence verifying that a qualified physician, or someone working under the direct supervision and control of a qualified physician, has taken detailed medical and smoking history, including a thorough review of the exposed person's past and present medical problems and their most probable cause, and verifying a sufficient latency period for the applicable stage of silicosis.

(c) A determination by a qualified physician, on the basis of a medical examination and pulmonary function testing, that the exposed person has a permanent respiratory impairment rating of at least Class 2 as defined by and evaluated pursuant to the AMA Guides to the Evaluation of Permanent Impairment.

(d) A determination by a qualified physician that the exposed person has:

1. A quality 1 chest x-ray under the ILO System of classification and that the x-ray has been read by a certified B-reader as showing, according to the ILO System of classification, bilateral nodular opacities (p, q, or r) occurring primarily in the upper lung fields, graded 1/1 or higher; or

2. Pathological demonstration of classic silicotic nodules exceeding one centimeter in diameter as published in 112 Archive of Pathology and Laboratory Medicine 7 (July 1988).

In a death case where no pathology is available, the necessary radiologic findings may be made with a quality 2 film if a quality 1 film is not available.

(e) A conclusion by a qualified physician that the exposed person's medical findings and impairment were not more probably the result of causes other than silica exposure revealed by the exposed person's employment and medical history. A conclusion that the medical findings and impairment are "consistent with" or "compatible with" exposure to silica does not meet the requirements of this subsection.

(8) A person may not file or maintain a civil action alleging a silica claim other than as provided in subsection (7), in the absence of a prima facie showing that includes all of the following requirements:

(a) A report by a qualified physician who is:

1. Board-certified in pulmonary medicine, internal medicine, oncology, or pathology stating a diagnosis of the exposed person of silica-related lung cancer and stating that, to a reasonable degree of medical probability, exposure to silica was a substantial contributing factor to the diagnosed lung cancer; or

2. Board-certified in pulmonary medicine, internal medicine, or pathology stating a diagnosis of the exposed person of silica-related progressive massive fibrosis or acute silicoproteinosis, or silicosis complicated by documented tuberculosis.

(b) Evidence verifying that a qualified physician, or someone working under the direct supervision and control of a qualified physician, has taken a detailed occupational and exposure history of the exposed person or, if the person is deceased, from a person who is knowledgeable about the exposures that form the basis of the nonmalignant silica claim, including:

1. All of the exposed person's principal places of employment and exposures to airborne contaminants; and

2. Whether each place of employment involved exposures to airborne contaminants, including but not limited to, silica particles or other disease causing dusts, that can cause pulmonary impairment and the nature, duration and level of any such exposure.

(c) Evidence verifying that a qualified physician, or someone working under the direct supervision and control of a qualified physician, has taken detailed medical and smoking history, including a thorough review of the exposed person's past and present medical problems and their most probable cause;

(d) A determination by a qualified physician that the exposed person has:

1. A quality 1 chest x-ray under the ILO System of classification and that the x-ray has been read by a certified B-reader as showing, according to the ILO System of classification, bilateral nodular opacities (p, q, or r) occurring primarily in the upper lung fields, graded 1/1 or higher; or

2. Pathological demonstration of classic silicotic nodules exceeding one centimeter in diameter as published in 112 Archive of Pathology and Laboratory Medicine 7 (July 1988).

In a death case where no pathology is available, the necessary radiologic findings may be made with a quality 2 film if a quality 1 film is not available.

(e) A conclusion by a qualified physician that the exposed person's medical findings and impairment were not more probably the result of causes other than silica exposure revealed by the exposed person's employment and medical history. A conclusion that the medical findings and impairment are "consistent with" or "compatible with" exposure to silica does not meet the requirements of this subsection.

(9) Evidence relating to physical impairment under this section, including pulmonary function testing and diffusing studies, must:

(a) Comply with the technical recommendations for examinations, testing procedures, quality assurance, quality control, and equipment of the AMA Guides to the Evaluation of Permanent Impairment, as set forth in 2d C.F.R. Part 404, subpart. P. Appl., part A, section 3.00 E. and F., and the interpretive standards, set forth in the official statement of the American Thoracic Society entitled "lung function testing: selection of reference values and interpretive strategies" as published in American Review of Respiratory Disease. 1991: 144:1202-1218;

(b) Not be obtained through testing or examinations that violate any applicable law, regulation, licensing requirement, or medical code of practice; and

(c) Not be obtained under the condition that the exposed person retain legal services in exchange for the examination, test, or screening.

(10) Presentation of prima facie evidence meeting the requirements of subsection (2), (3), (5), or (6) of this section may not:

(a) Result in any presumption at trial that the exposed person is impaired by an asbestos-related or silica-related condition;

(b) Be conclusive as to the liability of any defendant; and

(c) Be admissible at trial.

Section 5. Claimant proceedings.--

(1) A civil action alleging an asbestos or silica claim may be brought in the courts of this state if the plaintiff is domiciled in this state or the exposure to asbestos or silica that is a substantial contributing factor to the physical impairment of the plaintiff on which the claim is based occurred in this state.

(2) A plaintiff in a civil action alleging an asbestos or silica claim must include with the complaint or other initial pleading a written report and supporting test results constituting prima facie evidence of the exposed person's asbestos-related or silica-related physical impairment meeting the requirements of subsection (2), subsection (3), subsection (5), or subsection (6) of section 4. For any asbestos or silica claim pending on the effective date of this act, the plaintiff must file the report and supporting test results at least 30 days before setting a date for trial. The defendant must be afforded a reasonable opportunity to challenge the adequacy of the proffered prima facie evidence of asbestos-related impairment. The claim of the plaintiff shall be dismissed without prejudice upon a finding of failure to make the required prima facie showing.

(3) All asbestos claims and silica claims filed in this state on or after the effective date of this act must include, in addition to the written report described in subsection (3) of section 5 and the information required by subsection (2) of section 7, a sworn information form containing the following information:

(a) The claimant's name, address, date of birth, and marital status;

(b) If the claimant alleges exposure to asbestos or silica through the testimony of another person or alleges other than direct or bystander exposure to a product, the name, address, date of birth, marital status, for

each person by which the claimant alleges exposure, hereinafter the "index person," and the claimant's relationship to each such person;

(c) The specific location of each alleged exposure;

(d) The beginning and ending dates of each alleged exposure as to each asbestos product or silica product for each location at which exposure allegedly took place for the plaintiff and each index person;

(e) The occupation and name of the employer of the exposed person at the time of each alleged exposure;

(f) The specific condition related to asbestos or silica claimed to exist; and

(g) Any supporting documentation of the condition claimed to exist.

Section 6. Statute of limitations; two-disease rule.--

(1) Notwithstanding any other law, with respect to any asbestos or silica claim not barred as of the effective date of this act, the limitations period does not begin to run until the exposed person discovers, or through the exercise of reasonable diligence should have discovered, that he or she is physically impaired by an asbestos-related or silica-related condition.

(2) An asbestos or silica claim arising out of a nonmalignant condition shall be a distinct cause of action from an asbestos or silica claim relating to the same exposed person arising out of asbestos-related or silica-related cancer. Damages may not be awarded for fear or risk of cancer in a civil action asserting an asbestos or silica claim.

(3) A settlement of a nonmalignant asbestos or silica claim concluded after the effective date of this act may not require, as a condition of settlement, the release of any future claim for asbestos-related or silica-related cancer.

Section 7. Scope of liability; damages.--

(1) Punitive damages may not be awarded in any civil action alleging an asbestos or silica claim.

(2) At the time a complaint is filed in a civil action alleging an asbestos or silica claim, the plaintiff must file a verified written report with the court which discloses the total amount of any collateral source payments received, including payments that the plaintiff will receive in the future, as a result of settlements or judgments based upon the same claim. For any asbestos or silica claim pending on the effective date of this act, the plaintiff shall file a verified written report within 60 days after the effective date of this act, or at least 30 days before trial. Further, the plaintiff must update the reports on a regular basis during the course of the proceeding until a final judgment is entered in the case. The court shall permit setoff, based on the collateral source payment information provided, in accordance with the laws of this state as of the effective date of this act.

Section 8. Liability rules applicable to protect sellers, renters, and lessors.--

(1)(a) In a civil action alleging an asbestos or silica claim, a product seller other than a manufacturer is liable to a plaintiff only if the plaintiff establishes that:

1.a. The product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller;

b. The product seller failed to exercise reasonable care with respect to the product; and

c. The failure to exercise reasonable care was a proximate cause of the harm to the exposed person;

2.a. The product seller made an express warranty applicable to the product that allegedly caused the harm that is the subject of the complaint, independent of any express warranty made by the manufacturer as to the same product;

b. The product failed to conform to the warranty; and

c. The failure of the product to conform to the warranty caused the harm to the exposed person; or

3.a. The product seller engaged in intentional wrongdoing, as determined under the law of this state; and

b. The intentional wrongdoing caused the harm that is the subject of the complaint.

(b) For the purpose of sub-subparagraph 1.b., a product seller may not be considered to have failed to exercise reasonable care with respect to a product based upon an alleged failure to inspect the product, if:

1. The failure occurred because there was no reasonable opportunity to inspect the product; or

2. The inspection, in the exercise of reasonable care, would not have revealed the aspect of the product which allegedly caused the exposed person's impairment.

(2) In a civil action alleging an asbestos or silica claim, a person engaged in the business of renting or leasing a product is not liable for the tortious act of another solely by reason of ownership of that product.

Section 9. Miscellaneous provisions.--

(1) This act does not affect the scope or operation of any workers' compensation law or veterans' benefit program, affect the exclusive remedy or subrogation provisions of the law, or authorize any lawsuit which is barred by law.

(2) Nothing in this act is intended to, and nothing in this act shall be interpreted to:

(a) Affect the rights of any party in bankruptcy proceedings; or

(b) Affect the ability of any person who is able to make a showing that the person satisfies the claim criteria for compensable claims or demands under a trust established under a plan of reorganization under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. Chapter 11, to make a claim or demand against that trust.

(3) It is the intent of the Legislature that this law render the utmost comity and respect to the constitutional prerogatives of the judiciary of this state, and nothing in this act should be construed as any effort to impinge upon those prerogatives. To that end, if the Florida Supreme Court enters a final judgment concluding or declaring that any provision of this act improperly encroaches on the authority of the court to adopt the rules of practice and procedure in the courts of this state, the Legislature intends that any such provision be construed as a request for a rule change under Section 2, Article V, of the State Constitution and not as a mandatory legislative directive.

(4) This act may not be interpreted to prevent any person from bringing or maintaining an asbestos claim based on nonoccupational exposure where such person would be otherwise able to bring or maintain a claim under this act.

(5) If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or application 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 10. This act shall take effect July 1, 2005. Because the act expressly preserves the right of all injured persons to recover full compensatory damages for their loss, it does not impair vested rights. In addition, because it enhances the ability of the most seriously ill to receive a prompt recovery, it is remedial in nature. Therefore, the act shall apply to any civil action asserting an asbestos claim in which trial has not commenced as of the effective date of this act.

And the title is amended as follows:

Delete everything before the enacting clause

and insert:

A bill to be entitled

An act relating to asbestos and silica claims; providing a short title; providing purposes; providing definitions; requiring physical impairment as an essential element of a claim; providing criteria for prima facie evidence of physical impairment for claims and certain actions; providing exceptions; providing additional requirements for evidence relating to physical impairment; specifying absence of certain presumptions at trial; providing procedures for claims and certain actions; providing for venue; providing for preliminary proceedings; requiring asbestos and silica

claims to include certain information; specifying certain limitation periods for certain claims; specifying distinct causes of action for certain conditions; limiting damages under certain circumstances; prohibiting a general release from liability; prohibiting award of punitive damages; providing for collateral source payments; specifying liability rules applicable to certain persons; providing for construction; providing severability; providing application to certain civil actions; providing an effective date.

WHEREAS, asbestos is a mineral that was widely used before the mid 1970's for insulation, fireproofing, and other purposes, and

WHEREAS, millions of American workers and others were exposed to asbestos, especially during and after World War II and before the advent of regulation by the Occupational Safety and Health Administration in the early 1970's, and

WHEREAS, long-term exposure to asbestos has been associated with various types of cancer, including mesothelioma and lung cancer, as well as such nonmalignant conditions as asbestosis, pleural plaques, and diffuse pleural thickening, and

WHEREAS, the diseases caused by asbestos often have long latency periods, and

WHEREAS, although the use of asbestos has dramatically declined since the 1970's and workplace exposures have been regulated since 1971 by the Occupational Safety and Health Administration, past exposures will continue to result in significant claims of death and disability as a result of such exposure, and

WHEREAS, exposure to asbestos has created a flood of litigation in state and federal courts that the United States Supreme Court in Ortiz v. Fibreboard Corporation, 119 S. Ct. 2295, 2302 (1999), has characterized as an "elephantine mass" of cases that "defies customary judicial administration," and

WHEREAS, asbestos personal injury litigation can be unfair and inefficient, imposing a severe burden on litigants and taxpayers alike, and

WHEREAS, the inefficiencies and societal costs of asbestos litigation have been well documented in reports such as the RAND Institutes study on Asbestos Litigation Costs and Compensation, the study of Joseph E. Stiglitz on The Impact of Asbestos Liabilities on Workers in Bankrupt Firms, Dr. Joseph Gitlin's report from Johns Hopkins Medical School on Comparison of B Readers' Interpretations of Chest Radiographs for Asbestos Related Changes, and the Report to the House of Delegates from the American Bar Association Commission on Asbestos Litigation, and

WHEREAS, the extraordinary volume of nonmalignant asbestos cases continues to strain state courts, and

WHEREAS, the vast majority of asbestos claims are filed by individuals who allege they have been exposed to asbestos and who may have some physical sign of exposure but who suffer no present asbestos-related impairment, and

WHEREAS, the cost of compensating exposed individuals who are not sick jeopardizes the ability of defendants to compensate people with cancer and other serious asbestos-related diseases, now and in the future, and

WHEREAS, the cost of compensating exposed individuals who are not sick threatens the savings, retirement benefits, and jobs of defendants' current and retired employees and adversely affects the communities in which these defendants operate, and

WHEREAS, the crush of asbestos litigation has been costly to employers, employees, litigants, and the court system, and

WHEREAS, in 1982, the Johns-Manville Corporation, the nation's largest single supplier of insulation products containing asbestos, declared bankruptcy due to the burden of the asbestos litigation, and

WHEREAS, since 1982, more than 70 other companies have declared bankruptcy due to the burden of asbestos litigation, and

WHEREAS, estimates show that between 60,000 and 128,000 American workers already have lost their jobs as a result of asbestos-related bankruptcies and that the total number of jobs that will be lost due to asbestos-related bankruptcies will eventually reach 432,000, and

WHEREAS, each worker who loses his or her job due to an asbestos-related bankruptcy loses between $25,000 and $50,000 in wages over his or her career and loses 25 percent or more of the value of his or her retirement plan, and

WHEREAS, asbestos litigation is estimated to have cost over $54 billion, with well over half of this expense going to attorney's fees and other litigation costs, and

WHEREAS, the seriously ill too often find that the value of their recovery is substantially reduced due to defendant bankruptcies and the inefficiency of the litigation process, and

WHEREAS, silica is a naturally occurring mineral, and

WHEREAS, the Earth's crust is over 90 percent silica, and crystalline silica dust is the primary component of sand, quartz, and granite, and

WHEREAS, silica-related illness, including silicosis, can occur when tiny silica particles are inhaled, and

WHEREAS, silicosis was recognized as an occupational disease many years ago, and

WHEREAS, the American Foundrymen's Society has distributed literature for more than 100 years to its members warning of the dangers of silica exposure, and

WHEREAS, the number of new lawsuits alleging silica-related disease being filed each year began to rise precipitously in recent years, and

WHEREAS, silica claims, like asbestos claims, often arise when an individual is identified as having markings on his or her lungs that are possibly consistent with silica exposure but the individual has no functional or physical impairment from any silica-related disease, and

WHEREAS, the Legislature finds that an overpowering public necessity requires it to act to prevent a silica-based litigation crisis, and

WHEREAS, concerns about statutes of limitations may prompt claimants who have been exposed to asbestos or silica but who do not have any current injury to bring premature lawsuits in order to protect against losing their rights to future compensation should they become impaired, and

WHEREAS, consolidations, joinders, and similar procedures to which some courts have resorted in order to deal with the mass of asbestos and silica cases can undermine the appropriate functioning of the judicial process and further encourage the filing of thousands of cases by exposed individuals who are not sick and who may never become sick, and

WHEREAS, punitive damage awards unfairly divert the resources of defendants from compensating genuinely impaired claimants and, given the lengthy history of asbestos and silica litigation and the regulatory and other restrictions on the use of asbestos and silica-containing products in the workplace, the legal justification for such awards, punishment, and deterrence is either inapplicable or inappropriate, and

WHEREAS, the Legislature finds that there is an overpowering public necessity to defer the claims of exposed individuals who are not sick in order to preserve, now and for the future, defendants' ability to compensate people who develop cancer and other serious asbestos-related and silica-related injuries and to safeguard the jobs, benefits, and savings of workers in this state and the well-being of the economy of this state, NOW, THEREFORE,

On motion by Rep. Simmons, the House concurred in Senate Amendment 1. The vote was:

Session Vote Sequence: 538

Speaker Bense in the Chair.

Yeas—98

Adams	Ambler	Arza	Baxley
Allen	Anderson	Attkisson	Bean
Altman	Antone	Barreiro	Bense

Benson	Flores	Kyle	Reagan
Berfield	Galvano	Legg	Rice
Bilirakis	Garcia	Littlefield	Richardson
Bogdanoff	Gardiner	Llorente	Rivera
Bowen	Gibson, H.	Lopez-Cantera	Robaina
Brown	Glorioso	Machek	Roberson
Brummer	Goldstein	Mahon	Ross
Brutus	Goodlette	Mayfield	Rubio
Bullard	Grant	McInvale	Russell
Cannon	Grimsley	Meadows	Sansom
Carroll	Harrell	Mealor	Simmons
Clarke	Hasner	Murzin	Smith
Cretul	Hays	Needelman	Stansel
Culp	Henriquez	Negron	Stargel
Davis, D.	Holloway	Patterson	Traviesa
Davis, M.	Hukill	Peterman	Troutman
Dean	Jennings	Pickens	Vana
Detert	Johnson	Planas	Waters
Domino	Jordan	Poppell	Williams
Evers	Kendrick	Porth	Zapata
Farkas	Kottkamp	Proctor	
Fields	Kreegel	Quinones	

Nays—18

Ausley	Gannon	Joyner	Slosberg
Bendross-Mindingall	Gelber	Justice	Sobel
Brandenburg	Gibson, A.	Ryan	Taylor
Bucher	Gottlieb	Sands	
Cusack	Greenstein	Seiler	

Votes after roll call:
Yeas—Homan
Yeas to Nays—Mahon
Nays to Yeas—Seiler

The question recurred on the passage of HB 1019. The vote was:

Session Vote Sequence: 539

Speaker Bense in the Chair.

Yeas—103

Adams	Cannon	Grant	Machek
Allen	Carroll	Greenstein	Mahon
Altman	Clarke	Grimsley	Mayfield
Ambler	Cretul	Harrell	McInvale
Anderson	Culp	Hasner	Meadows
Antone	Davis, D.	Hays	Mealor
Arza	Davis, M.	Henriquez	Murzin
Attkisson	Dean	Holloway	Needelman
Barreiro	Detert	Homan	Negron
Baxley	Domino	Hukill	Patterson
Bean	Evers	Jennings	Peterman
Bense	Farkas	Johnson	Pickens
Benson	Fields	Jordan	Planas
Berfield	Flores	Kendrick	Poppell
Bilirakis	Galvano	Kottkamp	Porth
Bogdanoff	Garcia	Kreegel	Proctor
Bowen	Gardiner	Kyle	Quinones
Brown	Gibson, H.	Legg	Reagan
Brummer	Glorioso	Littlefield	Rice
Brutus	Goldstein	Llorente	Richardson
Bullard	Goodlette	Lopez-Cantera	Rivera
Robaina	Sands	Stansel	Vana
Roberson	Sansom	Stargel	Waters
Ross	Seiler	Taylor	Williams
Rubio	Simmons	Traviesa	Zapata
Russell	Smith	Troutman	

Nays—13

Ausley	Gannon	Joyner	Sobel
Bendross-Mindingall	Gelber	Justice	
Brandenburg	Gibson, A.	Ryan	
Cusack	Gottlieb	Slosberg	

Votes after roll call:
Nays—Bucher
Yeas to Nays—Mahon, Seiler

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

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1001, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 1001—A bill to be entitled An act relating to governance of the State University System; providing definitions; specifying the constitutional duties of the Board of Governors of the State University System under s. 7, Art. IX of the State Constitution; specifying the constitutional duties of the Legislature; providing legislative intent; providing an effective date.

(Amendment Bar Code: 675996)

Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause

and insert:

Section 1. Responsibility for the State University System under Section 7, Article IX of the State Constitution; legislative finding and intent.--

(1) LEGISLATIVE FINDINGS.--

(a) Definitions.--For purposes of this act, the term:

1. "Board of Governors" as it relates to the State University System and as used in Section 7, Article IX of the State Constitution and Title XLVIII and other sections of the Florida Statutes is the Board of Governors of the State University System which belongs to and is part of the executive branch of state government.

2. "Institutions of higher learning" as used in the State Constitution and the Florida Statutes includes publicly funded state universities.

3. "Public officer" as used in the Florida Statutes includes members of the Board of Governors.

4. "State university" or "state universities" as used in the State Constitution and the Florida Statutes are agencies of the state which belong to and are part of the executive branch of state government. This definition of state universities as state agencies is only for the purposes of the delineation of constitutional lines of authority. Statutory exemptions for state universities from statutory provisions relating to state agencies that are in effect on the effective date of this act remain in effect and are not repealed by virtue of this definition of state universities.

(b) Constitutional duties of the Board of Governors of the State University System.--In accordance with Section 7, Article IX of the State

Constitution, the Board of Governors of the State University System has the duty to operate, regulate, control, and be fully responsible for the management of the whole publicly funded State University System and the board, or the board's designee, has responsibility for:

1. Defining the distinctive mission of each constituent university.

2. Defining the articulation of each constituent university in conjunction with the Legislature's authority over the public schools and community colleges.

3. Ensuring the well-planned coordination and operation of the State University System.

4. Avoiding wasteful duplication of facilities or programs within the State University System.

5. Accounting for expenditure of funds appropriated by the Legislature for the State University System as provided by law.

6. Submitting a budget request for legislative appropriations for the institutions under the supervision of the board as provided by law.

7. Adopting strategic plans for the State University System and each constituent university.

8. Approving, reviewing, and terminating degree programs of the State University System.

9. Governing admissions to the state universities.

10. Serving as the public employer to all public employees of state universities for collective bargaining purposes.

11. Establishing a personnel system for all state university employees; however, the Department of Management Services shall retain authority over state university employees for programs established in sections 110.123, 110.1232, 110.1234, 110.1238, and 110.161, Florida Statutes, and in chapters 121, 122, and 238, Florida Statutes.

12. Complying with, and enforcing for institutions under the board's jurisdiction, all applicable local, state, and federal laws.

(c) Constitutional duties of the Legislature.--In accordance with Section 3, Article II of the State Constitution, which establishes the separation of powers of three branches of government; Section 1, Article III of the State Constitution, which vests the legislative power of the state in the Legislature; Section 8, Article III of the State Constitution, which provides the exclusive executive veto power of the Governor and the exclusive veto override power of the Legislature; Section 19, Article III of the State Constitution, which requires the Legislature to enact state planning and budget processes and requirements for budget requests by general law; Section 1, Article VII of the State Constitution, which requires that the authority to expend state funds be by general law enacted by the Legislature; and Section 1, Article IX of the State Constitution, which requires the Legislature to make adequate provision by law for the "establishment, maintenance, and operation of institutions of higher learning," the Legislature has the following responsibilities:

1. Making provision by law for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require.

2. Appropriating all state funds through the General Appropriations Act or other law.

3. Establishing tuition and fees.

4. Establishing policies relating to merit and need-based student financial aid.

5. Establishing policies relating to expenditure of, accountability for, and management of funds appropriated by the Legislature or revenues authorized by the Legislature. This includes, but is not limited to, policies relating to: budgeting, deposit of funds; investments; accounting; purchasing, procurement, and contracting; insurance; audits; maintenance and construction of facilities; property; bond financing; leasing; and information reporting.

6. Maintaining the actuarial and fiscal soundness of centrally administered state systems by requiring state universities to continue to participate in programs such as the Florida Retirement System, the state group health insurance programs, the state telecommunications and data network (SUNCOM), and the state casualty insurance program.

7. Establishing and regulating the use of state powers and protections, including, but not limited to, eminent domain, certified law enforcement, and sovereign immunity.

8. Establishing policies relating to the health, safety, and welfare of students, employees, and the public while present on the campuses of institutions of higher learning.

(2) LEGISLATIVE INTENT.--It is the intent of the Legislature to reenact laws relating to the Board of Governors of the State University System, the university boards of trustees, the State Board of Education, and the postsecondary education system in accordance with the findings of this act.

Section 2. Subsection (17) is added to section 112.313, Florida Statutes, to read:

112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.--

(17) BOARD OF GOVERNORS AND BOARDS OF TRUSTEES.--No citizen member of the Board of Governors of the State University System, nor any citizen member of a board of trustees of a local constituent university, shall have or hold any employment or contractual relationship as a legislative lobbyist requiring annual registration and reporting pursuant to s. 11.045.

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

And the title is amended as follows:

Delete everything before the enacting clause

and insert:

A bill to be entitled

An act relating to postsecondary education; providing definitions; specifying the constitutional duties of the Board of Governors of the State University System under s. 7, Art. IX of the State Constitution; specifying the constitutional duties of the Legislature; providing legislative intent; amending s. 112.313, F.S.; prohibiting citizen members of the Board of Governors of the State University System and citizen members of a board of trustees of a local constituent university from representing principals before the Legislature; providing an effective date.

WHEREAS, in 2000, the Florida Legislature enacted chapter 2000-321, Laws of Florida, the Florida Education Governance Reorganization Act of 2000, which restructured the state's public education system to create a seamless K-20 system and repealed the Florida Board of Regents, an entity previously established by the Legislature to govern the administration of the State University System, and

WHEREAS, in 2000, the Legislature consolidated the administration of the state's institutions of higher education with grades K through 12 in the Florida Board of Education (later the State Board of Education) and the Commissioner of Education, and

WHEREAS, in 2002, the voters amended the State Constitution to create the Board of Governors to "be responsible for the coordinated and accountable operation of the whole university system" and did not express an intent to limit legislative powers granted in section 1, Article IX of the State Constitution, and

WHEREAS, in its review of the ballot title and summary to the initiative proposal creating the Board of Governors, the Florida Supreme Court found that the amendment would authorize "the statewide board of governors to 'operate, regulate, control, and be fully responsible for the management of the whole university system'" [Advisory Opinion to the Attorney General Re Local Trustees, 819 So.2d 725, 729 (Fla. 2002)], and

WHEREAS, the Florida Supreme Court found that the ballot title and summary for the proposed amendment plainly and unequivocally expressed its chief purpose and that this purpose "does not substantially affect or alter any provision in the State Constitution" [Id. at 732], and

WHEREAS, the Court's advisory opinion indicates that the Court interpreted "the plain unequivocal language" of the proposal's ballot summary as not making fundamental changes redistributing legislative

power to an entity within another branch, which would alter the balance of governmental powers, and

WHEREAS, since 1968 and continuing through today, Section 1 of Article IX of the State Constitution provides that "[a]dequate provision shall be made by law for ... the establishment, maintenance, and operation of institutions of higher learning ...," and

WHEREAS, as of November 2002, the Board of Governors is charged by Section 7 of Article IX of the State Constitution with the responsibility to "operate, regulate, control, and be fully responsible for the management of the whole university system," and

WHEREAS, the canons of Florida statutory construction require that laws on the same subject are to be construed "in harmony with one another" so as not to render any part meaningless based upon the presumption that the people would not have adopted useless constitutional law [See, e.g., Unruh v. State, 669 So.2d 242 (Fla. 1996); see, also, State ex rel. McKay v. Keller, 191 So. 542 (Fla. 1939) (holding that principles governing the construction of statutes are generally applicable as well to the construction of constitutions)], and

WHEREAS, in accordance with these dictates, it is the Legislature's intention herein to harmonize and give meaningful effect to both Sections 1 and 7 of Article IX of the State Constitution, and

WHEREAS, litigants in Floridians for Constitutional Integrity, Inc., et al. v. State Board of Education and Board of Governors, Case No. 04-CA-3040, filed in the Second Judicial Circuit in and for Leon County, Florida, have alleged that the 2002 amendment so altered the State Constitution that the Legislature cannot enact laws controlling the policy or direction of the State University System, that the Board of Governors is not subject to legislative control, that the Board of Governors controls such public funds as tuition and student fees, federal contracts and grants, and that all authority over the State University System was transferred by the 2002 amendment to the Board of Governors subject only to legislative appropriation authority of only the state's general revenue, and

WHEREAS, on the contrary, the Florida Supreme Court stated that while the 2002 amendment interacts with Section 1 of Article IX, "it does not substantially affect or change" it [Advisory Opinion, Id. at 730], and

WHEREAS, it is the duty of the Florida Legislature to uphold Section 3 of Article II of the State Constitution and safeguard the powers of one branch of government from encroachments from entities of the other branches, and

WHEREAS, the Legislature has found that the powers of the Legislature in Section 1 of Article IX of the State Constitution and the powers of the Board of Governors in Section 7 of Article IX of the State Constitution must and can be defined in harmony to give each entity its full measure of constitutional responsibility, and

WHEREAS, Section 18 of Article III of the State Constitution confers upon the Legislature the obligation to prohibit conflict between the public duties and private interests of state officers, and

WHEREAS, the members of the statewide board of governors and local boards of trustees, as established in Section 7, Article IX of the State Constitution, are state officers and subject to the ethics laws of the State of Florida, and

WHEREAS, it is the intent of the Legislature to ensure good government practices in the operation of the education boards of this state, and

WHEREAS, the Legislature finds that lobbyists serving as members of state education boards present an actual or potential conflict of interest, and

WHEREAS, the Legislature finds that the Board of Governors and the local boards of trustees should reach their decisions free of political influence and in the best interests of the people of the State of Florida, NOW, THEREFORE,

On motion by Rep. Goodlette, the House concurred in Senate Amendment 1. The vote was:

Session Vote Sequence: 540

Speaker Bense in the Chair.

Yeas—111

Adams	Culp	Homan	Proctor
Allen	Cusack	Hukill	Quinones
Altman	Davis, D.	Jennings	Reagan
Ambler	Davis, M.	Johnson	Rice
Anderson	Dean	Jordan	Richardson
Antone	Detert	Justice	Rivera
Arza	Domino	Kendrick	Robaina
Attkisson	Evers	Kottkamp	Roberson
Ausley	Farkas	Kreegel	Ross
Barreiro	Fields	Kyle	Rubio
Baxley	Flores	Legg	Russell
Bean	Galvano	Littlefield	Sands
Bendross-Mindingall	Garcia	Llorente	Sansom
Bense	Gardiner	Lopez-Cantera	Seiler
Benson	Gelber	Machek	Simmons
Berfield	Gibson, A.	Mahon	Slosberg
Bilirakis	Gibson, H.	Mayfield	Smith
Bogdanoff	Glorioso	McInvale	Sobel
Bowen	Goldstein	Mealor	Stansel
Brandenburg	Goodlette	Murzin	Stargel
Brown	Gottlieb	Needelman	Taylor
Brummer	Grant	Negron	Traviesa
Brutus	Greenstein	Patterson	Troutman
Bullard	Grimsley	Peterman	Vana
Cannon	Harrell	Pickens	Waters
Carroll	Hasner	Planas	Williams
Clarke	Hays	Poppell	Zapata
Cretul	Holloway	Porth	

Nays—5

Bucher	Henriquez	Joyner	Ryan
Gannon			

Votes after roll call:
Yeas—Meadows

The question recurred on the passage of HB 1001. The vote was:

Session Vote Sequence: 541

Speaker Bense in the Chair.

Yeas—111

Adams	Bowen	Evers	Harrell
Allen	Brandenburg	Farkas	Hasner
Altman	Brown	Fields	Hays
Ambler	Brummer	Flores	Henriquez
Anderson	Brutus	Galvano	Holloway
Antone	Bullard	Garcia	Homan
Arza	Cannon	Gardiner	Hukill
Attkisson	Carroll	Gelber	Jennings
Barreiro	Clarke	Gibson, A.	Johnson
Baxley	Cretul	Gibson, H.	Jordan
Bean	Culp	Glorioso	Justice
Bendross-Mindingall	Cusack	Goldstein	Kendrick
Bense	Davis, D.	Goodlette	Kottkamp
Benson	Davis, M.	Gottlieb	Kreegel
Berfield	Dean	Grant	Kyle
Bilirakis	Detert	Greenstein	Legg
Bogdanoff	Domino	Grimsley	Littlefield

Llorente	Patterson	Rivera	Sobel
Lopez-Cantera	Peterman	Robaina	Stansel
Machek	Pickens	Roberson	Stargel
Mahon	Planas	Ross	Taylor
Mayfield	Poppell	Rubio	Traviesa
McInvale	Porth	Russell	Troutman
Meadows	Proctor	Sands	Vana
Mealor	Quinones	Sansom	Waters
Murzin	Reagan	Simmons	Williams
Needelman	Rice	Slosberg	Zapata
Negron	Richardson	Smith	

Nays—5

Ausley	Gannon	Joyner	Ryan
Bucher			

Votes after roll call:
Nays—Seiler

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

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1527, with amendments, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 1527—A bill to be entitled An act relating to disposition of unclaimed property; amending s. 717.106, F.S.; specifying communication by documented telephone contact to avoid a presumption of certain property being unclaimed; amending s. 717.1101, F.S.; decreasing a time period for a presumption of stock, equity interest, and certain debt of a business association being unclaimed; specifying criteria for certain other property of a business association being presumed unclaimed; amending s. 717.117, F.S.; revising requirements for notifying owners of inactive accounts; amending s. 717.118, F.S.; increasing a threshold amount for a requirement for an active attempt to notify owners of unclaimed property; amending s. 717.119, F.S.; revising provisions for disposal of proceeds of sales of unclaimed firearms or ammunition; amending s. 717.122, F.S.; providing for sale of unclaimed stock or certain equity interest under certain circumstances; amending s. 717.124, F.S.; revising requirements for making unclaimed property claims; amending s. 717.12404, F.S.; revising requirements for making claims on behalf of a business entity or trust; creating s. 717.12406, F.S.; providing definitions; amending s. 717.1241, F.S.; revising requirements and procedures for resolving conflicting claims; amending s. 717.1242, F.S.; requiring the ordering of estate or heirs to pay the Department of Financial Services certain costs and fees; amending s. 717.1243, F.S.; revising requirements and procedures for claims by beneficiaries of deceased owners of unclaimed property; creating s. 717.1245, F.S.; requiring petitioners for writs of garnishment to pay the department certain costs and fees in certain actions; amending s. 717.1311, F.S.; deleting a provision requiring certain record holders to pay certain estimated amounts relating to insufficient records; amending s. 717.1315, F.S.; revising requirements and procedures for retention of records by an owner's representative; amending s. 717.132, F.S.; providing for imposition of fines by a court instead of the department; amending s. 717.1322, F.S.; providing for civil enforcement by the department of certain violations; revising the department's authority to issue certain registration revocation orders; creating s. 717.1323, F.S.; specifying a prohibited practice; amending s. 717.1331, F.S.; authorizing the department to enforce subpoenas; amending s. 717.1333, F.S.; authorizing the estimation of certain amounts due from insufficient records; amending s. 717.135, F.S.; revising requirements for powers of attorney to recover property; specifying forms; specifying certain activities as not prohibited; prohibiting certain modifications to a power of attorney; amending s. 717.1351, F.S.; revising requirements for contracts to acquire ownership of or entitlement to property; specifying forms; specifying certain activities as not prohibited; prohibiting certain modifications to an agreement; providing rulemaking authority to the department to specify what evidence may identify a seller; creating s. 717.1381, F.S.; specifying certain powers of attorney and agreements to be void as contrary to public policy; prohibiting entering into such agreements; providing application; amending s. 717.1400, F.S.; revising registration requirements; providing an effective date.

(Amendment Bar Code: 312064)

Senate Amendment 1 (with title amendment)—On line 65, insert:

Section 1. Subsections (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), and (21) of section 717.101, Florida Statutes, are amended to read:

717.101 Definitions.--As used in this chapter, unless the context otherwise requires:

(11) "Health care provider" means any state-licensed entity that provides and receives payment for health care services. These entities include, but are not limited to, hospitals, outpatient centers, physician practices, and skilled nursing facilities.

(12)~~(11)~~ "Holder" means a person, wherever organized or domiciled, who is:

(a) In possession of property belonging to another;

(b) A trustee in case of a trust; or

(c) Indebted to another on an obligation.

(13)~~(12)~~ "Insurance company" means an association, corporation, or fraternal or mutual benefit organization, whether or not for profit, which is engaged in providing insurance coverage, including, by way of illustration and not limitation, accident, burial, casualty, credit life, contract performance, dental, fidelity, fire, health, hospitalization, illness, life (including endowments and annuities), malpractice, marine, mortgage, surety, and wage protection insurance.

(14)~~(13)~~ "Intangible property" includes, by way of illustration and not limitation:

(a) Moneys, checks, drafts, deposits, interest, dividends, and income.

(b) Credit balances, customer overpayments, security deposits and other instruments as defined by chapter 679, refunds, unpaid wages, unused airline tickets, and unidentified remittances.

(c) Stocks, and other intangible ownership interests in business associations.

(d) Moneys deposited to redeem stocks, bonds, bearer bonds, original issue discount bonds, coupons, and other securities, or to make distributions.

(e) Amounts due and payable under the terms of insurance policies.

(f) Amounts distributable from a trust or custodial fund established under a plan to provide any health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefit.

(15)~~(14)~~ "Last known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail. For the purposes of identifying, reporting, and remitting property to the department which is presumed to be unclaimed, "last known address" includes any partial description of the location of the apparent owner sufficient to establish the apparent owner was a resident of this state at the time of last contact with the apparent owner or at the time the property became due and payable.

(16)~~(15)~~ "Lawful charges" means charges against dormant accounts that are authorized by statute for the purpose of offsetting the costs of maintaining the dormant account.

(17) "Managed care payor" means a health care plan that has a defined

system of selecting and limiting health care providers as evidenced by a managed care contract with the health care providers. These plans include, but are not limited to, managed care health insurance companies and health maintenance organizations.

(18)~~(16)~~ "Owner" means a depositor in the case of a deposit, a beneficiary in case of a trust or a deposit in trust, or a payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to this chapter or his or her legal representative.

(19)~~(17)~~ "Public corporation" means a corporation created by the state, founded and owned in the public interest, supported by public funds, and governed by those deriving their power from the state.

(20)~~(18)~~ "Reportable period" means the calendar year ending December 31 of each year.

(21)~~(19)~~ "State," when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States.

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

(23)~~(21)~~ "Utility" means a person who owns or operates, for public use, any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

(Redesignate subsequent sections.)

And the title is amended as follows:
On line 2, after the semicolon,

insert:
amending s. 717.101, F.S.; providing definitions;

(Amendment Bar Code: 132506)

Senate Amendment 2 (with title amendment)—Lines 124-183, delete those lines

and insert:

Section 3. Subsections (3) and (4) of subsection (7) of section 717.117, Florida Statutes, are amended, and paragraph (c) is added to subsection (7) of that section, to read:

717.117 Report of unclaimed property.--

(3) The report must be filed before May 1 of each year. The ~~Such~~ report shall apply to the preceding calendar year. The department may impose and collect a penalty of $10 per day up to a maximum of $500 for the failure to timely report or the failure to include in a report information required by this chapter. The penalty shall be remitted to the department within 30 days after the date of the notification to the holder that the penalty is due and owing. As necessary for proper administration of this chapter, the department may waive any penalty due with appropriate justification. On written request by any person required to file a report and upon a showing of good cause, the department may postpone the reporting date. The department must provide information contained in a report filed with the department to any person requesting a copy of the report or information contained in a report, to the extent the information requested is not confidential, within 45 ~~90~~ days after the report has been processed and added to the unclaimed property database subsequent to a determination that the report is accurate and that the reported property is the same as the remitted property.

(4) Holders of inactive accounts having a value of $50 or more shall use due diligence to locate apparent owners. Not more than 120 days and not less than 60 days prior to filing the report required by this section, the holder in possession of property presumed unclaimed and subject to custody as unclaimed property under this chapter shall send written notice to the apparent owner at the apparent owner's last known address informing the apparent owner that the holder is in possession of property subject to this chapter, if the holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate.

~~(a) When an owner's account becomes inactive, the holder shall conduct at least one search for the apparent owner using due diligence. For purposes of this section, an account is inactive if 2 years have transpired after the last owner initiated account activity, if 2 years have transpired after the expiration date on the instrument or contract, or if 2 years have transpired since first-class mail has been returned as undeliverable.~~

~~(b) Within 180 days after an account becomes inactive, the holder shall conduct a search to locate the apparent owner of the property. The holder may satisfy such requirement by conducting one annual search for the owners of all accounts which have become inactive during the prior year.~~

~~(c) Within 30 days after receiving updated address information, the holder shall provide notice by telephone or first-class mail to the current address notifying the apparent owner that the holder is in possession of property which is presumed unclaimed and may be remitted to the department. The notice shall also provide the apparent owner with the address or the telephone number of an office where the apparent owner may claim the property or reestablish the inactive account.~~

~~(d) The account shall be presumed unclaimed if the holder is not able to contact the apparent owner by telephone, the first-class mail notice is returned to the holder as undeliverable, or the apparent owner does not contact the holder in response to the first-class mail notice.~~

(7)

(c) This section does not apply to credit balances, overpayments, refunds, or outstanding checks owed by a health care provider to a managed care payor with whom the health care provider has a managed care contract, provided that the credit balances, overpayments, refunds, or outstanding checks become due and owing pursuant to the managed care contract.

And the title is amended as follows:
On line 11, after the semicolon,

insert:

providing an additional exception to the reporting of unclaimed property;

On motion by Rep. Lopez-Cantera, the House concurred in Senate Amendments 1 and 2. The question recurred on the passage of HB 1527. The vote was:

Session Vote Sequence: 542

Speaker Bense in the Chair.

Yeas—115

Adams	Bean	Brutus	Dean
Allen	Bendross-Mindingall	Bucher	Detert
Altman	Bense	Bullard	Domino
Ambler	Benson	Cannon	Evers
Anderson	Berfield	Carroll	Farkas
Antone	Bilirakis	Clarke	Fields
Arza	Bogdanoff	Cretul	Flores
Attkisson	Bowen	Culp	Galvano
Ausley	Brandenburg	Cusack	Garcia
Barreiro	Brown	Davis, D.	Gardiner
Baxley	Brummer	Davis, M.	Gelber

Gibson, A.	Jordan	Needelman	Ryan
Gibson, H.	Joyner	Negron	Sands
Glorioso	Justice	Patterson	Sansom
Goldstein	Kendrick	Peterman	Seiler
Goodlette	Kottkamp	Pickens	Simmons
Gottlieb	Kreegel	Planas	Slosberg
Grant	Kyle	Poppell	Smith
Greenstein	Legg	Porth	Sobel
Grimsley	Littlefield	Proctor	Stansel
Harrell	Llorente	Quinones	Stargel
Hasner	Lopez-Cantera	Reagan	Taylor
Hays	Machek	Rice	Traviesa
Henriquez	Mahon	Richardson	Troutman
Holloway	Mayfield	Robaina	Vana
Homan	McInvale	Roberson	Waters
Hukill	Meadows	Ross	Williams
Jennings	Mealor	Rubio	Zapata
Johnson	Murzin	Russell	

Nays—None

Votes after roll call:
Yeas—Gannon

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

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1922 by the required Constitutional two-thirds vote of the members of the Senate and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Community Affairs and Senators Sebesta and Miller—

CS for SB 1922—A bill to be entitled An act relating to public-records and public-meetings exemptions; amending s. 112.324, F.S.; providing an exemption from public-records requirements for a complaint of an alleged violation of part III of chapter 112, F.S., the Code of Ethics for Public Officers and Employees, or any other alleged breach of the public trust within the jurisdiction of a Commission on Ethics and Public Trust established by a municipality and records relating to such complaint or to any preliminary investigation held by the commission; providing an exemption from public-meetings requirements for any proceeding conducted by the commission pursuant to such complaint or preliminary investigation; providing conditions for termination of the exemptions; providing for review and repeal under the Open Government Sunset Review Act; providing a statement of public necessity; providing an effective date.

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

Session Vote Sequence: 543

Speaker Bense in the Chair.

Yeas—111

Adams	Ambler	Arza	Barreiro
Allen	Anderson	Attkisson	Baxley
Altman	Antone	Ausley	Bean
Bendross-Mindingall	Flores	Kottkamp	Richardson
Bense	Galvano	Kreegel	Rivera
Benson	Gannon	Kyle	Robaina
Berfield	Garcia	Legg	Roberson
Bilirakis	Gardiner	Littlefield	Ross
Bogdanoff	Gelber	Llorente	Rubio
Bowen	Gibson, A.	Lopez-Cantera	Russell
Brandenburg	Gibson, H.	Mahon	Ryan
Brown	Goodlette	Mayfield	Sands
Bucher	Gottlieb	McInvale	Sansom
Bullard	Grant	Meadows	Seiler
Cannon	Greenstein	Mealor	Simmons
Carroll	Grimsley	Murzin	Slosberg
Clarke	Harrell	Needelman	Smith
Cretul	Hasner	Negron	Sobel
Culp	Hays	Patterson	Stansel
Cusack	Henriquez	Peterman	Stargel
Davis, D.	Holloway	Pickens	Taylor
Davis, M.	Homan	Planas	Traviesa
Dean	Hukill	Poppell	Troutman
Detert	Jennings	Porth	Vana
Domino	Johnson	Proctor	Waters
Evers	Jordan	Quinones	Williams
Farkas	Joyner	Reagan	Zapata
Fields	Justice	Rice	

Nays—1

Brummer

Votes after roll call:
Yeas—Brutus, Glorioso, Goldstein, Kendrick, Machek

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

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 955, with amendments, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 955—A bill to be entitled An act relating to waterfront property; amending s. 163.3177, F.S.; requiring the future land use plan element of a local comprehensive plan for a coastal county to include criteria to encourage the preservation of recreational and commercial working waterfronts; including public access to waterways within those items indicated in a recreation and open space element; amending s. 163.3178, F.S.; providing requirements for the shoreline use component of a coastal management element with respect to recreational and commercial working waterfronts; amending s. 163.3187, F.S.; including areas designated as rural areas of critical economic concern in an exemption for certain small scale amendments from a limit on the frequency of amendments to the comprehensive plan of a county or a municipality; increasing various acreage limitations governing eligibility for such exemption for a small scale amendment within such an area; requiring certification of the amendment to the Office of Tourism, Trade, and Economic Development; requiring public review of certain property; amending s. 163.3246, F.S.; revising provisions for the local government comprehensive planning certification program; providing for certain municipalities to be considered certified; requiring the state land planning agency to provide a written notice of certification; specifying components of such notice; requiring local governments to submit monitoring reports to the state land planning agency; providing exemptions from certain development-of-regional-impact reviews; amending s. 253.002, F.S.;

removing an obsolete reference; revising the responsibilities of the Department of Agriculture and Consumer Services for aquaculture activities; amending s. 253.03, F.S.; requiring the Board of Trustees of the Internal Improvement Trust Fund to encourage certain uses for sovereign submerged lands; amending s. 253.67, F.S.; clarifying the definition of "aquaculture"; amending s. 253.68, F.S.; providing authority to the board for certain aquaculture activities; providing a definition; requiring the board to establish certain guidelines by rule; amending s. 253.74, F.S.; providing penalties for certain unauthorized aquaculture activities; amending s. 253.75, F.S.; revising the responsibilities of the board with regard to certain aquaculture activities; establishing the Waterfronts Florida Program within the Department of Community Affairs; providing definitions; requiring that the program implement the Waterfronts Florida Partnership Program in coordination with the Department of Environmental Protection; authorizing the Department of Community Affairs to provide financial assistance to certain local governments; requiring the Department of Environmental Protection and water management districts to adopt programs to expedite the processing of permits for certain projects; requiring the Department of Environmental Protection, in coordination with the Fish and Wildlife Conservation Commission, to study the use of state parks for recreational boating; requiring that the department make recommendations to the Governor and the Legislature; amending s. 328.72, F.S.; revising the distribution of vessel registration fees; providing for a portion of the fees to be designated for certain trust funds; providing for a grant program for public launching facilities; providing priority consideration for certain counties; requiring certain counties to provide an annual report to the Fish and Wildlife Conservation Commission; requiring the commission to provide exemptions for certain counties; creating s. 342.07, F.S.; enunciating the state's interest in maintaining recreational and commercial working waterfronts; defining the term "recreational and commercial working waterfront"; creating ss. 197.303-197.3047, F.S.; authorizing county commissions to adopt tax deferral ordinances for recreational and commercial working waterfront properties; requiring bonding periods effective prior the deferral to remain in effect for certain properties; providing requirements for deferral notification and application for certain properties; providing a tax deferral for ad valorem taxes and non-ad valorem assessments authorized to be deferred by ordinance and levied on recreational and commercial working waterfronts; providing certain exceptions; specifying the rate of the deferral; providing that the taxes, assessments, and interest deferred constitute a prior lien on the property; providing an application process; providing notice requirements; providing for a decision of the tax collector to be appealed to the value adjustment board; providing for calculating the deferral; providing requirements for deferred payment tax certificates; providing for the deferral to cease under certain circumstances; requiring notice to the tax collector; requiring payment of deferred taxes, assessments, and interest under certain circumstances; authorizing specified parties to make a prepayment of deferred taxes; providing for distribution of payments; providing for construction of provisions authorizing the deferments; providing penalties; providing for a penalty to be appealed to the value adjustment board; providing an effective date.

(Amendment Bar Code: 254830)

Senate Amendment 1 (with title amendment)—Between lines 926 and 927, insert:

Section 17. Paragraph (l) is added to subsection (24) of section 380.06, Florida Statutes, to read:

380.06 Developments of regional impact.--

(24) STATUTORY EXEMPTIONS.--

(l) The establishment, relocation, or expansion of any military installation as defined in s. 163.3175, is exempt from this section.

(Redesignate subsequent sections.)

And the title is amended as follows:
On line 96, after the semicolon,

insert:

providing an exemption;

(Amendment Bar Code: 432534)

Senate Amendment 2 (with title amendment)—On line 214, through line 370, delete those lines and redesignate subsequent sections.

And the title is amended as follows:
On line 11, through line 29, delete those lines

and insert:

recreational and commercial working waterfronts;

(Amendment Bar Code: 514354)

Senate Amendment 3 (with title amendment)—Between lines 926 and 927, insert:

Section 17. Subsections (10), (11), and (12) of section 163.3246, Florida Statutes, are renumbered as subsections (12), (13), and (14), respectively, and new subsections (10) and (11) are added to said section to read:

163.3246 Local government comprehensive planning certification program.--

(10) Notwithstanding subsections (2), (4), (5), (6), and (7), any municipality designated as a rural area of critical economic concern pursuant to s. 288.0656 which is located within a county eligible to levy the Small County Surtax under s. 212.055(3) shall be considered certified during the effectiveness of the designation of rural area of critical economic concern. The state land planning agency shall provide a written notice of certification to the local government of the certified area, which shall be considered final agency action subject to challenge under s. 120.569. The notice of certification shall include the following components:

(a) The boundary of the certification area.

(b) A requirement that the local government submit either an annual or biennial monitoring report to the state land planning agency according to the schedule provided in the written notice. The monitoring report shall, at a minimum, include the number of amendments to the comprehensive plan adopted by the local government, the number of plan amendments challenged by an affected person, and the disposition of those challenges.

(11) If the local government of an area described in subsection (10) does not request that the state land planning agency review the developments of regional impact that are proposed within the certified area, an application for approval of a development order within the certified area shall be exempt from review under s. 380.06, subject to the following:

(a) Concurrent with filing an application for development approval with the local government, a developer proposing a project that would have been subject to review pursuant to s. 380.06 shall notify in writing the regional planning council with jurisdiction.

(b) The regional planning council shall coordinate with the developer and the local government to ensure that all concurrency requirements as well as federal, state, and local environmental permit requirements are met.

(Redesignate subsequent sections.)

And the title is amended as follows:
On line 96, after the semicolon,

insert:

amending s. 163.3246, F.S.; revising provisions for the local government comprehensive planning certification program; providing for certain municipalities to be considered certified; requiring the state land planning agency to provide a written notice of certification; specifying components of such notice; requiring local governments to submit monitoring reports to the state land planning agency; providing exemptions from certain development-of-regional-impact reviews;

On motion by Rep. Berfield, the House concurred in Senate Amendments 1, 2, and 3. The question recurred on the passage of HB 955. The vote was:

Session Vote Sequence: 544

Speaker Bense in the Chair.

Yeas—114

Adams	Cusack	Homan	Quinones
Allen	Davis, D.	Hukill	Reagan
Altman	Davis, M.	Jennings	Rice
Ambler	Dean	Johnson	Richardson
Antone	Detert	Jordan	Rivera
Arza	Domino	Justice	Robaina
Attkisson	Evers	Kendrick	Roberson
Ausley	Farkas	Kreegel	Ross
Barreiro	Fields	Kyle	Rubio
Baxley	Flores	Legg	Russell
Bean	Galvano	Littlefield	Ryan
Bendross-Mindingall	Gannon	Llorente	Sands
Bense	Garcia	Lopez-Cantera	Sansom
Benson	Gardiner	Machek	Seiler
Berfield	Gelber	Mahon	Simmons
Bilirakis	Gibson, A.	Mayfield	Slosberg
Bogdanoff	Gibson, H.	McInvale	Smith
Bowen	Glorioso	Meadows	Sobel
Brandenburg	Goldstein	Mealor	Stansel
Brown	Goodlette	Murzin	Stargel
Brummer	Gottlieb	Needelman	Taylor
Brutus	Grant	Negron	Traviesa
Bucher	Greenstein	Patterson	Troutman
Bullard	Grimsley	Peterman	Vana
Cannon	Harrell	Pickens	Waters
Carroll	Hasner	Planas	Williams
Clarke	Hays	Poppell	Zapata
Cretul	Henriquez	Porth	
Culp	Holloway	Proctor	

Nays—None

Votes after roll call:
Yeas—Anderson, Kottkamp

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

On motion by Rep. Johnson, consideration of **CS for CS for CS for SB 360** was temporarily postponed.

On motion by Rep. Goodlette, the House moved to the consideration of CS for CS for SB 1322 on the Order of Business of Bills and Joint Resolutions on Third Reading to return to the order of Senate Messages upon completion of consideration of the bill.

CS for CS for SB 1322—A bill to be entitled An act relating to the Public Service Commission; creating the Committee on Public Service Commission Oversight as a standing joint committee of the Legislature; providing for its membership, powers, and duties; amending s. 350.001, F.S.; requiring that the commission perform its duties independently; specifying that the Governor has no planning or budgetary authority with respect to the commission; specifying that the Governor and the Department of Management Services have no authority over the commission's employees; amending s. 350.031, F.S.; authorizing the Florida Public Service Commission Nominating Council to make expenditures to advertise a vacancy on the council or the commission; requiring that the Committee on Public Service Commission Oversight provide a nominee for recommendation to the Governor for appointment to the Public Service Commission; providing procedures; amending s. 350.041, F.S.; clarifying the prohibition against accepting gifts with respect to its application to commissioners attending conferences; requiring that a penalty be imposed against a person who gives a commissioner a prohibited gift; requiring that commissioners avoid impropriety and act in a manner that promotes confidence in the commission; prohibiting a commissioner from soliciting any thing of value, either directly or indirectly, from any public utility, its affiliate, or any party; amending s. 350.042, F.S.; requiring that a penalty be imposed against a person involved in a prohibited ex parte communication with a commissioner; amending s. 350.061, F.S.; requiring that the Committee on Public Service Commission Oversight rather than the Joint Legislative Auditing Committee appoint the Public Counsel; providing for biennial reconfirmation rather than annual; requiring that the Public Counsel perform his or her duties independently; amending s. 350.0614, F.S.; requiring that the Committee on Public Service Commission Oversight rather than the Joint Legislative Auditing Committee oversee expenditures of the Public Counsel; amending s. 120.80, F.S.; requiring that the commission refer certain matters affecting the substantial interest of a utility to the Division of Administrative Hearings so that an administrative judge may be assigned to conduct a hearing and enter a recommended order; providing an effective date.

—was read the third time by title.

Reconsideration

On motion by Rep. Littlefield, by the required two-thirds vote, the House reconsidered the vote by which **Amendment 1**, as amended, was adopted on May 4 and engrossed as shown below.

The Commerce Council offered the following:

(Amendment Bar Code: 932271)

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

Section 1. Committee on Public Service Commission Oversight; creation; membership; powers and duties.--

(1) There is created a standing joint committee of the Legislature, designated the Committee on Public Service Commission Oversight, and composed of 12 members appointed as follows: 6 members of the Senate appointed by the President of the Senate, 2 of whom must be members of the minority party; and 6 members of the House of Representatives appointed by the Speaker of the House of Representatives, 2 of whom must be members of the minority party. The terms of members shall be for 2 years and shall run from the organization of one Legislature to the organization of the next Legislature. The President shall appoint the chair of the committee in even-numbered years and the vice chair in odd-numbered years, and the Speaker of the House of Representatives shall appoint the chair of the committee in odd-numbered years and the vice chair in even-numbered years, from among the committee membership. Vacancies shall be filled in the same manner as the original appointment.

Members shall serve without additional compensation, but shall be reimbursed for expenses.

(2) The committee shall be governed by joint rules of the Senate and the House of Representatives which shall remain in effect until repealed or amended by concurrent resolution.

(3) The committee shall:

(a) Recommend to the Governor nominees to fill a vacancy on the Public Service Commission, as provided by general law; and

(b) Appoint a Public Counsel as provided by general law.

(4) The committee is authorized to file a complaint with the Commission on Ethics alleging a violation of chapter 350, Florida Statutes, by a commissioner, former commissioner, former commission employee, or member of the Public Service Commission Nominating Council.

(5) The committee will not have a permanent staff, but the President of the Senate and the Speaker of the House of Representatives shall select staff members from among existing legislative staff, when and as needed.

Section 2. Section 350.001, Florida Statutes, is amended to read:

350.001 Legislative intent.--The Florida Public Service Commission has been and shall continue to be an arm of the legislative branch of government. It is the desire of the Legislature that the Governor participate in the appointment process of commissioners to the Public Service Commission. The Legislature accordingly delegates to the Governor a limited authority with respect to the Public Service Commission by authorizing him or her to participate in the selection of members only ~~from the list provided by the Florida Public Service Commission Nominating Council~~ in the manner prescribed by s. 350.031.

Section 3. Section 350.031, Florida Statutes, is amended to read:

350.031 Florida Public Service Commission Nominating Council.--

(1) There is created a Florida Public Service Commission Nominating Council consisting of nine members. At least one member of the council must be 60 years of age or older. Three members, including one member of the House of Representatives, shall be appointed by and serve at the pleasure of the Speaker of the House of Representatives; three members, including one member of the Senate, shall be appointed by and serve at the pleasure of the President of the Senate; and three members shall be selected and appointed by a majority vote of the other six members of the council. All terms shall be for 4 years except those members of the House and Senate, who shall serve 2-year terms concurrent with the 2-year elected terms of House members. Vacancies on the council shall be filled for the unexpired portion of the term in the same manner as original appointments to the council. A member may not be reappointed to the council, except for a member of the House of Representatives or the Senate who may be appointed to two 2-year terms or a person who is appointed to fill the remaining portion of an unexpired term.

(2)(a) No member or spouse shall be the holder of the stocks or bonds of any company, other than through ownership of shares in a mutual fund, regulated by the commission, or any affiliated company of any company regulated by the commission, or be an agent or employee of, or have any interest in, any company regulated by the commission or any affiliated company of any company regulated by the commission, or in any firm which represents in any capacity either companies which are regulated by the commission or affiliates of companies regulated by the commission. As a condition of appointment to the council, each appointee shall affirm to the Speaker and the President his or her qualification by the following certification: "I hereby certify that I am not a stockholder, other than through ownership of shares in a mutual fund, in any company regulated by the commission or in any affiliate of a company regulated by the commission, nor in any way, directly or indirectly, in the employment of, or engaged in the management of any company regulated by the commission or any affiliate of a company regulated by the commission, or in any firm which represents in any capacity either companies which are regulated by the commission or affiliates of companies regulated by the commission."

This certification is made as condition to appointment to the Florida Public Service Commission Nominating Council.

(b) A member of the council may be removed by the Speaker of the House of Representatives and the President of the Senate upon a finding by the Speaker and the President that the council member has violated any provision of this subsection or for other good cause.

(c) If a member of the council does not meet the requirements of this subsection, the President of the Senate or the Speaker of the House of Representatives, as appropriate, shall appoint a legislative replacement.

(3) A majority of the membership of the council may conduct any business before the council. All meetings and proceedings of the council shall be staffed by the Office of Legislative Services and shall be subject to the provisions of ss. 119.07 and 286.011. Members of the council are entitled to receive per diem and travel expenses as provided in s. 112.061, which shall be funded by the Florida Public Service Regulatory Trust Fund. Applicants invited for interviews before the council may, in the discretion of the council, receive per diem and travel expenses as provided in s. 112.061, which shall be funded by the Florida Public Service Regulatory Trust Fund. The council shall establish policies and procedures to govern the process by which applicants are nominated.

(4) The council may spend a nominal amount, not to exceed $10,000, to advertise a vacancy on the council, which shall be funded by the Florida Public Service Regulatory Trust Fund.

(5)~~(4)~~ A person may not be nominated to the Committee on Public Service Commission Oversight ~~Governor~~ until the council has determined that the person is competent and knowledgeable in one or more fields, which shall include, but not be limited to: public affairs, law, economics, accounting, engineering, finance, natural resource conservation, energy, or another field substantially related to the duties and functions of the commission. The commission shall fairly represent the above-stated fields. Recommendations of the council shall be nonpartisan.

(6)~~(5)~~ It is the responsibility of the council to nominate to the Committee on Public Service Commission Oversight six ~~Governor not fewer than three~~ persons for each vacancy occurring on the Public Service Commission. The council shall submit the recommendations to the committee ~~Governor~~ by August 1 ~~October 1~~ of those years in which the terms are to begin the following January, or within 60 days after a vacancy occurs for any reason other than the expiration of the term.

(7)~~(6)~~ The Committee on Public Service Commission Oversight ~~Governor~~ shall select from the list of nominees provided by the nominating council three persons for recommendation to the Governor for appointment to the commission. The recommendations must be provided to the Governor within 45 days after receipt of the list of nominees. The Governor shall fill a vacancy occurring on the Public Service Commission by appointment of one of the applicants nominated by the council only after a background investigation of the ~~such~~ applicant has been conducted by the Florida Department of Law Enforcement. If the Governor has not made an appointment within 30 days after the receipt of the recommendation ~~by December 1 to fill a vacancy for a term to begin the following January~~, then the council shall immediately initiate the nominating process in accordance with this section. The council shall include in the process all new applicants and all previous applicants for this vacancy. The council must, within 30 days after the Governor's rejection of the previous recommendations or failure to timely make an appointment, submit to the committee a list of six persons for each vacancy. The committee must, within 30 days after receipt, select three nominees for recommendation to the Governor for appointment to the commission. If the Governor rejects the recommendation or fails to make an appointment within 30 days after receipt of the recommendation, the council shall immediately initiate the nominating process again with the time periods applicable.~~, by majority vote, shall appoint by December 31 one person from the applicants previously nominated to the Governor to fill the vacancy. If the Governor has not made the appointment to fill a vacancy occurring for any reason other than the expiration of the term by the 60th day following receipt of the nominations of the council, the council by majority vote shall appoint within 30 days thereafter one

~~person from the applicants previously nominated to the Governor to fill the vacancy.~~

(8)~~(7)~~ Each appointment to the Public Service Commission shall be subject to confirmation by the Senate during the next regular session after the vacancy occurs. If the Senate refuses to confirm or rejects the Governor's appointment, the council shall initiate, in accordance with this section, the nominating process within 30 days.

Section 4. Subsection (2) of section 350.041, Florida Statutes, is amended to read:

350.041 Commissioners; standards of conduct.--

(2) STANDARDS OF CONDUCT.--

(a) A commissioner may not accept anything from any business entity which, either directly or indirectly, owns or controls any public utility regulated by the commission, from any public utility regulated by the commission, or from any business entity which, either directly or indirectly, is an affiliate or subsidiary of any public utility regulated by the commission. A commissioner may attend conferences and associated meals and events that are generally available to all conference participants without payment of any fees in addition to the conference fee. Additionally, while attending a conference, a commissioner may attend meetings, meals, or events that are not sponsored, in whole or in part, by any representative of any public utility regulated by the commission and that are limited to commissioners only, committee members, or speakers if the commissioner is a member of a committee of the association of regulatory agencies that organized the conference or is a speaker at the conference. It is not a violation of this paragraph for a commissioner to attend a conference for which conference participants who are employed by a utility regulated by the commission have paid a higher conference registration fee than the commissioner, or to attend a meal or event that is generally available to all conference participants without payment of any fees in addition to the conference fee and that is sponsored, in whole or in part, by a utility regulated by the commission. If, during the course of an investigation by the Commission on Ethics into an alleged violation of this paragraph, allegations are made as to the identity of the person giving or providing the prohibited gift, that person must be given notice and an opportunity to participate in the investigation and relevant proceedings to present a defense. If the Commission on Ethics determines that the person gave or provided a prohibited gift, the commission may sanction the person from appearing before the commission or otherwise representing anyone before the commission for a period of up to 2 years.

(b) A commissioner may not accept any form of employment with or engage in any business activity with any business entity which, either directly or indirectly, owns or controls any public utility regulated by the commission, any public utility regulated by the commission, or any business entity which, either directly or indirectly, is an affiliate or subsidiary of any public utility regulated by the commission.

(c) A commissioner may not have any financial interest, other than shares in a mutual fund, in any public utility regulated by the commission, in any business entity which, either directly or indirectly, owns or controls any public utility regulated by the commission, or in any business entity which, either directly or indirectly, is an affiliate or subsidiary of any public utility regulated by the commission. If a commissioner acquires any financial interest prohibited by this section during his or her term of office as a result of events or actions beyond the commissioner's control, he or she shall immediately sell such financial interest or place such financial interest in a blind trust at a financial institution. A commissioner may not attempt to influence, or exercise any control over, decisions regarding the blind trust.

(d) A commissioner may not accept anything from a party in a proceeding currently pending before the commission. If, during the course of an investigation by the Commission on Ethics into an alleged violation of this subsection, allegations are made as to the identity of the person giving or providing the prohibited gift, that person must be given notice and an opportunity to participate in the investigation and relevant proceedings to present a defense. If the Commission on Ethics determines that the person gave or provided a prohibited gift, the commission may sanction the person from appearing before the commission or otherwise representing anyone before the commission for a period of up to 2 years.

(e) A commissioner may not serve as the representative of any political party or on any executive committee or other governing body of a political party; serve as an executive officer or employee of any political party, committee, organization, or association; receive remuneration for activities on behalf of any candidate for public office; engage on behalf of any candidate for public office in the solicitation of votes or other activities on behalf of such candidacy; or become a candidate for election to any public office without first resigning from office.

(f) A commissioner, during his or her term of office, may not make any public comment regarding the merits of any proceeding under ss. 120.569 and 120.57 currently pending before the commission.

(g) A commissioner may not conduct himself or herself in an unprofessional manner at any time during the performance of his or her official duties.

(h) A commissioner must avoid impropriety in all of his or her activities and must act at all times in a manner that promotes public confidence in the integrity and impartiality of the commission.

(i) A commissioner may not directly or indirectly, through staff or other means, solicit any thing of value from any public utility regulated by the commission, or from any business entity that, whether directly or indirectly, is an affiliate or subsidiary of any public utility regulated by the commission, or from any party appearing in a proceeding considered by the commission in the last 2 years.

Section 5. Subsection (7) of section 350.042, Florida Statutes, is amended to read:

350.042 Ex parte communications.--

(7)(a) It shall be the duty of the Commission on Ethics to receive and investigate sworn complaints of violations of this section pursuant to the procedures contained in ss. 112.322-112.3241.

(b) If the Commission on Ethics finds that there has been a violation of this section by a public service commissioner, it shall provide the Governor and the Florida Public Service Commission Nominating Council with a report of its findings and recommendations. The Governor is authorized to enforce the findings and recommendations of the Commission on Ethics, pursuant to part III of chapter 112.

(c) If a commissioner fails or refuses to pay the Commission on Ethics any civil penalties assessed pursuant to the provisions of this section, the Commission on Ethics may bring an action in any circuit court to enforce such penalty.

(d) If, during the course of an investigation by the Commission on Ethics into an alleged violation of this paragraph, allegations are made as to the identity of the person who participated in the ex parte communication, that person must be given notice and an opportunity to participate in the investigation and relevant proceedings to present a defense. If the Commission on Ethics determines that the person participated in the ex parte communication, the commission may sanction the person from appearing before the commission or otherwise representing anyone before the commission for a period of up to 2 years.

Section 6. Subsection (1) of section 350.061, Florida Statutes, is amended to read:

350.061 Public Counsel; appointment; oath; restrictions on Public Counsel and his or her employees.--

(1) The Committee on Public Service Commission Oversight ~~Joint Legislative Auditing Committee~~ shall appoint a Public Counsel by majority vote of the members of the committee to represent the general public of Florida before the Florida Public Service Commission. The Public Counsel shall be an attorney admitted to practice before the Florida Supreme Court and shall serve at the pleasure of the ~~Joint Legislative Auditing~~ Committee on Public Service Commission Oversight, subject to biennial ~~annual~~ reconfirmation by the committee. The Public Counsel shall perform his or her duties independently. Vacancies in the office shall be filled in the same manner as the original

appointment.

Section 7. Subsection (2) of section 350.0614, Florida Statutes, is amended to read:

350.0614 Public Counsel; compensation and expenses.--

(2) The Legislature ~~hereby~~ declares and determines that the Public Counsel is under the legislative branch of government within the intention of the legislation as expressed in chapter 216, and no power shall be in the Executive Office of the Governor or its successor to release or withhold funds appropriated to it, but the same shall be available for expenditure as provided by law and the rules or decisions of the ~~Joint Auditing~~ Committee on Public Service Commission Oversight.

Section 8. Communications services offered by governmental entities.--

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

(a) "Advanced service" means high-speed-Internet-access-service capability in excess of 200 kilobits per second in the upstream or the downstream direction, including any service application provided over the high-speed-access service or any information service as defined in 47 U.S.C. s. 153(20).

(b) "Cable service" has the same meaning as in 47 U.S.C. s. 522(6).

(c) "Communications services" includes any "advanced service," "cable service," or "telecommunications service" and shall be construed in the broadest sense.

(d) "Enterprise fund" means a separate fund to account for the operation of communications services by a local government, established and maintained in accordance with generally accepted accounting principles as prescribed by the Governmental Accounting Standards Board.

(e) "Governmental entity" means any political subdivision as defined in section 1.01, Florida Statutes, including any county, municipality, special district, school district, or utility authority or other authority or any instrumentality, agency, unit, or department thereof. The term does not include an independent special district created before 1970 which has been granted express legislative authority to provide a communications service and which does not sell a communications service outside its district boundaries.

(f) "Provide," "providing," "provision," or "provisioning" means offering or supplying a communications service for a fee or other consideration to a person, including any portion of the public or a private provider, but does not include service by a governmental entity to itself or to any other governmental law enforcement or governmental emergency services entity.

(g) "Subscriber" means a person who receives a communications service.

(h) "Telecommunications services" means the transmission of signs, signals, writing, images, sounds, messages, data, or other information of the user's choosing, by wire, radio, light waves, or other electromagnetic means, without change in the form or content of the information as sent and received by the user and regardless of the facilities used, including, without limitation, wireless facilities.

(2)(a) Prior to a proposal to provide any provision of communications services, a governmental entity shall hold no less than two public hearing not less than 30 days apart. At least 30 days before the first of the two public hearings, the governmental entity shall give notice of the hearing in the predominant newspaper of general circulation in the area considered for service. At least 40 days before the first public hearing, the governmental entity shall electronically provide notice to the Department of Revenue and the Public Service Commission, which shall post the notice on the department's and the commission's website to be available to the public. The Department of Revenue shall also send the notice by United States Postal Service to the known addresses for all dealers of communications services registered with the department under chapter 202, Florida Statutes, or provide an electronic notification, if the means are available, within 10 days after receiving the notice. The notice shall include the time and place of the hearings and shall state that the purpose of the hearings is to consider whether the governmental entity will provide communications services. The notice shall include, at a minimum, the geographic areas proposed to be served by the governmental entity and the services, if any, which the governmental entity believes are not currently being adequately provided. The notice shall also state that any dealer who wishes to do so may appear and be heard at the public hearings.

(b) At a public hearing required by this subsection, a governmental entity shall, at a minimum, consider:

1. Whether the service that is proposed to be provided is currently being offered in the community and, if so, whether the service is generally available throughout the community.

2. Whether a similar service is currently being offered in the community and, if so, whether the service is generally available throughout the community.

3. If the same or a similar service is not currently offered, whether any other service provider proposes to offer the same or a similar service and, if so, what assurances that service provider is willing or able to offer regarding the same or similar service.

4. The capital investment required by the governmental entity to provide the communications service, the estimated realistic cost of operation and maintenance, and, using a full cost-accounting method, the estimated realistic revenues and expenses of providing the service and the proposed method of financing.

5. The private and public costs and benefits of providing the service by a private entity or a governmental entity, including the effect on existing and future jobs, actual economic development prospects, tax-base growth, education, and public health.

(c) At one or more of the public hearings under this subsection, the governmental entity shall make available to the public a written business plan for the proposed communications service venture containing, at a minimum:

1. The projected number of customers to be served by the venture.

2. The geographic area to be served by the venture.

3. The types of communications services to be provided.

4. A plan to ensure that revenues exceed operating expenses and payment of principal and interest on debt within 4 years.

5. Estimated capital and operational costs and revenues for the first 4 years.

6. Projected network modernization and technological upgrade plans, including estimated costs.

(d) After making specific findings regarding the factors in paragraphs (2)(b) and (2)(c), the governmental entity may authorize providing a communications service by a majority recorded vote, by resolution, ordinance, or other formal means of adoption.

(e) The governing body of a governmental entity may issue one or more bonds to finance the capital costs for facilities to provide a communications service. However:

1. A governmental entity may only pledge revenues in support of the issuance of any bond to finance provision of a communications service:

a. Within the county in which the governmental entity is located;

b. Within an area in which the governmental entity provides electric service outside its home county under an electric service territorial agreement approved by the Public Service Commission before the effective date of this act; or

c. If the governmental entity is a municipality or special district, within its corporate limits or in an area in which the municipality or special district provides water, wastewater, or electric or natural gas service, or within an urban service area designated in a comprehensive plan, whichever is larger, unless the municipality or special district obtains the consent, by a majority recorded vote by resolution, ordinance, or other formal means of adoption, of the governmental entity within the boundaries of which the municipality or special district proposes to provide service.

Any governmental entity from which consent is sought pursuant to sub-subparagraph c. shall be located within the county in which the

governmental entity is located for consent to be effective.

2. Revenue bonds issued in order to finance provision of a communications service are not subject to the approval of the electors if the revenue bonds mature within 15 years. Revenue bonds issued to finance provision of a communications service that does not mature within 15 years shall be approved by the electors. The election shall be conducted as specified in chapter 100, Florida Statutes.

(f) A governmental entity providing a communications service may not price any service below the cost of providing the service by subsidizing the communications service with moneys from rates paid by customers of a noncommunications services utility or from any other revenues. The cost standard for determining cross-subsidization is whether the total revenue from the service is less than the total long-run incremental cost, including direct costs and indirect costs, as allocated pursuant to the cost-allocation plan described in paragraph (g), of the service. "Total long-run incremental cost" means service-specific volume and nonvolume-sensitive costs.

(g) A governmental entity providing a communications service shall keep separate and accurate books and records, maintained in accordance with generally accepted accounting principles, of a governmental entity's communication service, which books and records shall be made available for any audits of the books and records conducted under applicable law. To facilitate equitable distribution of indirect costs, a local governmental entity shall develop and follow a cost-allocation plan, which is a procedure for allocating direct and indirect costs and which is generally developed in accordance with OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Government, published by the United States Office of Management and Budget.

(h) The governmental entity shall establish an enterprise fund to account for its operation of communications services.

(i) The governmental entity shall adopt separate operating and capital budgets for its communications services.

(j) A governmental entity may not use its powers of eminent domain under chapter 73, Florida Statutes, solely or primarily for the purpose of providing a communications service.

(k) If, after 4 years following the initiation of the provision of communications services by a governmental entity or 4 years after the effective date of this act, whichever is later, revenues do not exceed operating expenses and payment of principal and interest on the debt for a governmental entity's provision of communications services, no later than 60 days following the end of the 4-year period a governmental entity shall hold a public hearing at which the governmental entity shall do at least one of the following:

1. Approve a plan to cease providing communications services;

2. Approve a plan to dispose of the system the governmental entity is using to provide communications services and, accordingly, to cease providing communications services;

3. Approve a plan to create a partnership with a private entity in order to achieve operations in which revenues exceed operating expenses and payment of principal and interest on debt; or

4. Approve the continuing provision of communications services.

(l) If the governmental entity chooses to continue providing communications services, or approves a plan provided in paragraph (k), but thereafter does not implement the plan, the governmental entity shall either develop a new business plan provided under paragraph (c) or provide notice of the decision to not pursue the provisions under paragraph (k). The new plan shall be submitted to the governing body for approval within 60 days after the public hearing and shall be implemented upon approval. If the governing body does not approve the new plan, the governmental entity shall cease providing communications services within 12 months thereafter.

(m) The governmental entity shall conduct an annual review at a formal public meeting to consider the progress the governmental entity is making toward reaching its business plan goals and objectives for providing communication services. At the public meeting, the governmental entity shall review the related revenues, operating expenses, and payment of interest on debt.

(n) Within 12 months after the end of each fiscal year, a governmental entity that is providing communications services shall prepare a modified statement of revenues, expenses, and changes in net assets for the enterprise fund used to account for the communications services. Such statement shall present a full and complete accounting of the operations of the covered services for the fiscal year in accordance with generally accepted accounting principles and utilizing full cost accounting. The governmental entity shall provide a copy of the accountant's report and affidavit to the Department of Revenue, in addition to the governmental entity's regular annual financial report and audit, required by s. 218.32, Florida Statutes.

(3)(a) A governmental entity that provides a cable service shall comply with the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq., the regulations issued by the Federal Communications Commission under the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq., and all applicable state and federal rules and regulations, including, but not limited to, s. 166.046, Florida Statutes, and those provisions of chapters 202, 212, and 337, Florida Statutes, which apply to a provider of the services.

(b) A governmental entity that provides a telecommunications service or advanced service shall comply, if applicable, with chapter 364, Florida Statutes, and rules adopted by the Public Service Commission; chapter 166, Florida Statutes, and all applicable state and federal rules and regulations, including, but not limited to, those provisions of chapters 202, 212, and 337, Florida Statutes, which apply to a provider of the services.

(c) A governmental entity may not exercise its power or authority in any area, including zoning or land use regulation, to require any person, including residents of a particular development, to use or subscribe to any communications service of a governmental entity.

(d) A governmental entity shall apply its ordinances, rules, and policies, and exercise any authority under state or federal laws, including, but not limited to, those relating to the following subjects and without discrimination as to itself when providing a communications service or to any private provider of communications services:

1. Access to public rights-of-way; and

2. Permitting, access to, use of, and payment for use of governmental-entity-owned poles. The governmental entity is subject to the same terms, conditions, and fees, if any, for access to governmental-entity-owned poles which the governmental entity applies to a private provider for access.

(4)(a) If a governmental entity was providing, as of April 1, 2005, advanced services, cable services, or telecommunications services, it is not required to comply with paragraph (2)(a), paragraph (2)(b), paragraph (2)(c), paragraph (2)(d), sub-subparagraph (2)(e)1.c., or paragraph (2)(f), in order to continue to provide advanced services, cable services, or telecommunications services, respectively, but it shall comply with and be subject to all other provisions of this section.

(b) If a governmental entity, as of April 1, 2005, had issued debt pledging revenues from an advanced service, cable service, or telecommunications service, it is not required to comply with paragraph (2)(a), (b), (c), (d), (e)1.c., or (f) in order to provide advanced services, cable services, or telecommunications services, respectively, but it shall comply with and be subject to all other provisions of this section.

(c) A governmental entity that has purchased equipment specifically for the provisioning of advanced service, cable service, or telecommunications service by April 1, 2005, and has received authorization by a recorded majority vote by resolution, ordinance, or other formal means of adoption, for the provision of an advanced service, cable service, or telecommunications service, is not required to comply with paragraph (2)(a), (b), (c), (d), (2)(e)1.c., or (f) in order to provide advanced services, cable services, or telecommunications services, respectively, but shall comply with and be subject to all other provisions of this section.

(5) Notwithstanding s. 542.235, Florida Statutes, or any other law, a

governmental entity that provides a communications service is subject to the same prohibitions applicable to private providers under ss. 542.18 and 542.19, Florida Statutes, as it relates to providing a communications service. In addition, this section does not confer state action immunity, or any other antitrust immunity or exemption, on any governmental entity providing communications services.

(6) To ensure the safe and secure transportation of passengers and freight through an airport facility, as defined in s. 159.27(17), Florida Statutes, exemption from this section is granted to any airport authority or other governmental entity that provides or is proposing to provide:

(a) Communications services only within the boundaries of its airport layout plan, as defined in s. 333.01(6), Florida Statutes, to subscribers which are integral and essential to the safe and secure transportation of passengers and freight through the airport facility.

(b) Shared-tenant service under s. 364.339, Florida Statutes, not including dial tone, enabling subscribers to complete calls outside the airport layout plan, to one or more subscribers within its airport layout plan which are not integral and essential to the safe and secure transportation of passengers and freight through the airport facility.

An airport authority or other governmental entity that provides or is proposing to provide communications services to one or more customers within its airport layout plan which are not integral and essential to the safe and secure transportation of passengers and freight through the airport facility, or to one or more customers outside its airport layout plan, is not exempt from this section. By way of example and not limitation, the integral, essential subscribers may include airlines and emergency service entities, and the nonintegral, nonessential subscribers may include retail shops, restaurants, hotels, or rental car companies.

(7) This section does not alter or affect any provisions in the charter, code, or other governing authorities of a governmental entity that impose additional or different requirements on provision of communications service by a governmental entity. Any such provisions shall apply in addition to the applicable provisions in this section.

Section 9. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 10. Effective July 1, 2005, subsection (7) of section 288.1162, Florida Statutes, is amended to read:

288.1162 Professional sports franchises; spring training franchises; duties.--

(7)(a) The Office of Tourism, Trade, and Economic Development shall notify the Department of Revenue of any facility certified as a facility for a new professional sports franchise or a facility for a retained professional sports franchise or as a facility for a retained spring training franchise. The Office of Tourism, Trade, and Economic Development shall certify no more than eight facilities as facilities for a new professional sports franchise or as facilities for a retained professional sports franchise and shall certify at least five as facilities for retained spring training franchises, including in such total any facilities certified by the Department of Commerce before July 1, 1996. The office may make no more than one certification for any facility. The office may not certify funding for less than the requested amount to any applicant certified as a facility for a retained spring training franchise.

(b) Certification of an applicant under this section for the eighth certification for a facility for a new professional sports franchise or for a facility for a retained professional sports franchise shall be for an applicant for which the franchise that serves as the basis of the certification is a member of the National Basketball Association, has been located within the state since 1987, and has not been previously certified. This paragraph is repealed July 1, 2010.

Section 11. Except as otherwise provided herein, this act shall take effect October 1, 2005; however, the provisions creating penalties or new standards of conduct apply to violations occurring on or after that date.

Remove the entire title and insert:

A bill to be entitled

An act relating to the Public Service Commission; creating the Committee on Public Service Commission Oversight as a standing joint committee of the Legislature; providing for its membership, powers, and duties; amending s. 350.001, F.S.; revising legislative intent; revising provisions for selection of commission members by the Governor; amending s. 350.031, F.S.; authorizing the Florida Public Service Commission Nominating Council to make expenditures to advertise a vacancy on the council; requiring that the Committee on Public Service Commission Oversight provide nominees for recommendation to the Governor for appointment to the Public Service Commission; providing procedures; amending s. 350.041, F.S.; revising standards of conduct for commissioners relating to gifts; providing procedures for investigation of allegations and relevant proceedings by the Commission on Ethics; providing for sanctions for violations; requiring that commissioners avoid impropriety and act in a manner that promotes confidence in the commission; prohibiting a commissioner from soliciting any thing of value from any public utility, its affiliate, or any party; amending s. 350.042, F.S.; revising provisions prohibiting ex parte communication with a commissioner; providing procedures for investigation of allegations and relevant proceedings by the Commission on Ethics; providing for sanctions for violations; amending s. 350.061, F.S.; requiring that the Committee on Public Service Commission Oversight rather than the Joint Legislative Auditing Committee appoint the Public Counsel; providing for biennial reconfirmation rather than annual; requiring that the Public Counsel perform his or her duties independently; amending s. 350.0614, F.S.; requiring that the Committee on Public Service Commission Oversight rather than the Joint Legislative Auditing Committee oversee expenditures of the Public Counsel; providing for communications services offered by certain governmental entities; providing definitions; providing for notice of public hearings to consider whether the local government will provide a communications service; requiring a governmental entity to consider certain factors before a communications service is provided; providing certain restrictions on revenue bonds to finance provisioning of communications services; requiring a local government to make available a written business plan; providing criteria for the business plan; setting pricing standards; providing for accounting and books and records; requiring the governmental entity to establish an enterprise fund; requiring the governmental entity to maintain separate operating and capital budgets; limiting the use of eminent-domain powers; requiring a governmental entity to hold a public hearing to consider certain factors if the business plan goals are not met; requiring compliance with certain federal and state laws; requiring a local government to treat itself the same as it treats other providers of similar communications services; exempting certain governmental entities from specified provisions of the act; requiring a local governmental provider of communications services to follow the same prohibitions as other providers of the same services; providing an exemption for airports under certain conditions; recognizing preemption of a charter, code, or other governmental authority; providing for severability; amending s. 288.1162, F.S.; specifying certification criteria for the remaining eighth available certification by the Office of Tourism, Trade, and Economic Development for a facility for a new professional sports franchise or for a facility for a retained professional sports franchise; providing for future repeal; providing for application; providing effective dates.

Representative(s) Littlefield offered the following:

(Amendment Bar Code: 625405)

Amendment 1 to Amendment 1 (with title amendment)—Remove lines 5-707 and insert:

Section 1. Committee on Public Service Commission Oversight; creation; membership; powers and duties.--

(1) There is created a standing joint committee of the Legislature, designated the Committee on Public Service Commission Oversight, and composed of twelve members appointed as follows: six members of the Senate appointed by the President of the Senate, two of whom must be members of the minority party; and six members of the House of Representatives appointed by the Speaker of the House of Representatives, two of whom must be members of the minority party. The terms of members shall be for 2 years and shall run from the organization of one Legislature to the organization of the next Legislature. The President shall appoint the chair of the committee in even-numbered years and the vice chair in odd-numbered years, and the Speaker of the House of Representatives shall appoint the chair of the committee in odd-numbered years and the vice chair in even-numbered years, from among the committee membership. Vacancies shall be filled in the same manner as the original appointment. Members shall serve without additional compensation, but shall be reimbursed for expenses.

(2) The committee shall be governed by joint rules of the Senate and the House of Representatives which shall remain in effect until repealed or amended by concurrent resolution.

(3) The committee shall:

(a) Recommend to the Governor nominees to fill a vacancy on the Public Service Commission, as provided by general law; and

(b) Appoint a Public Counsel as provided by general law.

(4) The committee is authorized to file a complaint with the Commission on Ethics alleging a violation of chapter 350, Florida Statutes, by a commissioner, former commissioner, former commission employee, or member of the Public Service Commission Nominating Council.

(5) The committee will not have a permanent staff, but the President of the Senate and the Speaker of the House of Representatives shall select staff members from among existing legislative staff, when and as needed.

Section 2. Section 350.001, Florida Statutes, is amended to read:

350.001 Legislative intent.--The Florida Public Service Commission has been and shall continue to be an arm of the legislative branch of government. The Public Service Commission shall perform its duties independently. It is the desire of the Legislature that the Governor participate in the appointment process of commissioners to the Public Service Commission. The Legislature accordingly delegates to the Governor a limited authority with respect to the Public Service Commission by authorizing him or her to participate in the selection of members only ~~from the list provided by the Florida Public Service Commission Nominating Council~~ in the manner prescribed by s. 350.031.

Section 3. Section 350.031, Florida Statutes, is amended to read:

350.031 Florida Public Service Commission Nominating Council.--

(1) There is created a Florida Public Service Commission Nominating Council consisting of nine members. At least one member of the council must be 60 years of age or older. Three members, including one member of the House of Representatives, shall be appointed by and serve at the pleasure of the Speaker of the House of Representatives; three members, including one member of the Senate, shall be appointed by and serve at the pleasure of the President of the Senate; and three members shall be selected and appointed by a majority vote of the other six members of the council. All terms shall be for 4 years except those members of the House and Senate, who shall serve 2-year terms concurrent with the 2-year elected terms of House members. Vacancies on the council shall be filled for the unexpired portion of the term in the same manner as original appointments to the council. A member may not be reappointed to the council, except for a member of the House of Representatives or the Senate who may be appointed to two 2-year terms or a person who is appointed to fill the remaining portion of an unexpired term.

(2)(a) No member or spouse shall be the holder of the stocks or bonds of any company, other than through ownership of shares in a mutual fund, regulated by the commission, or any affiliated company of any company regulated by the commission, or be an agent or employee of, or have any interest in, any company regulated by the commission or any affiliated company of any company regulated by the commission, or in any firm which represents in any capacity either companies which are regulated by the commission or affiliates of companies regulated by the commission. As a condition of appointment to the council, each appointee shall affirm to the Speaker and the President his or her qualification by the following certification: "I hereby certify that I am not a stockholder, other than through ownership of shares in a mutual fund, in any company regulated by the commission or in any affiliate of a company regulated by the commission, nor in any way, directly or indirectly, in the employment of, or engaged in the management of any company regulated by the commission or any affiliate of a company regulated by the commission, or in any firm which represents in any capacity either companies which are regulated by the commission or affiliates of companies regulated by the commission."

This certification is made as condition to appointment to the Florida Public Service Commission Nominating Council.

(b) A member of the council may be removed by the Speaker of the House of Representatives and the President of the Senate upon a finding by the Speaker and the President that the council member has violated any provision of this subsection or for other good cause.

(c) If a member of the council does not meet the requirements of this subsection, the President of the Senate or the Speaker of the House of Representatives, as appropriate, shall appoint a legislative replacement.

(3) A majority of the membership of the council may conduct any business before the council. All meetings and proceedings of the council shall be staffed by the Office of Legislative Services and shall be subject to the provisions of ss. 119.07 and 286.011. Members of the council are entitled to receive per diem and travel expenses as provided in s. 112.061, which shall be funded by the Florida Public Service Regulatory Trust Fund. Applicants invited for interviews before the council may, in the discretion of the council, receive per diem and travel expenses as provided in s. 112.061, which shall be funded by the Florida Public Service Regulatory Trust Fund. The council shall establish policies and procedures to govern the process by which applicants are nominated.

(4) The council may spend a nominal amount, not to exceed $10,000, to advertise a vacancy on the council, which shall be funded by the Florida Public Service Regulatory Trust Fund.

(5)~~(4)~~ A person may not be nominated to the Committee on Public Service Commission Oversight ~~Governor~~ until the council has determined that the person is competent and knowledgeable in one or more fields, which shall include, but not be limited to: public affairs, law, economics, accounting, engineering, finance, natural resource conservation, energy, or another field substantially related to the duties and functions of the commission. The commission shall fairly represent the above-stated fields. Recommendations of the council shall be nonpartisan.

(6)~~(5)~~ It is the responsibility of the council to nominate to the Committee on Public Service Commission Oversight ~~Governor not fewer than~~ six ~~three~~ persons for each vacancy occurring on the Public Service Commission. The council shall submit the recommendations to the committee ~~Governor~~ by August 1 ~~October 1~~ of those years in which the terms are to begin the following January, or within 60 days after a vacancy occurs for any reason other than the expiration of the term.

(7)~~(6)~~ The Committee on Public Service Commission Oversight ~~Governor~~ shall select from the list of nominees provided by the nominating council three or more nominees for recommendation to the Governor for appointment to the commission. The recommendations must be provided to the Governor within 45 days after receipt of the list of nominees. The Governor shall fill a vacancy occurring on the Public Service Commission by appointment of one of the applicants nominated by the committee ~~council~~ only after a background investigation of such applicant has been conducted by the Florida Department of Law Enforcement. If the Governor has not made an appointment within 30 days after the receipt of the recommendation ~~by December 1 to fill a vacancy for a term to begin the following January~~, ~~then~~ the committee ~~council~~, by majority vote, shall appoint, within 30 days after the

expiration of the Governor's time to make an appointment, ~~by December 31~~ one person from the applicants previously nominated to the Governor to fill the vacancy. ~~If the Governor has not made the appointment to fill a vacancy occurring for any reason other than the expiration of the term by the 60th day following receipt of the nominations of the council, the council by majority vote shall appoint within 30 days thereafter one person from the applicants previously nominated to the Governor to fill the vacancy.~~

(8)~~(7)~~ Each appointment to the Public Service Commission shall be subject to confirmation by the Senate during the next regular session after the vacancy occurs. If the Senate refuses to confirm or rejects the Governor's appointment, the council shall initiate, in accordance with this section, the nominating process within 30 days.

Section 4. Subsection (2) of section 350.041, Florida Statutes, is amended to read:

350.041 Commissioners; standards of conduct.--

(2) STANDARDS OF CONDUCT.--

(a) A commissioner may not accept anything from any business entity which, either directly or indirectly, owns or controls any public utility regulated by the commission, from any public utility regulated by the commission, or from any business entity which, either directly or indirectly, is an affiliate or subsidiary of any public utility regulated by the commission. A commissioner may attend conferences and associated meals and events that are generally available to all conference participants without payment of any fees in addition to the conference fee. Additionally, while attending a conference, a commissioner may attend meetings, meals, or events that are not sponsored, in whole or in part, by any representative of any public utility regulated by the commission and that are limited to commissioners only, committee members, or speakers if the commissioner is a member of a committee of the association of regulatory agencies that organized the conference or is a speaker at the conference. It is not a violation of this paragraph for a commissioner to attend a conference for which conference participants who are employed by a utility regulated by the commission have paid a higher conference registration fee than the commissioner, or to attend a meal or event that is generally available to all conference participants without payment of any fees in addition to the conference fee and that is sponsored, in whole or in part, by a utility regulated by the commission. If, during the course of an investigation by the Commission on Ethics into an alleged violation of this paragraph, allegations are made as to the identity of the person giving or providing the prohibited gift, that person must be given notice and an opportunity to participate in the investigation and relevant proceedings to present a defense. If the Commission on Ethics determines that the person gave or provided a prohibited gift, the person may not appear before the commission or otherwise represent anyone before the commission for a period of 2 years.

(b) A commissioner may not accept any form of employment with or engage in any business activity with any business entity which, either directly or indirectly, owns or controls any public utility regulated by the commission, any public utility regulated by the commission, or any business entity which, either directly or indirectly, is an affiliate or subsidiary of any public utility regulated by the commission.

(c) A commissioner may not have any financial interest, other than shares in a mutual fund, in any public utility regulated by the commission, in any business entity which, either directly or indirectly, owns or controls any public utility regulated by the commission, or in any business entity which, either directly or indirectly, is an affiliate or subsidiary of any public utility regulated by the commission. If a commissioner acquires any financial interest prohibited by this section during his or her term of office as a result of events or actions beyond the commissioner's control, he or she shall immediately sell such financial interest or place such financial interest in a blind trust at a financial institution. A commissioner may not attempt to influence, or exercise any control over, decisions regarding the blind trust.

(d) A commissioner may not accept anything from a party in a proceeding currently pending before the commission. If, during the course of an investigation by the Commission on Ethics into an alleged violation of this paragraph, allegations are made as to the identity of the person giving or providing the prohibited gift, that person must be given notice and an opportunity to participate in the investigation and relevant proceedings to present a defense. If the Commission on Ethics determines that the person gave or provided a prohibited gift, the person may not appear before the commission or otherwise represent anyone before the commission for a period of 2 years.

(e) A commissioner may not serve as the representative of any political party or on any executive committee or other governing body of a political party; serve as an executive officer or employee of any political party, committee, organization, or association; receive remuneration for activities on behalf of any candidate for public office; engage on behalf of any candidate for public office in the solicitation of votes or other activities on behalf of such candidacy; or become a candidate for election to any public office without first resigning from office.

(f) A commissioner, during his or her term of office, may not make any public comment regarding the merits of any proceeding under ss. 120.569 and 120.57 currently pending before the commission.

(g) A commissioner may not conduct himself or herself in an unprofessional manner at any time during the performance of his or her official duties.

(h) A commissioner must avoid impropriety in all of his or her activities and must act at all times in a manner that promotes public confidence in the integrity and impartiality of the commission.

(i) A commissioner may not directly or indirectly, through staff or other means, solicit any thing of value from any public utility regulated by the commission, or from any business entity that, whether directly or indirectly, is an affiliate or subsidiary of any public utility regulated by the commission, or from any party appearing in a proceeding considered by the commission in the last 2 years.

Section 5. Subsection (7) of section 350.042, Florida Statutes, is amended to read:

350.042 Ex parte communications.--

(7)(a) It shall be the duty of the Commission on Ethics to receive and investigate sworn complaints of violations of this section pursuant to the procedures contained in ss. 112.322-112.3241.

(b) If the Commission on Ethics finds that there has been a violation of this section by a public service commissioner, it shall provide the Governor and the Florida Public Service Commission Nominating Council with a report of its findings and recommendations. The Governor is authorized to enforce the findings and recommendations of the Commission on Ethics, pursuant to part III of chapter 112.

(c) If a commissioner fails or refuses to pay the Commission on Ethics any civil penalties assessed pursuant to the provisions of this section, the Commission on Ethics may bring an action in any circuit court to enforce such penalty.

(d) If, during the course of an investigation by the Commission on Ethics into an alleged violation of this section, allegations are made as to the identity of the person who participated in the ex parte communication, that person must be given notice and an opportunity to participate in the investigation and relevant proceedings to present a defense. If the Commission on Ethics determines that the person participated in the ex parte communication, the person may not appear before the commission or otherwise represent anyone before the commission for a period of 2 years.

Section 6. Subsection (1) of section 350.061, Florida Statutes, is amended to read:

350.061 Public Counsel; appointment; oath; restrictions on Public Counsel and his or her employees.--

(1) The Committee on Public Service Commission Oversight ~~Joint Legislative Auditing Committee~~ shall appoint a Public Counsel by majority vote of the members of the committee to represent the general public of Florida before the Florida Public Service Commission. The Public Counsel shall be an attorney admitted to practice before the

Florida Supreme Court and shall serve at the pleasure of the ~~Joint Legislative Auditing~~ Committee on Public Service Commission Oversight, subject to biennial ~~annual~~ reconfirmation by the committee. The Public Counsel shall perform his or her duties independently. Vacancies in the office shall be filled in the same manner as the original appointment.

Section 7. Subsection (2) of section 350.0614, Florida Statutes, is amended to read:

350.0614 Public Counsel; compensation and expenses.--

(2) The Legislature ~~hereby~~ declares and determines that the Public Counsel is under the legislative branch of government within the intention of the legislation as expressed in chapter 216, and no power shall be in the Executive Office of the Governor or its successor to release or withhold funds appropriated to it, but the same shall be available for expenditure as provided by law and the rules or decisions of the ~~Joint Auditing~~ Committee on Public Service Commission Oversight.

Section 8. Communications services offered by governmental entities.--

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

(a) "Advanced service" means high-speed-Internet-access-service capability in excess of 200 kilobits per second in the upstream or the downstream direction, including any service application provided over the high-speed-access service or any information service as defined in 47 U.S.C. s. 153(20).

(b) "Cable service" has the same meaning as in 47 U.S.C. s. 522(6).

(c) "Communications services" includes any "advanced service," "cable service," or "telecommunications service" and shall be construed in the broadest sense.

(d) "Enterprise fund" means a separate fund to account for the operation of communications services by a local government, established and maintained in accordance with generally accepted accounting principles as prescribed by the Governmental Accounting Standards Board.

(e) "Governmental entity" means any political subdivision as defined in section 1.01, Florida Statutes, including any county, municipality, special district, school district, utility authority or other authority or any instrumentality, agency, unit or department thereof. The term does not include an independent special district created before 1970 which has been granted express legislative authority to provide a communications service and which does not sell a communications service outside its district boundaries.

(f) "Provide," "providing," "provision," or "provisioning" means offering or supplying a communications service for a fee or other consideration to a person, including any portion of the public or private provider, but does not include service by an entity to itself or to any governmental law enforcement agency or governmental emergency services entity.

(g) "Subscriber" means a person who receives a communications service.

(h) "Telecommunications services" means the transmission of signs, signals, writing, images, sounds, messages, data, or other information of the user's choosing, by wire, radio, light waves, or other electromagnetic means, without change in the form or content of the information as sent and received by the user and regardless of the facilities used, including, without limitation, wireless facilities.

(2)(a) A governmental entity that proposes to provide a communications service shall hold no less than two public hearings, which shall be held not less than 30 days apart. At least 30 days before the first of the two public hearings, the governmental entity must give notice of the hearing in the predominant newspaper of general circulation in the area considered for service. At least 40 days before the first public hearing, the governmental entity must electronically provide notice to the Department of Revenue and the Public Service Commission, which shall post the notice on the department's and the commission's website to be available to the public. The Department of Revenue shall also send the notice by United States Postal Service to the known addresses for all dealers of communications services registered with the department under chapter 202, Florida Statutes, or provide an electronic notification, if the means are available, within 10 days after receiving the notice. The notice must include the time and place of the hearings and must state that the purpose of the hearings is to consider whether the governmental entity will provide communications services. The notice must include, at a minimum, the geographic areas proposed to be served by the governmental entity and the services, if any, which the governmental entity believes are not currently being adequately provided. The notice must also state that any dealer who wishes to do so may appear and be heard at the public hearings.

(b) At a public hearing required by this subsection, a governmental entity must, at a minimum, consider:

1. Whether the service that is proposed to be provided is currently being offered in the community and, if so, whether the service is generally available throughout the community.

2. Whether a similar service is currently being offered in the community and, if so, whether the service is generally available throughout the community.

3. If the same or similar service is not currently offered, whether any other service provider proposes to offer the same or a similar service and, if so, what assurances that service provider is willing or able to offer regarding the same or similar service.

4. The capital investment required by the government entity to provide the communications service, the estimated realistic cost of operation and maintenance and, using a full cost-accounting method, the estimated realistic revenues and expenses of providing the service and the proposed method of financing.

5. The private and public costs and benefits of providing the service by a private entity or a governmental entity, including the affect on existing and future jobs, actual economic development prospects, tax-base growth, education, and public health.

(c) At one or more of the public hearings under this subsection, the governmental entity must make available to the public a written business plan for the proposed communications service venture containing, at a minimum:

1. The projected number of subscribers to be served by the venture.

2. The geographic area to be served by the venture.

3. The types of communications services to be provided.

4. A plan to ensure that revenues exceed operating expenses and payment of principal and interest on debt within 4 years.

5. Estimated capital and operational costs and revenues for the first 4 years.

6. Projected network modernization and technological upgrade plans, including estimated costs.

(d) After making specific findings regarding the factors in paragraphs (b) and (c), the governmental entity may authorize providing a communications service by a majority recorded vote and by resolution, ordinance, or other formal means of adoption.

(e) The governing body of a governmental entity may issue one or more bonds to finance the capital costs for facilities to provide a communications service. However:

1. A governmental entity may only pledge revenues in support of the issuance of any bond to finance providing a communications service:

a. Within the county in which the governmental entity is located;

b. Within an area in which the governmental entity provides electric service outside its home county under an electric service territorial agreement approved by the Public Service Commission before the effective date of this act; or

c. If the governmental entity is a municipality or special district, within its corporate limits or in an area in which the municipality or special district provides water, wastewater, electric, or natural gas service, or within an urban service area designated in a comprehensive plan, whichever is larger, unless the municipality or special district obtains the consent by formal action of the governmental entity within the boundaries of which the municipality or special district proposes to

provide service. For consent to be effective, any governmental entity from which consent is sought shall be located within the county in which the governmental entity is located or that county.

2. Revenue bonds issued in order to finance providing a communications service are not subject to the approval of the electors if the revenue bonds mature within 15 years. Revenue bonds issued to finance providing a communications service that does not mature within 15 years must be approved by the electors. The election must be conducted as specified in chapter 100, Florida Statutes.

(f) A governmental entity providing a communications service may not price any service below the cost of providing the service by subsidizing the communications service with moneys from rates paid by subscribers of a noncommunications services utility or from any other revenues. The cost standard for determining cross-subsidization is whether the total revenue from the service is less than the total long-run incremental cost of the service. Total long-run incremental cost means service-specific volume and nonvolume-sensitive costs.

(g) A governmental entity providing a communications service must comply with the requirements of section 218.32, Florida Statutes, and shall keep separate and accurate books and records, maintained in accordance with generally accepted accounting principles, of a governmental entity's communication service, and they shall be made available for any audits of the books and records conducted under applicable law. To facilitate equitable distribution of indirect costs, a local government shall develop and follow a cost-allocation plan, which is a procedure for allocating direct and indirect costs and which is generally developed in accordance with OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Government, published by the United States Office of Management and Budget.

(h) The governmental entity shall establish an enterprise fund to account for its operation of communications services.

(i) The governmental entity shall adopt separate operating and capital budgets for its communications services.

(j) A governmental entity may not use its powers of eminent domain under chapter 73, Florida Statutes, solely or primarily for the purpose of providing a communications service.

(k) The governmental entity shall conduct an annual review at a formal public meeting to consider the progress the governmental entity is making toward reaching its business plan goals and objectives for providing communication services. At the public meeting the governmental entity shall review the related revenues, operating expenses, and payment of interest on debt.

(l) If, after 4 years following the initiation of the provision of communications services by a governmental entity or 4 years after the effective date of this act, whichever is later, revenues do not exceed operating expenses and payment of principal and interest on the debt for a governmental entity's provision of communications services, no later than 60 days following the end of the 4-year period a governmental entity shall hold a public hearing at which the governmental entity shall do at least one of the following:

1. Approve a plan to cease providing communications services;

2. Approve a plan to dispose of the system the governmental entity is using to provide communications services and, accordingly, to cease providing communications services;

3. Approve a plan to create a partnership with a private entity in order to achieve operations in which revenues exceed operating expenses and payment of principal and interest on debt; or

4. Approve the continuing provision of communications services by a majority vote of the governing body of the governing authority.

(3)(a) A governmental entity that provides a cable service shall comply with the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq., the regulations issued by the Federal Communications Commission under the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq., and all applicable state and federal rules and regulations, including, but not limited to, section 166.046, Florida Statutes, and those provisions of chapters 202, 212, and 337, Florida Statutes, which apply to a provider of the services.

(b) A governmental entity that provides a telecommunications service or advanced service must comply, if applicable, with chapter 364, Florida Statutes, and rules adopted by the Public Service Commission; chapter 166, Florida Statutes; and all applicable state and federal rules and regulations, including, but not limited to, those provisions of chapters 202, 212, and 337, Florida Statutes, which apply to a provider of the services.

(c) A governmental entity may not exercise its power or authority in any area, including zoning or land use regulation, to require any person, including residents of a particular development, to use or subscribe to any communication service of a governmental entity.

(d) A governmental entity shall apply its ordinances, rules, and policies, and exercise any authority under state or federal laws, including, but not limited to, those relating to the following subjects and without discrimination as to itself when providing a communications service or to any private provider of communications services:

1. Access to public rights-of-way; and

2. Permitting, access to, use of, and payment for use of governmental entity-owned poles. The governmental entity is subject to the same terms, conditions, and fees, if any, for access to government-owned poles which the governmental entity applies to a private provider for access.

(4)(a) If a governmental entity was providing, as of April 1, 2005, advanced services, cable services, or telecommunications services, then it is not required to comply with paragraph (2)(a), paragraph (2)(b), paragraph (2)(c), paragraph (2)(d), sub-subparagraph (2)(e)1.c., paragraph (2)(f), or paragraph (2)(k) in order to continue to provide advanced services, cable services, or telecommunications services, respectively, but it must comply with and be subject to all other provisions of this section.

(b) If a governmental entity, as of April 1, 2005, had issued debt pledging revenues from an advanced service, cable service, or telecommunications service, then it is not required to comply with paragraph (2)(a), paragraph (2)(b), paragraph (2)(c), paragraph (2)(d), sub-subparagraph (2)(e)1.c., paragraph (2)(f), or paragraph (2)(k) in order to provide advanced services, cable services, or telecommunications services, respectively, but it must comply with and be subject to all other provisions of this section.

(c) If a governmental entity, as of April 1, 2005, has purchased equipment specifically for the provisioning of advanced service, cable service, or telecommunication service, and, as of May 6, 2005, has a population of less than 7500, and has authorized by formal action the providing of an advanced service, cable service, or telecommunication service, then it is not required to comply with paragraph (2)(a), paragraph (2)(b), paragraph (2)(c), paragraph (2)(d), sub-subparagraph (2)(e)1.c., paragraph (2)(f), or paragraph (2)(k) in order to provide advanced service, cable service, or telecommunication service, respectively, but it must comply with and be subject to all other provisions of this section.

This subsection does not relieve a governmental entity from complying with subsection (5).

(5) Notwithstanding section 542.235, Florida Statutes, or any other law, a governmental entity that provides a communications service is subject to the same prohibitions applicable to private providers under sections 542.18 and 542.19, Florida Statutes, as it relates to providing a communications service. Nothing in this section confers state action immunity, or any other antitrust immunity or exemption, on any governmental entity providing communications services.

(6) To ensure the safe and secure transportation of passengers and freight through an airport facility, as defined in section 159.27(17), Florida Statutes, an airport authority or other governmental entity that provides or is proposing to provide communications services only within the boundaries of its airport layout plan, as defined in section 333.01(6), Florida Statutes, to subscribers which are integral and essential to the safe and secure transportation of passengers and freight through the airport facility, is exempt from this section. An airport authority or other

governmental entity that provides or is proposing to provide shared-tenant service under section 364.339, Florida Statutes, but not dial tone enabling subscribers to complete calls outside the airport layout plan, to one or more subscribers within its airport layout plan which are not integral and essential to the safe and secure transportation of passengers and freight through the airport facility is exempt from this section. An airport authority or other governmental entity that provides or is proposing to provide communications services to one or more subscribers within its airport layout plan which are not integral and essential to the safe and secure transportation of passengers and freight through the airport facility, or to one or more subscribers outside its airport layout plan, is not exempt from this section. By way of example and not limitation, the integral, essential subscribers may include airlines and emergency service entities, and the nonintegral, nonessential subscribers may include retail shops, restaurants, hotels, or rental car companies.

(7) This section does not alter or affect any provision in the charter, code, or other governing authority of a governmental entity that impose additional or different requirements on provision of communications service by a governmental entity. Any such provisions shall apply in addition to the applicable provisions in this section.

Section 9. Section 364.01, Florida Statutes, is amended to read:

364.01 Powers of commission, legislative intent.--

(1) The Florida Public Service Commission shall exercise over and in relation to telecommunications companies the powers conferred by this chapter.

(2) It is the legislative intent to give exclusive jurisdiction in all matters set forth in this chapter to the Florida Public Service Commission in regulating telecommunications companies, and such preemption shall supersede any local or special act or municipal charter where any conflict of authority may exist. However, the provisions of this chapter shall not affect the authority and powers granted in s. 166.231(9) or s. 337.401.

(3) Communications activities that are not regulated by the Florida Public Service Commission, including, but not limited to, VoIP, wireless, and broadband, are subject to this state's generally applicable business regulation and deceptive trade practices and consumer protection laws, as enforced by the appropriate state authority or through actions in the judicial system. This chapter does not limit the availability to any party of any remedy or defense under state or federal antitrust laws. The Legislature finds that the competitive provision of telecommunications services, including local exchange telecommunications service, is in the public interest and will provide customers with freedom of choice, encourage the introduction of new telecommunications service, encourage technological innovation, and encourage investment in telecommunications infrastructure. The Legislature further finds that the transition from the monopoly provision of local exchange service to the competitive provision thereof will require appropriate regulatory oversight to protect consumers and provide for the development of fair and effective competition, but nothing in this chapter shall limit the availability to any party of any remedy under state or federal antitrust laws. The Legislature further finds that changes in regulations allowing increased competition in telecommunications services could provide the occasion for increases in the telecommunications workforce; therefore, it is in the public interest that competition in telecommunications services lead to a situation that enhances the high-technological skills and the economic status of the telecommunications workforce. The Legislature further finds that the provision of voice-over-Internet protocol (VOIP) free of unnecessary regulation, regardless of the provider, is in the public interest.

(4) The commission shall exercise its exclusive jurisdiction in order to:

(a) Protect the public health, safety, and welfare by ensuring that basic local telecommunications services are available to all consumers in the state at reasonable and affordable prices.

(b) Encourage competition through flexible regulatory treatment among providers of telecommunications services in order to ensure the availability of the widest possible range of consumer choice in the provision of all telecommunications services.

(c) Protect the public health, safety, and welfare by ensuring that monopoly services provided by telecommunications companies continue to be subject to effective price, rate, and service regulation.

(d) Promote competition by encouraging innovation and investment in ~~new entrants into~~ telecommunications markets and by allowing a transitional period in which new and emerging technologies ~~entrants~~ are subject to a reduced ~~lesser~~ level of regulatory oversight ~~than local exchange telecommunications companies~~.

(e) Encourage all providers of telecommunications services to introduce new or experimental telecommunications services free of unnecessary regulatory restraints.

(f) Eliminate any rules or ~~and/or~~ regulations which will delay or impair the transition to competition.

(g) Ensure that all providers of telecommunications services are treated fairly, by preventing anticompetitive behavior and eliminating unnecessary regulatory restraint.

(h) Recognize the continuing emergence of a competitive telecommunications environment through the flexible regulatory treatment of competitive telecommunications services, where appropriate, if doing so does not reduce the availability of adequate basic local telecommunications service to all citizens of the state at reasonable and affordable prices, if competitive telecommunications services are not subsidized by monopoly telecommunications services, and if all monopoly services are available to all competitors on a nondiscriminatory basis.

(i) Continue its historical role as a surrogate for competition for monopoly services provided by local exchange telecommunications companies.

Section 10. Section 364.011, Florida Statutes, is created to read:

364.011 Exemptions from commission jurisdiction.--The following services are exempt from oversight by the commission, except to the extent delineated in this chapter or specifically authorized by federal law:

(1) Intrastate interexchange telecommunications services.

(2) Broadband services, regardless of the provider, platform, or protocol.

(3) VoIP.

(4) Wireless telecommunications, including commercial mobile radio service providers.

Section 11. Section 364.012, Florida Statutes, is created to read:

364.012 Consistency with federal law.--

(1) In order to promote commission coordination with federal policymakers and regulatory agencies, the commission shall maintain continuous liaisons with appropriate federal agencies whose policy decisions and rulemaking authority affect those telecommunications companies over which the commission has jurisdiction. The commission is encouraged to participate in the proceedings of federal agencies in cases in which the state's consumers may be affected and to convey the commission's policy positions and information requirements in order to achieve greater efficiency in regulation.

(2) This chapter does not limit or modify the duties of a local exchange carrier to provide unbundled access to network elements or the commission's authority to arbitrate and enforce interconnection agreements to the extent that those elements are required under 47 U.S.C. ss. 251 and 252, and under any regulations issued by the Federal Communications Commission at rates determined in accordance with the standards established by the Federal Communications Commission pursuant to 47 C.F.R. ss. 51.503-51.513, inclusive of any successor regulation or successor forbearance of regulation.

Section 12. Section 364.013, Florida Statutes, is created to read:

364.013 Emerging and advanced services.--Broadband service and the provision of voice-over-Internet-protocol (VoIP) shall be free of state regulation, except as delineated in this chapter or as specifically authorized by federal law, regardless of the provider, platform, or protocol.

Section 13. Section 364.02, Florida Statutes, is amended to read:

364.02 Definitions.--As used in this chapter:

(1) "Basic local telecommunications service" means voice-grade, flat-rate residential, and flat-rate single-line business local exchange services which provide dial tone, local usage necessary to place unlimited calls within a local exchange area, dual tone multifrequency dialing, and access to the following: emergency services such as "911," all locally available interexchange companies, directory assistance, operator services, relay services, and an alphabetical directory listing. For a local exchange telecommunications company, the ~~such~~ term shall include any extended area service routes, and extended calling service in existence or ordered by the commission on or before July 1, 1995.

(2) "Broadband service" means any service that consists of or includes the offering of the capability to transmit or receive information at a rate that is not less than 200 kilobits per second and either:

(a) Is used to provide access to the Internet; or

(b) Provides computer processing, information storage, information content, or protocol conversion in combination with the service.

The definition of broadband service does not include any intrastate telecommunications services that have been tariffed with the commission on or before January 1, 2005.

(3)~~(2)~~ "Commercial mobile radio service provider" means a commercial mobile radio service provider as defined by and pursuant to 47 U.S.C. ss. 153(n) and 332(d).

(4)~~(3)~~ "Commission" means the Florida Public Service Commission.

(5)~~(4)~~ "Competitive local exchange telecommunications company" means any company certificated by the commission to provide local exchange telecommunications services in this state on or after July 1, 1995.

(6)~~(5)~~ "Corporation" includes a corporation, company, association, or joint stock association.

(7)~~(6)~~ "Intrastate interexchange telecommunications company" means any entity that provides intrastate interexchange telecommunications services.

(8)~~(7)~~ "Local exchange telecommunications company" means any company certificated by the commission to provide local exchange telecommunications service in this state on or before June 30, 1995.

(9)~~(8)~~ "Monopoly service" means a telecommunications service for which there is no effective competition, either in fact or by operation of law.

(10)~~(9)~~ "Nonbasic service" means any telecommunications service provided by a local exchange telecommunications company other than a basic local telecommunications service, a local interconnection arrangement described in s. 364.16, or a network access service described in s. 364.163.

(11)~~(10)~~ "Operator service" includes, but is not limited to, billing or completion of third-party, person-to-person, collect, or calling card or credit card calls through the use of a live operator or automated equipment.

(12)~~(11)~~ "Operator service provider" means a person who furnishes operator service through a call aggregator.

(13)~~(12)~~ "Service" is to be construed in its broadest and most inclusive sense. The term "service" does not include broadband service or voice-over-Internet protocol service for purposes of regulation by the commission. Nothing herein shall affect the rights and obligations of any entity related to the payment of switched network access rates or other intercarrier compensation, if any, related to voice-over-Internet protocol service. Notwithstanding s. 364.013, and the exemption of services pursuant to this subsection, the commission may arbitrate, enforce, or approve interconnection agreements, and resolve disputes as provided by 47 U.S.C. ss. 251 and 252, or any other applicable federal law or regulation. With respect to the services exempted in this subsection, regardless of the technology, the duties of a local exchange telecommunications company are only those that the company is obligated to extend or provide under applicable federal law and regulations.

(14)~~(13)~~ "Telecommunications company" includes every corporation, partnership, and person and their lessees, trustees, or receivers appointed by any court whatsoever, and every political subdivision in the state, offering two-way telecommunications service to the public for hire within this state by the use of a telecommunications facility. The term "telecommunications company" does not include:

(a) An entity which provides a telecommunications facility exclusively to a certificated telecommunications company;

(b) An entity which provides a telecommunications facility exclusively to a company which is excluded from the definition of a telecommunications company under this subsection;

(c) A commercial mobile radio service provider;

(d) A facsimile transmission service;

(e) A private computer data network company not offering service to the public for hire;

(f) A cable television company providing cable service as defined in 47 U.S.C. s. 522; or

(g) An intrastate interexchange telecommunications company.

However, each commercial mobile radio service provider and each intrastate interexchange telecommunications company shall continue to be liable for any taxes imposed under ~~pursuant to~~ chapters 202, 203, and 212 and any fees assessed under ~~pursuant to~~ ss. 364.025 and 364.336. Each intrastate interexchange telecommunications company shall continue to be subject to ss. 364.04, 364.10(3)(a) and (d), 364.163, 364.285, 364.501, 364.603, and 364.604, shall provide the commission with such current information as the commission deems necessary to contact and communicate with the company, shall continue to pay intrastate switched network access rates or other intercarrier compensation to the local exchange telecommunications company or the competitive local exchange telecommunications company for the origination and termination of interexchange telecommunications service, and shall reduce its intrastate long distance toll rates in accordance with s. 364.163(2).

(15)~~(14)~~ "Telecommunications facility" includes real estate, easements, apparatus, property, and routes used and operated to provide two-way telecommunications service to the public for hire within this state.

(16) "VoIP" means the voice-over-Internet protocol as that term is defined in federal law.

Section 14. Section 364.0361, Florida Statutes, is amended to read:

364.0361 Local government authority; nondiscriminatory exercise.--A local government shall treat each telecommunications company in a nondiscriminatory manner when exercising its authority to grant franchises to a telecommunications company or to otherwise establish conditions or compensation for the use of rights-of-way or other public property by a telecommunications company. A local government may not directly or indirectly regulate the terms and conditions, including, but not limited to, the operating systems, qualifications, services, service quality, service territory, and prices, applicable to or in connection with the provision of any voice-over-Internet protocol, regardless of the platform, provider, or protocol, broadband or information service. This section does not relieve a provider from any obligations under s. 166.046 or s. 337.401.

Section 15. Section 364.10, Florida Statutes, is amended to read:

364.10 Undue advantage to person or locality prohibited; Lifeline service.--

(1) A telecommunications company may not make or give any undue or unreasonable preference or advantage to any person or locality or subject any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

(2)(a) The prohibitions of subsection (1) notwithstanding, an eligible telecommunications carrier ~~a telecommunications company serving as carrier of last resort~~ shall provide a Lifeline Assistance Plan to qualified residential subscribers, as defined in a commission-approved tariff or price list, and a preferential rate to eligible facilities as provided for in

part II. For the purposes of this section, the term "eligible telecommunications carrier" means a telecommunications company, as defined by s. 364.02, which is designated as an eligible telecommunications carrier by the commission pursuant to 47 C.F.R. s. 54.201.

(b) An eligible telecommunications carrier shall offer a consumer who applies for or receives Lifeline service the option of blocking all toll calls or, if technically capable, placing a limit on the number of toll calls a consumer can make. The eligible telecommunications carrier may not charge the consumer an administrative charge or other additional fee for blocking the service.

(c) An eligible telecommunications carrier may not collect a service deposit in order to initiate Lifeline service if the qualifying low-income consumer voluntarily elects toll blocking or toll limitation. If the qualifying low-income consumer elects not to place toll blocking on the line, an eligible telecommunications carrier may charge a service deposit.

(d) An eligible telecommunications carrier may not charge Lifeline subscribers a monthly number-portability charge.

(e)1. An eligible telecommunications carrier must notify a Lifeline subscriber of impending termination of Lifeline service if the company has a reasonable basis for believing that the subscriber no longer qualifies. Notification of pending termination must be in the form of a letter that is separate from the subscriber's bill.

2. An eligible telecommunications carrier shall allow a subscriber 60 days following the date of the pending termination letter to demonstrate continued eligibility. The subscriber must present proof of continued eligibility. An eligible telecommunications carrier may transfer a subscriber off of Lifeline service, pursuant to its tariff, if the subscriber fails to demonstrate continued eligibility.

3. The commission shall establish procedures for such notification and termination.

(f) An eligible telecommunications carrier shall timely credit a consumer's bill with the Lifeline Assistance credit as soon as practicable, but no later than 60 days following receipt of notice of eligibility from the Office of Public Counsel or proof of eligibility from the consumer.

(3)(a) Effective September 1, 2003, any local exchange telecommunications company authorized by the commission to reduce its switched network access rate pursuant to s. 364.164 shall have tariffed and shall provide Lifeline service to any otherwise eligible customer or potential customer who meets an income eligibility test at 135 ~~125~~ percent or less of the federal poverty income guidelines for Lifeline customers. Such a test for eligibility must augment, rather than replace, the eligibility standards established by federal law and based on participation in certain low-income assistance programs. Each intrastate interexchange telecommunications company shall, effective September 1, 2003, file a tariff providing at a minimum the intrastate interexchange telecommunications carrier's current Lifeline benefits and exemptions to Lifeline customers who meet the income eligibility test set forth in this subsection. The Office of Public Counsel shall certify and maintain claims submitted by a customer for eligibility under the income test authorized by this subsection.

(b) Each eligible telecommunications carrier ~~local exchange telecommunications company~~ subject to this subsection shall provide to each state and federal agency providing benefits to persons eligible for Lifeline service applications, brochures, pamphlets, or other materials that inform the ~~such~~ persons of their eligibility for Lifeline, and each state agency providing the ~~such~~ benefits shall furnish the materials to affected persons at the time they apply for benefits.

(c) Any local exchange telecommunications company customer receiving Lifeline benefits shall not be subject to any residential basic local telecommunications service rate increases authorized by s. 364.164 until the local exchange telecommunications company reaches parity as defined in s. 364.164(5) or until the customer no longer qualifies for the Lifeline benefits established by this section or s. 364.105, or unless otherwise determined by the commission upon petition by a local exchange telecommunications company.

(d) An eligible telecommunications carrier may not discontinue basic local exchange telephone service to a subscriber who receives Lifeline service because of nonpayment by the subscriber of charges for nonbasic services billed by the telecommunications company, including long-distance service. A subscriber who receives Lifeline service shall be required to pay all applicable basic local exchange service fees, including the subscriber line charge, E-911, telephone relay system charges, and applicable state and federal taxes.

(e) An eligible telecommunications carrier may not refuse to connect, reconnect, or provide Lifeline service because of unpaid toll charges or nonbasic charges other than basic local exchange service.

(f) An eligible telecommunications carrier may require that payment arrangements be made for outstanding debt associated with basic local exchange service, subscriber line charges, E-911, telephone relay system charges, and applicable state and federal taxes.

(g) An eligible telecommunications carrier may block a Lifeline service subscriber's access to all long-distance service, except for toll-free numbers, and may block the ability to accept collect calls when the subscriber owes an outstanding amount for long-distance service or amounts resulting from collect calls. However, the eligible telecommunications carrier may not impose a charge for blocking long-distance service. The eligible telecommunications carrier shall remove the block at the request of the subscriber without additional cost to the subscriber upon payment of the outstanding amount. An eligible telecommunications carrier may charge a service deposit before removing the block.

(h)~~(d)~~ By December 31, 2003, each state agency that provides benefits to persons eligible for Lifeline service shall undertake, in cooperation with the Department of Children and Family Services, the Department of Education, the commission, the Office of Public Counsel, and telecommunications companies providing Lifeline services, the development of procedures to promote Lifeline participation.

(i)~~(e)~~ The commission shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31 each year on the number of customers who are subscribing to Lifeline service and the effectiveness of any procedures to promote participation.

(j) The commission shall adopt rules to administer this section.

Section 16. Section 364.502, Florida Statutes, is repealed.

Section 17. Subsection (1) of section 364.335, Florida Statutes, is amended to read:

364.335 Application for certificate.--

(1) Each applicant for a certificate shall:

(a) Provide all information required by rule or order of the commission, which may include a detailed inquiry into the ability of the applicant to provide service, a detailed inquiry into the territory and facilities involved, and a detailed inquiry into the existence of service from other sources within geographical proximity to the territory applied for.

(b) File with the commission schedules showing all rates for service of every kind furnished by it and all rules and contracts relating to such service.

(c) File the application fee required by the commission in an amount not to exceed $500 ~~$250~~. Such fees shall be deposited in accordance with s. 350.113.

(d) Submit an affidavit that the applicant has caused notice of its application to be given to such persons and in such manner as may be prescribed by commission rule.

Section 18. Section 364.336, Florida Statutes, is amended to read:

364.336 Regulatory assessment fees.--Notwithstanding any provisions of law to the contrary, each telecommunications company licensed or operating under this chapter, for any part of the preceding 6-month period, shall pay to the commission, within 30 days following the end of each 6-month period, a fee that may not exceed 0.25 percent annually of its gross operating revenues derived from intrastate business, except, for purposes of this section and the fee specified in s. 350.113(3),

any amount paid to another telecommunications company for the use of any telecommunications network shall be deducted from the gross operating revenue for purposes of computing the fee due. The commission shall by rule assess a minimum fee in an amount up to $1,000. The minimum amount may vary depending on the type of service provided by the telecommunications company, and shall, to the extent practicable, be related to the cost of regulating such type of company. Differences, if any, between the amount paid in any 6-month period and the amount actually determined by the commission to be due shall, upon motion by the commission, be immediately paid or refunded. Fees under this section may not be less than $50 annually. Such fees shall be deposited in accordance with s. 350.113. The commission may by rule establish criteria for payment of the regulatory assessment fee on an annual basis rather than on a semiannual basis.

Section 19. Subsection (6) of section 196.012, Florida Statutes, is amended to read:

196.012 Definitions.--For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(6) Governmental, municipal, or public purpose or function shall be deemed to be served or performed when the lessee under any leasehold interest created in property of the United States, the state or any of its political subdivisions, or any municipality, agency, special district, authority, or other public body corporate of the state is demonstrated to perform a function or serve a governmental purpose which could properly be performed or served by an appropriate governmental unit or which is demonstrated to perform a function or serve a purpose which would otherwise be a valid subject for the allocation of public funds. For purposes of the preceding sentence, an activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as an aviation area on an airport layout plan which has been approved by the Federal Aviation Administration and which real property is used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed base operation which provides goods and services to the general aviation public in the promotion of air commerce shall be deemed an activity which serves a governmental, municipal, or public purpose or function. Any activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as a public airport as defined in s. 332.004(14) by municipalities, agencies, special districts, authorities, or other public bodies corporate and public bodies politic of the state, a spaceport as defined in s. 331.303(19), or which is located in a deepwater port identified in s. 403.021(9)(b) and owned by one of the foregoing governmental units, subject to a leasehold or other possessory interest of a nongovernmental lessee that is deemed to perform an aviation, airport, aerospace, maritime, or port purpose or operation shall be deemed an activity that serves a governmental, municipal, or public purpose. The use by a lessee, licensee, or management company of real property or a portion thereof as a convention center, visitor center, sports facility with permanent seating, concert hall, arena, stadium, park, or beach is deemed a use that serves a governmental, municipal, or public purpose or function when access to the property is open to the general public with or without a charge for admission. If property deeded to a municipality by the United States is subject to a requirement that the Federal Government, through a schedule established by the Secretary of the Interior, determine that the property is being maintained for public historic preservation, park, or recreational purposes and if those conditions are not met the property will revert back to the Federal Government, then such property shall be deemed to serve a municipal or public purpose. The term "governmental purpose" also includes a direct use of property on federal lands in connection with the Federal Government's Space Exploration Program or spaceport activities as defined in s. 212.02(22). Real property and tangible personal property owned by the Federal Government or the Florida Space Authority and used for defense and space exploration purposes or which is put to a use in support thereof shall be deemed to perform an essential national governmental purpose and shall be exempt. "Owned by the lessee" as used in this chapter does not include personal property, buildings, or other real property improvements used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed based operation which provides goods and services to the general aviation public in the promotion of air commerce provided that the real property is designated as an aviation area on an airport layout plan approved by the Federal Aviation Administration. For purposes of determination of "ownership," buildings and other real property improvements which will revert to the airport authority or other governmental unit upon expiration of the term of the lease shall be deemed "owned" by the governmental unit and not the lessee. Providing two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(15) ~~s.364.02(14)~~, and for which a certificate is required under chapter 364 does not constitute an exempt use for purposes of s. 196.199, unless the telecommunications services are provided by the operator of a public-use airport, as defined in s. 332.004, for the operator's provision of telecommunications services for the airport or its tenants, concessionaires, or licensees, or unless the telecommunications services are provided by a public hospital. However, property that is being used to provide such telecommunications services on or before October 1, 1997, shall remain exempt, but such exemption expires October 1, 2004.

Section 20. Paragraph (b) of subsection (1) of section 199.183, Florida Statutes, is amended to read:

199.183 Taxpayers exempt from annual and nonrecurring taxes.--

(1) Intangible personal property owned by this state or any of its political subdivisions or municipalities shall be exempt from taxation under this chapter. This exemption does not apply to:

(b) Property related to the provision of two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(15) ~~s. 364.02(14)~~, and for which a certificate is required under chapter 364, when the ~~such~~ service is provided by any county, municipality, or other political subdivision of the state. Any immunity of any political subdivision of the state or other entity of local government from taxation of the property used to provide telecommunication services that is taxed as a result of this paragraph is hereby waived. However, intangible personal property related to the provision of ~~such~~ telecommunications services provided by the operator of a public-use airport, as defined in s. 332.004, for the operator's provision of telecommunications services for the airport or its tenants, concessionaires, or licensees, and intangible personal property related to the provision of ~~such~~ telecommunications services provided by a public hospital, are exempt from taxation under this chapter.

Section 21. Subsection (6) of section 212.08, Florida Statutes, is amended to read:

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

(6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are also exempt from the tax imposed by this chapter sales made to the United States Government, a state, or any county, municipality, or political subdivision of a state when payment is made directly to the dealer by the governmental entity. This exemption shall not inure to any transaction otherwise taxable under this chapter when payment is made by a government employee by any means, including, but not limited to, cash, check, or credit card when that employee is subsequently reimbursed by the governmental entity. This exemption does not include sales of tangible personal property made to contractors employed either directly or as agents of any such government or political subdivision thereof when such tangible personal property goes into or becomes a part of public works owned by such government or political subdivision. A determination whether a particular transaction is properly characterized as an exempt sale to a government entity or a taxable sale to a contractor

shall be based on the substance of the transaction rather than the form in which the transaction is cast. The department shall adopt rules that give special consideration to factors that govern the status of the tangible personal property before its affixation to real property. In developing these rules, assumption of the risk of damage or loss is of paramount consideration in the determination. This exemption does not include sales, rental, use, consumption, or storage for use in any political subdivision or municipality in this state of machines and equipment and parts and accessories therefor used in the generation, transmission, or distribution of electrical energy by systems owned and operated by a political subdivision in this state for transmission or distribution expansion. Likewise exempt are charges for services rendered by radio and television stations, including line charges, talent fees, or license fees and charges for films, videotapes, and transcriptions used in producing radio or television broadcasts. The exemption provided in this subsection does not include sales, rental, use, consumption, or storage for use in any political subdivision or municipality in this state of machines and equipment and parts and accessories therefor used in providing two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(15) ~~s. 364.02(14)~~, and for which a certificate is required under chapter 364, which facility is owned and operated by any county, municipality, or other political subdivision of the state. Any immunity of any political subdivision of the state or other entity of local government from taxation of the property used to provide telecommunication services that is taxed as a result of this section is hereby waived. However, the exemption provided in this subsection includes transactions taxable under this chapter which are for use by the operator of a public-use airport, as defined in s. 332.004, in providing such telecommunications services for the airport or its tenants, concessionaires, or licensees, or which are for use by a public hospital for the provision of such telecommunications services.

Section 22. Subsection (8) of section 290.007, Florida Statutes, is amended to read:

290.007 State incentives available in enterprise zones.--The following incentives are provided by the state to encourage the revitalization of enterprise zones:

(8) Notwithstanding any law to the contrary, the Public Service Commission may allow public utilities and telecommunications companies to grant discounts of up to 50 percent on tariffed rates for services to small businesses located in an enterprise zone designated pursuant to s. 290.0065. Such discounts may be granted for a period not to exceed 5 years. For purposes of this subsection, the term "public utility" has the same meaning as in s. 366.02(1) and the term "telecommunications company" has the same meaning as in s. 364.02(14) ~~s. 364.02(13)~~.

Section 23. Subsection (3) of section 350.0605, Florida Statutes, is amended to read:

350.0605 Former commissioners and employees; representation of clients before commission.--

(3) For a period of 2 years following termination of service on the commission, a former member may not accept employment by or compensation from a business entity which, directly or indirectly, owns or controls a public utility regulated by the commission, from a public utility regulated by the commission, from a business entity which, directly or indirectly, is an affiliate or subsidiary of a public utility regulated by the commission or is an actual business competitor of a local exchange company or public utility regulated by the commission and is otherwise exempt from regulation by the commission under ss. 364.02(14) ~~364.02(13)~~ and 366.02(1), or from a business entity or trade association that has been a party to a commission proceeding within the 2 years preceding the member's termination of service on the commission. This subsection applies only to members of the Florida Public Service Commission who are appointed or reappointed after May 10, 1993.

Section 24. Subsection (4) of section 364.602, Florida Statutes, is amended to read:

364.602 Definitions.--For purposes of this part:

(4) "Originating party" means any person, firm, corporation, or other entity, including a telecommunications company or a billing clearinghouse, that provides any telecommunications service or information service to a customer or bills a customer through a billing party, except the term "originating party" does not include any entity specifically exempted from the definition of "telecommunications company" as provided in s. 364.02(14) ~~s. 364.02(13)~~.

Section 25. Subsection (5) of section 489.103, Florida Statutes, is amended to read:

489.103 Exemptions.--This part does not apply to:

(5) Public utilities, including special gas districts as defined in chapter 189, telecommunications companies as defined in s. 364.02(14) ~~s. 364.02(13)~~, and natural gas transmission companies as defined in s. 368.103(4), on construction, maintenance, and development work performed by their employees, which work, including, but not limited to, work on bridges, roads, streets, highways, or railroads, is incidental to their business. The board shall define, by rule, the term "incidental to their business" for purposes of this subsection.

Section 26. This act may not be construed to limit the rights of local government or the duties of providers of cable service to comply with any and all requirements of federal, state, or local law, including, but not limited to, 47 U.S.C. s.541, s. 166.046, and s. 337.401.

Section 27. Subsection (4) of section 364.051, Florida Statutes, is amended to read:

364.051 Price regulation.--

(4)(a) Notwithstanding ~~the provisions of~~ subsection (2), any local exchange telecommunications company that believes circumstances have changed substantially to justify any increase in the rates for basic local telecommunications services may petition the commission for a rate increase, but the commission shall grant the ~~such~~ petition only after an opportunity for a hearing and a compelling showing of changed circumstances. The costs and expenses of any government program or project required in part II may ~~shall~~ not be recovered under this subsection unless the ~~such~~ costs and expenses are incurred in the absence of a bid and subject to carrier-of-last-resort obligations as provided for in part II. The commission shall act upon the ~~any such~~ petition within 120 days after ~~of~~ its filing.

(b) For purposes of this section, evidence of damage occurring to the lines, plants, or facilities of a local exchange telecommunications company that is subject to the carrier-of-last-resort obligations, which damage is the result of a tropical system occurring after June 1, 2005, and named by the National Hurricane Center, constitutes a compelling showing of changed circumstances.

1. A company may file a petition to recover its intrastate costs and expenses relating to repairing, restoring, or replacing the lines, plants, or facilities damaged by a named tropical system.

2. The commission shall verify the intrastate costs and expenses submitted by the company in support of its petition.

3. The company must show and the commission shall determine whether the intrastate costs and expenses are reasonable under the circumstances for the named tropical system.

4. A company having a storm-reserve fund may recover tropical-system-related costs and expenses from its customers only in excess of any amount available in the storm-reserve fund.

5. The commission may determine the amount of any increase that the company may charge its customers, but the charge per line item may not exceed 50 cents per month per customer line for a period of not more than 12 months.

6. The commission may order the company to add an equal line-item charge per access line to the billing statement of the company's retail basic local telecommunications service customers, its retail nonbasic telecommunications service customers, and, to the extent the commission determines appropriate, its wholesale loop unbundled network element customers. At the end of the collection period, the commission shall verify that the collected amount does not exceed the amount authorized by the order. If collections exceed the ordered amount, the commission

shall order the company to refund the excess.

7. In order to qualify for filing a petition under this paragraph, a company with one million or more access lines, but fewer than three million access lines, must have tropical-system-related costs and expenses exceeding $1.5 million, and a company with three million or more access lines must have tropical-system-related costs and expenses of $5 million or more. A company with fewer than one million access lines is not required to meet a minimum damage threshold in order to qualify to file a petition under this paragraph.

8. A company may file only one petition for storm recovery in any 12-month period for the previous storm season, but the application may cover damages from more than one named tropical system.

This paragraph is not intended to adversely affect the commission's consideration of any petition for an increase in basic rates to recover costs related to storm damage which was filed before the effective date of this act.

Section 28. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 29. This act shall take effect upon becoming a law.

Remove line(s) 712-781 and insert:

A bill to be entitled

An act relating to regulation of communications; creating the Committee on Public Service Commission Oversight as a standing joint committee of the Legislature; providing for its membership, powers, and duties; amending s. 350.001, F.S.; requiring that the commission perform its duties independently; amending s. 350.031, F.S.; authorizing the Florida Public Service Commission Nominating Council to make expenditures to advertise a vacancy on the council or the commission; requiring that the Committee on Public Service Commission Oversight provide nominees for recommendation to the Governor for appointment to the Public Service Commission; providing procedures; amending s. 350.041, F.S.; clarifying the prohibition against accepting gifts with respect to its application to commissioners attending conferences; requiring that a penalty be imposed against a person who gives a commissioner a prohibited gift; requiring that commissioners avoid impropriety and act in a manner that promotes confidence in the commission; prohibiting a commissioner from soliciting any thing of value, either directly or indirectly, from any public utility, its affiliate, or any party; amending s. 350.042, F.S.; requiring that a penalty be imposed against a person involved in a prohibited ex parte communication with a commissioner; amending s. 350.061, F.S.; requiring that the Committee on Public Service Commission Oversight rather than the Joint Legislative Auditing Committee appoint the Public Counsel; providing for biennial reconfirmation rather than annual; requiring that the Public Counsel perform his or her duties independently; amending s. 350.0614, F.S.; requiring that the Committee on Public Service Commission Oversight rather than the Joint Legislative Auditing Committee oversee expenditures of the Public Counsel; providing definitions; providing for notice of public hearings to consider whether the local government will provide a communications service; requiring a governmental entity to take certain action before a communications service is provided; providing certain restrictions on revenue bonds to finance provisioning of communications services; requiring a local government to make available a written business plan; providing criteria for the business plan; setting pricing standards; providing for accounting and books and records; requiring the governmental entity to establish an enterprise fund; requiring the governmental entity to maintain separate operating and capital budgets; limiting the use of eminent-domain powers; requiring a governmental entity to hold a public hearing to consider certain factors if the business plan goals are not met; requiring compliance with certain federal and state laws; requiring local government to treat itself the same as it treats other providers of similar communications services; exempting certain governmental entities from specified provisions of the act; requiring a local government provider of communications services to follow the same prohibitions as other providers of the same services; providing an exemption for airports under certain conditions; recognizing preemption of a charter, code, or other governmental authority; providing for severability; repealing s. 364.502, F.S., which provides for regulation of video programming; amending s. 364.01, F.S.; specifying the exclusive jurisdiction of the Florida Public Service Commission to regulate telecommunications companies; providing that state laws governing business and consumer protection be applied to communications activities that are not regulated by the commission; revising provisions governing the exclusive jurisdiction of the commission; creating s. 364.011, F.S.; specifying certain services that are exempt from oversight by the commission; creating s. 364.012, F.S.; requiring the commission to coordinate with federal agencies; providing that ch. 364, F.S., does not limit or modify certain duties of a local exchange carrier; creating s. 364.013, F.S.; requiring that broadband service remain free of state and local regulation; requiring that voice-over-Internet protocol remain free of regulation, except as specifically provided in ch. 364, F.S., or by federal law; amending s. 364.02, F.S.; defining the terms "broadband service" and "VoIP"; redefining the term "service"; amending s. 364.0361, F.S.; prohibiting a local government from regulating voice-over-Internet protocol regardless of the platform or provider; amending s. 364.10, F.S.; transferring applicability from telecommunications companies serving as carriers of last resort to eligible telecommunications carriers; defining the term "eligible telecommunications carrier"; providing requirements for eligible telecommunications carriers; requiring the Public Service Commission to establish procedures for notification and termination of the Lifeline Assistance credit; providing criteria for connection, reconnection, and discontinuation of basic local telecommunications service for Lifeline Assistance subscribers; providing criteria for blocking access to long-distance service; adding the Department of Education and the Office of Public Counsel to those agencies that are directed to cooperate in developing procedures for promoting Lifeline participation; requiring the commission to adopt rules; repealing s. 364.502, F.S., relating to video programming services; amending s. 364.335, F.S.; increasing to $500 from $250 the maximum allowable filing fee for certification of telecommunications carriers; amending s. 364.336, F.S.; authorizing the Public Service Commission to establish a minimum fee of up to $1,000; authorizing different fees for different types of services provided by telecommunications companies; amending ss. 196.012, 199.183, 212.08, 290.007, 350.0605, 364.602, and 489.103, F.S.; conforming cross-references; providing clarification of rights of local governments and duties of cable service providers to comply with certain laws and regulations; amending s. 364.051, F.S.; providing that damage to the equipment and facilities of a local exchange telecommunications as a result of a named tropical system constitutes a compelling showing of changed circumstances to justify a rate increase; allowing such companies to petition for recovery of such costs and expenses; requiring the Public Service Commission to verify the intrastate costs and expenses for repairing, restoring, or replacing damaged lines, plants, or facilities; requiring the commission to determine whether the intrastate costs and expenses are reasonable; requiring a company to exhaust any storm-reserve funds prior to recovery from customers; providing that the commission may authorize adding an equal line-item charge per access line for certain customers; providing for a rate cap and providing the maximum number of months the rate may be imposed; providing a 12-month limit for the application; allowing recovery for more than one storm within the limit; providing for severability; providing an effective date.

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

The question recurred on the adoption of **Amendment 1**, as further amended, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS for CS for SB 1322. The vote was:

Session Vote Sequence: 545

Speaker Bense in the Chair.

Yeas—96

Adams	Cusack	Holloway	Planas
Allen	Davis, D.	Homan	Poppell
Altman	Davis, M.	Hukill	Proctor
Ambler	Dean	Jennings	Quinones
Anderson	Detert	Johnson	Reagan
Arza	Domino	Jordan	Rice
Attkisson	Evers	Kottkamp	Rivera
Barreiro	Farkas	Kreegel	Robaina
Baxley	Fields	Kyle	Roberson
Bense	Flores	Littlefield	Ross
Benson	Galvano	Llorente	Rubio
Berfield	Garcia	Lopez-Cantera	Ryan
Bilirakis	Gardiner	Machek	Sands
Bogdanoff	Gibson, H.	Mahon	Sansom
Bowen	Glorioso	Mayfield	Seiler
Brown	Goldstein	McInvale	Simmons
Brummer	Goodlette	Meadows	Stansel
Brutus	Gottlieb	Mealor	Stargel
Bullard	Grant	Murzin	Traviesa
Cannon	Grimsley	Needelman	Troutman
Carroll	Harrell	Negron	Vana
Clarke	Hasner	Patterson	Waters
Cretul	Hays	Peterman	Williams
Culp	Henriquez	Pickens	Zapata

Nays—21

Antone	Gannon	Kendrick	Smith
Ausley	Gelber	Legg	Sobel
Bean	Gibson, A.	Porth	Taylor
Bendross-Mindingall	Greenstein	Richardson	
Brandenburg	Joyner	Russell	
Bucher	Justice	Slosberg	

Votes after roll call:
Yeas to Nays—Cusack
Nays to Yeas—Antone, Bean, Bendross-Mindingall, Cusack, A. Gibson, Greenstein, Porth, Richardson, Smith, Taylor

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

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1389, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 1389—A bill to be entitled An act relating to water control districts; amending s. 298.22, F.S.; revising powers of the board of supervisors to execute water control plans; amending s. 298.225, F.S.; revising provisions for water control plan development and amendment; clarifying the authority of certain districts as exclusive providers of certain services and facilities; amending s. 298.301, F.S.; revising water control plan adoption procedures; amending s. 298.341, F.S.; revising provisions for assessment liens; amending s. 298.77, F.S.; providing for revision of the engineer's report pursuant to an assessment readjustment; providing an effective date.

(Amendment Bar Code: 634176)

Senate Amendment 1—On lines 61-67, insert: portion of the district's lands are located. A district which has an adopted water control plan and is located entirely within an unincorporated portion of a county shall be the exclusive provider within the district for services and facilities as authorized by this chapter or special act and included in an adopted water control plan.

On motion by Rep. Domino, the House concurred in Senate Amendment 1. The question recurred on the passage of HB 1389. The vote was:

Session Vote Sequence: 546

Speaker Bense in the Chair.

Yeas—101

Adams	Cusack	Hukill	Poppell
Altman	Davis, D.	Jennings	Proctor
Ambler	Davis, M.	Johnson	Quinones
Anderson	Dean	Jordan	Reagan
Antone	Detert	Justice	Rice
Arza	Domino	Kendrick	Richardson
Attkisson	Evers	Kottkamp	Rivera
Ausley	Farkas	Kreegel	Robaina
Barreiro	Fields	Kyle	Ross
Baxley	Flores	Legg	Rubio
Bean	Galvano	Littlefield	Russell
Bendross-Mindingall	Garcia	Llorente	Ryan
Bense	Gardiner	Lopez-Cantera	Sansom
Benson	Gibson, A.	Machek	Simmons
Berfield	Gibson, H.	Mahon	Stansel
Bilirakis	Glorioso	Mayfield	Stargel
Bogdanoff	Goldstein	McInvale	Taylor
Bowen	Goodlette	Meadows	Traviesa
Brown	Grant	Mealor	Troutman
Brummer	Grimsley	Murzin	Vana
Bullard	Harrell	Needelman	Waters
Cannon	Hasner	Negron	Williams
Carroll	Hays	Patterson	Zapata
Clarke	Henriquez	Peterman	
Cretul	Holloway	Pickens	
Culp	Homan	Planas	

Nays—13

Allen	Gelber	Roberson	Sobel
Brandenburg	Gottlieb	Sands	
Bucher	Greenstein	Seiler	
Gannon	Porth	Slosberg	

Votes after roll call:
Nays—Brutus, Joyner, Smith
Yeas to Nays—Ryan

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

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1041, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 1041—A bill to be entitled An act relating to women's health care; providing a popular name; amending s. 390.012, F.S.; revising requirements for rules of the Agency for Health Care Administration relating to abortion clinics performing abortions after the first trimester of pregnancy; requiring rules that prescribe standards for physical facilities, supplies and equipment, personnel, screening and evaluation, the abortion procedure, recovery, follow-up care, and incident reporting; providing that rules regulating abortion clinics may not impose an unconstitutional burden rather than a legally significant burden on a woman's right to choose to terminate her pregnancy; providing for severability; providing an effective date.

(Amendment Bar Code: 751098)

Senate Amendment 1—Lines 119-121, delete those lines and insert: licensed to practice medicine in this state and who has admitting privileges at a licensed hospital in this state or has a transfer agreement with a licensed hospital within reasonable proximity of the clinic.

On motion by Rep. Bean, the House concurred in Senate Amendment 1. The question recurred on the passage of HB 1041. The vote was:

Session Vote Sequence: 547

Speaker Bense in the Chair.

Yeas—97

Adams	Culp	Hukill	Proctor
Allen	Davis, D.	Jennings	Quinones
Altman	Davis, M.	Johnson	Reagan
Ambler	Dean	Jordan	Rice
Anderson	Detert	Kendrick	Rivera
Arza	Domino	Kottkamp	Robaina
Attkisson	Evers	Kreegel	Roberson
Ausley	Farkas	Kyle	Ross
Barreiro	Fields	Legg	Rubio
Baxley	Flores	Littlefield	Russell
Bean	Galvano	Llorente	Sands
Bendross-Mindingall	Garcia	Lopez-Cantera	Sansom
Bense	Gardiner	Machek	Seiler
Benson	Gibson, H.	Mahon	Simmons
Berfield	Glorioso	Mayfield	Stansel
Bilirakis	Goldstein	McInvale	Stargel
Bogdanoff	Goodlette	Meadows	Taylor
Bowen	Grant	Mealor	Traviesa
Brown	Grimsley	Murzin	Troutman
Brummer	Harrell	Needelman	Waters
Bullard	Hasner	Negron	Williams
Cannon	Hays	Patterson	Zapata
Carroll	Henriquez	Pickens	
Clarke	Holloway	Planas	
Cretul	Homan	Poppell	

Nays—19

Antone	Bucher	Gannon	Gibson, A.
Brandenburg	Cusack	Gelber	Gottlieb
Greenstein	Peterman	Ryan	Sobel
Joyner	Porth	Slosberg	Vana
Justice	Richardson	Smith	

Votes after roll call:
Yeas—Brutus
Yeas to Nays—Bendross-Mindingall, Domino, Roberson, Sands, Taylor

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

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1589, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 1589—A bill to be entitled An act relating to elections; amending s. 97.012, F.S.; revising the duties of the Secretary of State and the Department of State relating to election laws; providing for rulemaking; authorizing the Secretary of State to delegate voter registration and records maintenance duties to voter registration officials; providing that the secretary has a duty to bring legal action to enforce the performance of county supervisors of elections or other officials performing duties relating to the Florida Election Code; providing a prerequisite to bringing such an action; providing venue; requiring that courts give priority to such an action; providing penalties; providing for the adoption of rules; amending s. 97.021, F.S.; revising and providing definitions; amending s. 97.026, F.S.; providing rulemaking authority to make forms available in alternative formats and via the Internet; removing a cross reference; amending s. 97.051, F.S.; revising the oath taken by a person registering to vote; amending s. 97.052, F.S.; requiring that the uniform statewide voter registration application be accepted for replacement of a voter information card and signature update; revising the information the uniform statewide voter registration application must contain and must elicit from the applicant; providing for the failure of a voter registration applicant to answer questions on the voter registration application; amending s. 97.053, F.S.; revising the criteria for completeness of a voter registration application; specifying the possible valid recipients of a mailed voter registration application; revising the information needed on a voter registration application to establish an applicant's eligibility; providing for verification of authenticity of certain voter registration application information; providing for a provisional ballot to be provided to an applicant if the application is not verified by a certain date; requiring a voter registration official to enter all voter registration applications into the voter registration system within a certain time period and forward such applications to the supervisor of elections; amending s. 97.0535, F.S.; providing for applicants who have no valid Florida driver's license, identification card, or social security number; amending s. 97.055, F.S.; specifying the information updates permitted for purposes of an upcoming election once registration books are closed; amending s. 97.057, F.S.; revising the voter registration procedure by the Department of Highway Safety and Motor Vehicles; amending s. 97.058, F.S.; revising duties of voter registration agencies; amending s. 97.061, F.S.; revising special registration procedures for electors requiring assistance; amending s. 97.071, F.S.; redesignating the registration identification card as the voter information card; revising requirements for the contents of the card; amending s. 97.073, F.S.; revising the procedure by which an applicant must supply missing information on the voter registration application; revising provisions relating to cancellation of previous registration; amending s. 97.1031, F.S.; revising provisions relating to notice of change of residence, name, or party affiliation; amending s. 97.105, F.S., relating to establishment of the permanent single registration system, to conform; amending s. 98.015, F.S.; revising the

duties of supervisors of elections; creating s. 98.035, F.S.; establishing a statewide voter registration system; requiring the Secretary of State to be responsible for the implementation, operation, and maintenance of the system; prohibiting the department from contracting with any other entity to operate the system; authorizing the department to adopt rules relating to the access, use, and operation of the system; amending s. 98.045, F.S.; revising provisions relating to administration of voter registration; providing for the responsibility of such administration to be undertaken by the department in lieu of supervisors of elections; specifying ineligibility criteria; revising provisions relating to removal of registered voters; revising provisions relating to public records access and retention; providing for the establishment of a statewide electronic database of valid residential street addresses; authorizing the department to adopt rules relating to certain voter registration system forms; amending s. 98.065, F.S.; revising provisions relating to registration records maintenance; providing for change of address; providing limitations on notice and renewal; requiring supervisors of elections to certify to the department certain list maintenance activities; providing penalties; amending s. 98.075, F.S.; providing for registration records maintenance by the department; providing procedures in cases involving duplicate registration, deceased persons, adjudication of mental incapacity, felony conviction, and other bases for ineligibility; providing procedures for removal; requiring supervisors of elections to certify to the department certain registration records maintenance activities; creating s. 98.0755, F.S.; providing for appeal of a determination of ineligibility; providing for jurisdiction, burden of proof, and trial costs; amending s. 98.077, F.S.; revising provisions relating to updating a voter's signature; amending s. 98.081, F.S., relating to removal of names from the statewide voter registration system, to conform; amending s. 98.093, F.S.; revising the duty of officials to furnish lists of deceased persons, persons adjudicated mentally incapacitated, and persons convicted of a felony; creating s. 98.0981, F.S.; requiring the department to establish and maintain a statewide voter registration database and provide such database to the Legislature; specifying the required contents of the database; amending s. 98.212, F.S., relating to furnishing of statistical and other information, to conform; amending s. 98.461, F.S.; authorizing use of an electronic database as a precinct register and use of an electronic device for voter signatures and witness initials; amending s. 100.371, F.S.; revising the procedure by which constitutional amendments proposed by initiative shall be placed on the ballot; amending s. 101.001, F.S.; revising requirements of supervisors relating to precincts and precinct boundaries; providing exceptions; amending s. 101.043, F.S.; revising requirements and procedures relating to identification required at polls; amending s. 101.045, F.S., relating to provisions for residence or name change at the polls, to conform; amending s. 101.048, F.S., relating to provisional ballots, to conform; amending s. 101.161, F.S.; correcting a cross reference; amending s. 101.56062, F.S., relating to standards for accessible voting systems, to conform; amending s. 101.5608, F.S.; revising a provision relating to an elector's signature provided with identification prior to voting; creating s. 101.573, F.S.; requiring supervisors of elections to file precinct-level election results; requiring the Department of State to adopt rules; amending s. 101.62, F.S.; correcting a cross reference; amending ss. 101.64 and 101.657, F.S.; requiring that the supervisor of elections indicate on each absentee or early voted ballot the precinct of the voter; amending s. 101.663, F.S., relating to change of residence, to conform; amending s. 101.6921, F.S., relating to delivery of special absentee ballots to certain first-time voters, to conform; amending s. 101.6923, F.S., relating to special absentee ballot instructions for certain first-time voters, to conform; amending s. 102.012, F.S., relating to conduct of elections by inspectors and clerks, to conform; amending s. 104.013, F.S., relating to unauthorized use, possession, or destruction of voter information cards, to conform; amending s. 106.0705, F.S.; providing for the timely filing of certain reports; amending s. 106.34, F.S.; revising provisions relating to certain candidate expenditure limits; providing a definition; amending s. 196.141, F.S., relating to homestead exemptions and duties of property appraisers, to conform; amending s. 120.54, F.S.; including certain rules pertaining to the Florida Election Code within the definition of emergency rules governing public health, safety, or welfare during specified times; amending s. 99.061, F.S.; revising provisions relating to the method of qualifying for nomination to the office of the state attorney or public defender; repealing s. 98.055, F.S., relating to registration list maintenance forms; repealing s. 98.095, F.S., relating to county registers open to inspection and copies; repealing s. 98.0977, F.S., relating to the statewide voter registration database and its operation and maintenance; repealing s. 98.0979, F.S., relating to inspection of the statewide voter registration; repealing s. 98.101, F.S., relating to specifications for permanent registration binders, files, and forms; repealing s. 98.181, F.S., relating to duty of the supervisor of elections to make up indexes or records; repealing s. 98.231, F.S., relating to duty of the supervisor of elections to furnish the department the number of registered electors; repealing s. 98.451, F.S., relating to automation in processing registration data; repealing s. 98.481, F.S., relating to challenges to electors; repealing s. 101.635, F.S., relating to distribution of blocks of printed ballots; providing effective dates.

(Amendment Bar Code: 403032)

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

Section 1. Subsections (1), (2), and (11) of section 97.012, Florida Statutes, are amended, and subsection (14) is added to that section, to read:

97.012 Secretary of State as chief election officer.--The Secretary of State is the chief election officer of the state, and it is his or her responsibility to:

(1) Obtain and maintain uniformity in the ~~application, operation, and~~ interpretation and implementation of the election laws. In order to obtain and maintain uniformity in the interpretation and implementation of the elections laws, the Department of State may, pursuant to ss. 120.536(1) and 120.54, adopt by rule uniform standards for the proper and equitable interpretation and implementation of the requirements of chapters 97 through 102 and 105 of the Election Code.

(2) Provide uniform standards for the proper and equitable implementation of the registration laws by administrative rule of the Department of State adopted pursuant to ss. 120.536(1) and 120.54.

(11) Create and administer ~~maintain~~ a statewide voter registration system as required by the Help America Vote Act of 2002 ~~database~~. The secretary may delegate voter registration duties and records maintenance activities to voter registration officials. Any responsibilities delegated by the secretary shall be performed in accordance with state and federal law.

(14) Bring and maintain such actions at law or in equity by mandamus or injunction to enforce the performance of any duties of a county supervisor of elections or any official performing duties with respect to chapters 97 through 102 and 105 or to enforce compliance with a rule of the Department of State adopted to interpret or implement any of those chapters.

(a) Venue for such actions shall be in the Circuit Court of Leon County.

(b) When the secretary files an action under this section and not more than 60 days remain before an election as defined in s. 97.021, or during the time period after the election and before certification of the election pursuant to s. 102.112 or s. 102.121, the court, including an appellate court, shall set an immediate hearing, giving the case priority over other pending cases.

(c) Prior to filing an action to enforce performance of the duties of the supervisor of elections or any official described in this subsection, the secretary or his or her designee first must confer, or must make a good-faith attempt to confer, with the supervisor of elections or the official to ensure compliance with chapters 97 through 102 and 105 or the rules of the Department of State adopted under any of those chapters.

Section 2. Subsection (13) of section 97.021, Florida Statutes, is

amended, present subsections (38) and (39) are renumbered as subsections (39) and (40), respectively, and a new subsection (38) is added to that section, to read:

97.021 Definitions.--For the purposes of this code, except where the context clearly indicates otherwise, the term:

(13) "Lists of registered electors" means names and associated information ~~copies of printed lists~~ of registered electors maintained by the department in the statewide voter registration system or generated or derived from the statewide voter registration system. Lists may be produced in printed or electronic format~~, computer tapes or disks, or any other device used by the supervisor of elections to maintain voter records~~.

(38) "Voter registration official" means any supervisor of elections or individual authorized by the Secretary of State to accept voter registration applications and execute updates to the statewide voter registration system.

Section 3. Section 97.026, Florida Statutes, is amended to read:

97.026 Forms to be available in alternative formats and via the Internet.--It is the intent of the Legislature that all forms required to be used in chapters 97-106 shall be made available upon request, in alternative formats. Such forms shall include absentee ballots as alternative formats for such ballots become available and the Division of Elections is able to certify systems that provide them. The department may, pursuant to ss. 120.536(1) and 120.54, adopt rules to administer this section. Whenever possible, such forms, with the exception of absentee ballots, shall be made available by the Department of State via the Internet. Sections that contain such forms include, but are not limited to, ss. 97.051, 97.052, 97.053, 97.057, 97.058, 97.0583, 97.071, 97.073, 97.1031, ~~98.055,~~ 98.075, 99.021, 100.361, 100.371, 101.045, 101.171, 101.20, 101.6103, 101.62, 101.64, 101.65, 101.657, 105.031, 106.023, and 106.087.

Section 4. Section 97.051, Florida Statutes, is amended to read:

97.051 Oath upon registering.--A person registering to vote must subscribe to the following oath: "I do solemnly swear (or affirm) that I will protect and defend the Constitution of the United States and the Constitution of the State of Florida, that I am qualified to register as an elector under the Constitution and laws of the State of Florida, and that all information provided in this application is true ~~I am a citizen of the United States and a legal resident of Florida~~."

Section 5. Section 97.052, Florida Statutes, is amended to read:

97.052 Uniform statewide voter registration application.--

(1) The department shall prescribe by rule a uniform statewide voter registration application for use in this state.

(a) The uniform statewide voter registration application must be accepted for any one or more of the following purposes:

1. Initial registration.
2. Change of address.
3. Change of party affiliation.
4. Change of name.
5. Replacement of a voter information ~~registration identification~~ card.
6. Signature update.

(b) The department is responsible for printing the uniform statewide voter registration application and the voter registration application form prescribed by the ~~Federal~~ Election Assistance Commission pursuant to federal law ~~the National Voter Registration Act of 1993~~. The applications and forms must be distributed, upon request, to the following:

1. Individuals seeking to register to vote or update a voter registration record.
2. Individuals or groups conducting voter registration programs. A charge of 1 cent per application shall be assessed on requests for 10,000 or more applications.
3. The Department of Highway Safety and Motor Vehicles.
4. Voter registration agencies.
5. Armed forces recruitment offices.
6. Qualifying educational institutions.
7. Supervisors, who must make the applications and forms available in the following manner:

a. By distributing the applications and forms in their offices to any individual or group.

b. By distributing the applications and forms at other locations designated by each supervisor.

c. By mailing the applications and forms to applicants upon the request of the applicant.

(c) The uniform statewide voter registration application may be reproduced by any private individual or group, provided the reproduced application is in the same format as the application prescribed by rule under this section.

(2) The uniform statewide voter registration application must be designed to elicit the following information from the applicant:

(a) Last, first, and middle ~~Full~~ name, including any suffix.
(b) Date of birth.
(c) Address of legal residence.
(d) Mailing address, if different.
(e) County of legal residence.
~~(f) Address of property for which the applicant has been granted a homestead exemption, if any.~~
(f)~~(g)~~ Race or ethnicity that best describes the applicant:
1. American Indian or Alaskan Native.
2. Asian or Pacific Islander.
3. Black, not Hispanic.
4. White, not Hispanic.
5. Hispanic.
(g)~~(h)~~ State or country of birth.
(h)~~(i)~~ Sex.
(i)~~(j)~~ Party affiliation.
(j)~~(k)~~ Whether the applicant needs assistance in voting.
(k)~~(l)~~ Name and address where last registered.
(l)~~(m)~~ Last four digits of the applicant's social security number.
(m)~~(n)~~ Florida driver's license number or the identification number from a Florida identification card issued under s. 322.051.
(n) An indication, if applicable, that the applicant has not been issued a Florida driver's license, a Florida identification card, or a social security number.
(o) Telephone number (optional).
(p) Signature of applicant under penalty for false swearing pursuant to s. 104.011, by which the person subscribes to the oath required by s. 3, Art. VI of the State Constitution and s. 97.051, and swears or affirms that the information contained in the registration application is true.
(q) Whether the application is being used for initial registration, to update a voter registration record, or to request a replacement voter information ~~registration identification~~ card.
(r) Whether the applicant is a citizen of the United States by asking the question "Are you a citizen of the United States of America?" and providing boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.
(s) Whether ~~That~~ the applicant has ~~not~~ been convicted of a felony, and ~~or~~, if convicted, has had his or her civil rights restored by including the statement "I affirm I am not a convicted felon or, if I am, my rights relating to voting have been restored." and providing a box for the applicant to check to affirm the statement.
(t) Whether ~~That~~ the applicant has ~~not~~ been adjudicated mentally incapacitated with respect to voting or, if so adjudicated, has had his or her right to vote restored by including the statement "I affirm I have not been adjudicated mentally incapacitated with respect to voting or, if I have, my competency has been restored." and providing a box for the applicant to check to affirm the statement.

The registration application ~~form~~ must be in plain language and designed so that convicted felons whose civil rights have been restored and persons who have been adjudicated mentally incapacitated and have had their voting rights restored are not required to reveal their prior conviction or adjudication.

(3) The uniform statewide voter registration application must also

contain:

(a) The oath required by s. 3, Art. VI of the State Constitution and s. 97.051.

(b) A statement specifying each eligibility requirement under s. 97.041.

(c) The penalties provided in s. 104.011 for false swearing in connection with voter registration.

(d) A statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and may be used only for voter registration purposes.

(e) A statement that informs the applicant who chooses to register to vote or update a voter registration record that the office at which the applicant submits a voter registration application or updates a voter registration record will remain confidential and may be used only for voter registration purposes.

~~(f) A statement that informs the applicant that any person who has been granted a homestead exemption in this state, and who registers to vote in any precinct other than the one in which the property for which the homestead exemption has been granted, shall have that information forwarded to the property appraiser where such property is located, which may result in the person's homestead exemption being terminated and the person being subject to assessment of back taxes under s. 193.092, unless the homestead granted the exemption is being maintained as the permanent residence of a legal or natural dependent of the owner and the owner resides elsewhere.~~

(f)~~(g)~~ A statement informing an ~~the~~ applicant who has not been issued a Florida driver's license, a Florida identification card, or a social security number that if the application ~~form~~ is submitted by mail and the applicant is registering for the first time in this state, the applicant will be required to provide identification prior to voting the first time.

(4) A supervisor may produce a voter registration application that has the supervisor's direct mailing address if the department has reviewed the application and determined that it is substantially the same as the uniform statewide voter registration application.

(5) The voter registration application form prescribed by the ~~Federal~~ Election Assistance Commission pursuant to federal law ~~the National Voter Registration Act of 1993~~ or the federal postcard application must be accepted as an application for registration in this state if the completed application or postcard application contains the information required by the constitution and laws of this state.

(6) If a voter registration applicant fails to provide any of the required information on the voter registration application form, the supervisor shall notify the applicant of the failure by mail within 5 business days after the supervisor has the information available in the voter registration system. The applicant shall have an opportunity to complete the application form to vote in the next election up until the book closing for that next election.

Section 6. Section 97.053, Florida Statutes, is amended to read:

97.053 Acceptance of voter registration applications.--

(1) Voter registration applications, changes in registration, and requests for a replacement voter information ~~registration identification~~ card must be accepted in the office of any supervisor, the division, a driver license office, a voter registration agency, or an armed forces recruitment office when hand delivered by the applicant or a third party during the hours that office is open or when mailed.

(2) A ~~completed~~ voter registration application is complete and ~~that contains the information necessary to establish an applicant's eligibility pursuant to s. 97.041~~ becomes the official voter registration record of that applicant when all information necessary to establish the applicant's eligibility pursuant to s. 97.041 is received by a voter registration official and verified pursuant to subsection (6) ~~the appropriate supervisor~~. If the applicant fails to complete his or her voter registration application prior to the date of book closing for an election, then such applicant shall not be eligible to vote in that election.

(3) The registration date for a valid initial voter registration application that has been hand delivered is the date that the application is ~~when~~ received by a driver license office, a voter registration agency, an armed forces recruitment office, the division, or the office of any supervisor in the state.

(4) The registration date for a valid initial voter registration application that has been mailed to a driver license office, a voter registration agency, an armed forces recruitment office, the division, or the office of any supervisor in the state and bears a clear postmark is the date of that ~~the~~ postmark. If an initial voter registration application that has been mailed does not bear a postmark or if the postmark is unclear, the registration date is the date the application ~~registration~~ is received by any supervisor or the division, unless it is received within 5 days after the closing of the books for an election, excluding Saturdays, Sundays, and legal holidays, in which case the registration date is the book-closing date.

(5)(a) A voter registration application is complete if it contains the following information necessary to establish the applicant's eligibility pursuant to s. 97.041, including:

1. The applicant's name.
2. The applicant's legal residence address.
3. The applicant's date of birth.
4. A mark in the checkbox affirming ~~An indication~~ that the applicant is a citizen of the United States.
5.a. The applicant's current and valid Florida driver's license number or~~,~~ the identification number from a Florida identification card issued under s. 322.051, or

b. If the applicant has not been issued a current and valid Florida driver's license or a Florida identification card, the last four digits of the applicant's social security number.

In case an applicant has not been issued a current and valid Florida driver's license, Florida identification card, or social security number, the applicant shall affirm this fact in the manner prescribed in the uniform statewide voter registration application.

6. A mark in the checkbox affirming ~~An indication~~ that the applicant has not been convicted of a felony or that, if convicted, has had his or her civil rights restored.
7. A mark in the checkbox affirming ~~An indication~~ that the applicant has not been adjudicated mentally incapacitated with respect to voting or that, if so adjudicated, has had his or her right to vote restored.
8. The original signature or a digital signature transmitted by the Department of Highway Safety and Motor Vehicles of the applicant swearing or affirming under the penalty for false swearing pursuant to s. 104.011 that the information contained in the registration application is true and subscribing to the oath required by s. 3, Art. VI of the State Constitution and s. 97.051.

(b) An applicant who fails to designate party affiliation must be registered without party affiliation. The supervisor must notify the voter by mail that the voter has been registered without party affiliation and that the voter may change party affiliation as provided in s. 97.1031.

(6) A voter registration application may be accepted as valid only after the department has verified the authenticity or nonexistence of the driver's license number, the Florida identification card number, or the last four digits of the social security number provided by the applicant. If a completed voter registration application has been received by the book-closing deadline but the driver's license number, the Florida identification card number, or the last four digits of the social security number provided by the applicant cannot be verified prior to the applicant presenting himself or herself to vote, the applicant shall be provided a provisional ballot. The provisional ballot shall be counted only if the application is verified by the end of the canvassing period or if the applicant presents evidence to the supervisor of elections sufficient to verify the authenticity of the driver's license number, Florida identification card number, or last four digits of the social security number provided on the application no later than 5 p.m. of the third day following the election.

(7) All voter registration applications received by a voter registration official shall be entered into the statewide voter registration system

within 15 days after receipt. Once entered, the application shall be immediately forwarded to the appropriate supervisor of elections.

Section 7. Subsections (1), (2), and (3) of section 97.0535, Florida Statutes, are amended to read:

97.0535 Special requirements for certain applicants.--

(1) Each applicant who registers by mail and who has never previously voted in the state and who the department has verified has not been issued a current and valid Florida driver's license, Florida identification card, or social security number ~~county~~ shall be required to provide a copy of a current and valid identification, as provided in subsection (3), or indicate that he or she is exempt from the requirements prior to voting. Such ~~The applicant may provide the~~ identification or indication may be provided at the time of registering, or at any time prior to voting for the first time in the state ~~county~~. If the voter registration application clearly provides information from which a voter registration official ~~the supervisor~~ can determine that the applicant meets at least one of the exemptions in subsection (4), the voter registration official ~~supervisor~~ shall make the notation on the registration records of the statewide voter registration system and the applicant shall not be required to provide the identification required by this section ~~further information that is required of first time voters who register by mail~~.

(2) The voter registration official ~~supervisor of elections~~ shall, upon accepting the voter registration application submitted pursuant to subsection (1) ~~for an applicant who registered by mail and who has not previously voted in the county~~, determine if the applicant provided the required identification at the time of registering. If the required identification was not provided, the supervisor shall notify the applicant that he or she must provide the identification prior to voting the first time in the state ~~county~~.

(3)(a) The following forms of identification shall be considered current and valid if they contain the name and photograph of the applicant and have not expired:

~~1. Florida driver's license.~~

~~2. Florida identification card issued by the Department of Highway Safety and Motor Vehicles.~~

1.~~3.~~ United States passport.

2.~~4.~~ Employee badge or identification.

3.~~5.~~ Buyer's club identification.

4.~~6.~~ Debit or credit card.

5.~~7.~~ Military identification.

6.~~8.~~ Student identification.

7.~~9.~~ Retirement center identification.

8.~~10.~~ Neighborhood association identification.

~~11. Entertainment identification.~~

9.~~12.~~ Public assistance identification.

(b) The following forms of identification shall be considered current and valid if they contain the name and current residence address of the applicant:

1. Utility bill.

2. Bank statement.

3. Government check.

4. Paycheck.

5. Other government document (excluding voter identification card).

Section 8. Subsection (1) of section 97.055, Florida Statutes, is amended to read:

97.055 Registration books; when closed for an election.--

(1) The registration books must be closed on the 29th day before each election and must remain closed until after that election. If an election is called and there are fewer than 29 days before that election, the registration books must be closed immediately. When the registration books are closed for an election, only updates to a voter's name, address, and signature pursuant to ss. 98.077 and 101.045 will be permitted for purposes of the upcoming election. Voter registration applications and party changes must be accepted but only for the purpose of subsequent elections. However, party changes received between the book-closing date of the first primary election and the date of the second primary election are not effective until after the second primary election.

Section 9. Section 97.057, Florida Statutes, is amended to read:

97.057 Voter registration by the Department of Highway Safety and Motor Vehicles.--

(1) The Department of Highway Safety and Motor Vehicles shall provide the opportunity to register to vote or to update a voter registration record to each individual who comes to an office of that department to:

(a) Apply for or renew a driver's license;

(b) Apply for or renew an identification card pursuant to chapter 322; or

(c) Change an address on an existing driver's license or identification card.

(2) The Department of Highway Safety and Motor Vehicles shall:

(a) Notify each individual, orally or in writing, that:

1. Information gathered for the completion of a driver's license or identification card application, renewal, or change of address can be automatically transferred to a voter registration application;

2. If additional information and a signature are provided, the voter registration application will be completed and sent to the proper election authority;

3. Information provided can also be used to update a voter registration record;

4. All declinations will remain confidential and may be used only for voter registration purposes; and

5. The particular driver license office in which the person applies to register to vote or updates a voter registration record will remain confidential and may be used only for voter registration purposes.

(b) Require a driver's license examiner to inquire orally~~,~~ or, if the applicant is hearing impaired, inquire in writing ~~if the applicant is hearing impaired, and~~ whether the applicant wishes to register to vote or update a voter registration record during the completion of a driver's license or identification card application, renewal, or change of address.

1. If the applicant chooses to register to vote or to update a voter registration record:

a. All applicable information received by the Department of Highway Safety and Motor Vehicles in the course of filling out the forms necessary under subsection (1) must be transferred to a voter registration application.~~;~~

b. The additional necessary information must be obtained by the driver's license examiner and must not duplicate any information already obtained while completing the forms required under subsection (1).~~; and~~

c. A voter registration application with all of the applicant's voter registration information required to establish the applicant's eligibility pursuant to s. 97.041 must be presented to the applicant to review and verify the voter registration information received and provide an electronic signature affirming the accuracy of the information provided ~~sign~~.

2. If the applicant declines to register to vote, update the applicant's voter registration record, or change the applicant's address by either orally declining or by failing to sign the voter registration application, the Department of Highway Safety and Motor Vehicles must note such declination on its records and shall forward the declination to the statewide voter registration system ~~keep the declination for 2 years but must forward a copy of the unsigned voter registration application within 5 days after receipt to the appropriate supervisor of elections~~.

(3) For the purpose of this section, the Department of Highway Safety and Motor Vehicles, with the approval of the Department of State, shall prescribe:

(a) A voter registration application that is the same in content, format, and size as the uniform statewide voter registration application prescribed under s. 97.052; and

(b) A form that will inform applicants under subsection (1) of the information contained in paragraph (2)(a).

(4) The Department of Highway Safety and Motor Vehicles must electronically transmit ~~forward~~ completed voter registration applications within 24 hours after receipt to the statewide voter registration system.

Completed paper voter registration applications received by the Department of Highway Safety and Motor Vehicles shall be forwarded within 5 days after receipt to the supervisor of the county where the office that processed or received that application is located.

(5) The Department of Highway Safety and Motor Vehicles must send, with each driver's license renewal extension application authorized pursuant to s. 322.18(8), a uniform statewide voter registration application, the voter registration application prescribed under paragraph (3)(a), or a voter registration application developed especially for the purposes of this subsection by the Department of Highway Safety and Motor Vehicles, with the approval of the Department of State, which must meet the requirements of s. 97.052.

(6) A person providing voter registration services for a driver license office may not:

(a) Seek to influence an applicant's political preference or party registration;

(b) Display any political preference or party allegiance;

(c) Make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or

(d) Disclose any applicant's voter registration information except as needed for the administration of voter registration.

~~(7) The Department of Highway Safety and Motor Vehicles shall compile lists, by county, of those individuals whose names have been purged from its driver's license database because they have been licensed in another state and shall provide those lists annually to the appropriate supervisors.~~

(7)~~(8)~~ The Department of Highway Safety and Motor Vehicles shall collect data determined necessary by the Department of State for program evaluation and reporting to the ~~Federal~~ Election Assistance Commission pursuant to federal law ~~the National Voter Registration Act of 1993~~.

(8)~~(9)~~ The Department of Highway Safety and Motor Vehicles must ensure that all voter registration services provided by driver license offices are in compliance with the Voting Rights Act of 1965.

(9) The Department of Highway Safety and Motor Vehicles shall retain complete records of voter registration information received, processed, and submitted to the statewide voter registration system by the Department of Highway Safety and Motor Vehicles. These records shall be for the explicit purpose of supporting audit and accounting controls established to ensure accurate and complete electronic transmission of records between the statewide voter registration system and the Department of Highway Safety and Motor Vehicles.

(10) The department shall provide the Department of Highway Safety and Motor Vehicles with an electronic database of street addresses valid for use as the legal residence address as required in s. 97.053(5). The Department of Highway Safety and Motor Vehicles shall compare the address provided by the applicant against the database of valid street addresses. If the address provided by the applicant does not match a valid street address in the database, the applicant will be asked to verify the address provided. The Department of Highway Safety and Motor Vehicles shall not reject any application for voter registration for which a valid match cannot be made.

(11) The Department of Highway Safety and Motor Vehicles shall enter into an agreement with the department to match information in the statewide voter registration system with information in the database of the Department of Highway Safety and Motor Vehicles to the extent required to verify the accuracy of the driver's license number, Florida identification number, or last four digits of the social security number provided on applications for voter registration as required in s. 97.053.

(12) The Department of Highway Safety and Motor Vehicles shall enter into an agreement with the Commissioner of Social Security as required by the Help America Vote Act of 2002 to verify the last four digits of the social security number provided in applications for voter registration as required in s. 97.053.

Section 10. Subsections (6), (7), and (9) of section 97.058, Florida Statutes, are amended to read:

97.058 Voter registration agencies.--

(6) A voter registration agency must forward all completed and incomplete voter registration applications within 5 days after receipt to the supervisor of the county where the agency that processed or received that application is located.

(7) A voter registration agency must retain declinations for a period of 2 years, during which time the declinations are not considered a record of the client pursuant to the laws governing the agency's records. ~~However, a voter registration agency must forward a copy of each incompleted voter registration application within 5 days after receipt to the appropriate supervisor of elections.~~

(9) A voter registration agency must collect data determined necessary by the department, as provided by rule, for program evaluation and reporting to the ~~Federal~~ Election Assistance Commission pursuant to federal law ~~the National Voter Registration Act of 1993~~.

Section 11. Section 97.061, Florida Statutes, is amended to read:

97.061 Special registration for electors requiring assistance.--

(1) Any person who is eligible to register and who is unable to read or write or who, because of some disability, needs assistance in voting shall upon that person's request be registered ~~by the supervisor~~ under the procedure prescribed by this section and shall be entitled to receive assistance at the polls under the conditions prescribed by this section. The department may adopt rules to administer this section.

(2) If a person is qualified to register pursuant to this section, the voter registration official ~~supervisor~~ shall note in that person's registration record that the person needs assistance in voting.

(3) The precinct register generated by the supervisor shall contain ~~Upon registering any person pursuant to this section, the supervisor must make~~ a notation ~~on the registration books or records which are delivered to the polls on election day~~ that such person is eligible for assistance in voting, and the supervisor may ~~issue such person a special registration identification card or~~ make a ~~some~~ notation on the voter information ~~regular registration identification~~ card that such person is eligible for assistance in voting. Such person shall be entitled to receive the assistance of two election officials or some other person of his or her own choice, other than the person's employer, the agent of the person's employer, or an officer or agent of the person's union, without the necessity of executing the "Declaration to Secure Assistance" prescribed in s. 101.051. Such person shall notify the supervisor of any change in his or her condition which makes it unnecessary for him or her to receive assistance in voting.

Section 12. Section 97.071, Florida Statutes, is amended to read:

97.071 Voter information ~~Registration identification~~ card.--

(1) A voter information ~~registration identification~~ card shall ~~must~~ be furnished by the supervisor to all registered voters residing in the supervisor's county. The card ~~registering under the permanent single registration system and~~ must contain:

(a) Voter's registration number.

(b) Date of registration.

(c) Full name.

(d) Party affiliation.

(e) Date of birth.

~~(f) Race or ethnicity, if provided by the applicant.~~

~~(g) Sex, if provided by the applicant.~~

(f)~~(h)~~ Address of legal residence.

(g)~~(i)~~ Precinct number.

(h)~~(j)~~ Name of supervisor and contact information of supervisor.

~~(k) Place for voter's signature.~~

(i)~~(l)~~ Other information deemed necessary by the supervisor ~~department~~.

(2) A voter may receive a replacement voter information ~~of a registration identification~~ card by providing a signed, written request for a replacement card to a voter registration official ~~the supervisor~~. Upon verification of registration, the supervisor shall issue the voter a duplicate card without charge.

(3) In the case of a change of name, address, or party affiliation, the

supervisor shall ~~must~~ issue the voter a new voter information ~~registration identification~~ card. However, a voter information ~~registration identification~~ card indicating a party affiliation change made between the book-closing date for the ~~first~~ primary election and the date of the ~~second~~ primary election may not be issued until after the ~~second~~ primary election.

Section 13. Section 97.073, Florida Statutes, is amended to read:

97.073 Disposition of voter registration applications; cancellation notice.--

(1) The supervisor must notify each applicant of the disposition of the applicant's voter registration application. The notice must inform the applicant that the application has been approved, is incomplete, has been denied, or is a duplicate of a current registration. A voter information ~~registration identification~~ card sent to an applicant constitutes notice of approval of registration. If the application is incomplete, the supervisor must request that the applicant supply the missing information using a voter registration application signed by the applicant ~~in writing and sign a statement that the additional information is true and correct~~. A notice of denial must inform the applicant of the reason the application was denied.

(2) Within 2 weeks after approval of a voter registration application that indicates that the applicant was previously registered in another state ~~jurisdiction~~, the department ~~supervisor~~ must notify the registration official in the prior state ~~jurisdiction~~ that the applicant is now registered in this state ~~the supervisor's county~~.

Section 14. Section 97.1031, Florida Statutes, is amended to read:

97.1031 Notice of change of residence ~~within the same county,~~ change of name, or change of party affiliation.--

(1) When an elector moves from the address named on that person's voter registration record to another address within the same county, the elector must provide notification of such move to the supervisor of elections of that county. The elector may provide the supervisor a signed, written notice or may notify the supervisor by telephone or electronic means. However, notification of such move other than by signed, written notice must include the elector's date of birth. An elector may also provide notification to other voter registration officials as provided in subsection (2). A voter information ~~registration identification~~ card reflecting the new information ~~address of legal residence~~ shall be issued to the elector as provided in subsection (3)~~(4)~~.

(2) When an elector moves from the address named on that person's voter registration record to another address in a different county but within the state, the elector seeks to change party affiliation, or the name of an elector is changed by marriage or other legal process, the elector shall ~~must~~ provide notice ~~a signed, written notification~~ of such change to a voter registration official using a voter registration application signed by the elector. A voter information ~~the supervisor and obtain a registration identification~~ card reflecting the new information shall be issued to the elector as provided in subsection (3) ~~name~~.

~~(3) When an elector seeks to change party affiliation, the elector must provide a signed, written notification of such intent to the supervisor and obtain a registration identification card reflecting the new party affiliation, subject to the issuance restriction in s. 97.071(3).~~

(3)~~(4)~~ The voter registration official ~~supervisor~~ shall make the necessary changes in the elector's records as soon as practical upon receipt of such notice of a change of address of legal residence, name, or party affiliation. The supervisor of elections ~~and~~ shall issue the new voter information ~~registration identification~~ card ~~as required by s. 97.071(3)~~.

Section 15. Section 97.105, Florida Statutes, is amended to read:

97.105 Permanent single registration system established.--A permanent single registration system for the registration of electors to qualify them to vote in all elections is provided for the several counties and municipalities. This system shall be put into use by all municipalities and shall be in lieu of any other system of municipal registration. Electors shall be registered pursuant to ~~in pursuance of~~ this system by a voter registration official ~~the supervisor or by a deputy supervisor~~, and electors registered shall not thereafter be required to register or reregister except as provided by law.

Section 16. Subsections (3), (10), and (11) of section 98.015, Florida Statutes, are amended, and subsection (12) is added to that section, to read:

98.015 Supervisor of elections; election, tenure of office, compensation, custody of books, office hours, successor, seal; appointment of deputy supervisors; duties.--

(3) The supervisor shall update voter registration information, enter new voter registrations into the statewide voter registration system, and act as ~~is~~ the official custodian of documents received by the supervisor related to the registration of electors and changes in voter registration status of electors of the supervisor's county ~~the registration books and has the exclusive control of matters pertaining to registration of electors~~.

(10) Each supervisor shall ~~must~~ ensure that all voter registration and list maintenance procedures conducted by such supervisor are in compliance with any applicable requirements prescribed by rule of the department through the statewide voter registration system or prescribed by ~~for that county under~~ the Voting Rights Act of 1965, the National Voter Registration Act of 1993, or the Help America Vote Act of 2002.

(11) Each supervisor shall ensure that any voter registration system used by the supervisor for administering his or her duties as a voter registration official complies with the specifications and procedures established by rule of the department and the statewide voter registration system ~~Each supervisor of elections shall forward to the property appraiser for the county in which the homestead is claimed the name of the person and the address of the homestead of each person who registers to vote at an address other than that at which the person claims a homestead exemption, as disclosed on the uniform statewide voter registration application pursuant to s. 97.052~~.

(12) Each supervisor shall maintain a list of valid residential street addresses for purposes of verifying the legal addresses of voters residing in the supervisor's county. The supervisor shall make all reasonable efforts to coordinate with county 911 service providers, property appraisers, the United States Postal Service, or other agencies as necessary to ensure the continued accuracy of such list. The supervisor shall provide the list of valid residential addresses to the statewide voter registration system in the manner and frequency specified by rule of the department.

Section 17. Section 98.035, Florida Statutes, is created to read:

98.035 Statewide voter registration system; implementation, operation, and maintenance.--

(1) The Secretary of State, as chief election officer of the state, shall be responsible for implementing, operating, and maintaining, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive, computerized statewide voter registration system as required by the Help America Vote Act of 2002. The department may adopt rules to administer this section.

(2) The statewide voter registration system must contain the name and registration information of every legally registered voter in the state. All voters shall be assigned a unique identifier. The system shall be the official list of registered voters in the state and shall provide secured access by authorized voter registration officials. The system shall enable voter registration officials to provide, access, and update voter registration information.

(3) The department may not contract with any other entity for the operation of the statewide voter registration system.

(4) The implementation of the statewide voter registration system shall not prevent any supervisor of elections from acquiring, maintaining, or using any hardware or software necessary or desirable to carry out the supervisor's responsibilities related to the use of voter registration information or the conduct of elections, provided that such hardware or software does not conflict with the operation of the statewide voter registration system.

(5) The department may adopt rules governing the access, use, and operation of the statewide voter registration system to ensure security, uniformity, and integrity of the system.

Section 18. Section 98.045, Florida Statutes, is amended to read:

98.045 Administration of voter registration.--

(1) ELIGIBILITY OF APPLICANT.--The ~~Each~~ supervisor must ensure that any eligible applicant for voter registration is registered to vote and that each application for voter registration is processed in accordance with law. The supervisor shall determine whether a voter registration applicant is ineligible based on any of the following:

(a) The failure to complete a voter registration application as specified in s. 97.053.

(b) The applicant is deceased.

(c) The applicant has been convicted of a felony for which his or her civil rights have not been restored.

(d) The applicant has been adjudicated mentally incapacitated with respect to the right to vote and such right has not been restored.

(e) The applicant does not meet the age requirement pursuant to s. 97.041.

(f) The applicant is not a United States citizen.

(g) The applicant is a fictitious person.

(h) The applicant has provided an address of legal residence that is not his or her legal residence.

(i) The applicant has provided a driver's license number, Florida identification card number, or the last four digits of a social security number that is not verifiable by the department.

(2) REMOVAL OF REGISTERED VOTERS.--

(a) Once a voter is registered, the name of that voter may not be removed from the statewide voter registration system ~~books~~ except at the written request of the voter, by reason of the voter's conviction of a felony or adjudication as mentally incapacitated with respect to voting, by death of the voter, or pursuant to a registration list maintenance ~~program or other registration list maintenance~~ activity conducted pursuant to s. 98.065 or~~,~~ s. 98.075~~, or s. 98.0977~~.

(b)~~(2)~~ Information received by a voter registration official ~~supervisor~~ from an election official in another state ~~jurisdiction~~ indicating that a registered voter in this state ~~the supervisor's county~~ has registered to vote in that other state ~~jurisdiction~~ shall be considered as a written request from the voter to have the voter's name removed from the statewide voter registration system ~~books of the supervisor's county~~.

(3) PUBLIC RECORDS ACCESS AND RETENTION.-- ~~Notwithstanding the provisions of ss. 98.095 and 98.0977,~~ Each supervisor shall maintain for at least 2 years, and make available for public inspection and copying, all records concerning implementation of registration list maintenance programs and activities conducted pursuant to ss. 98.065 and~~,~~ 98.075~~, and 98.0977~~. The records must include lists of the name and address of each person to whom a ~~an address confirmation final~~ notice was sent and information as to whether each such person responded to the mailing, but may not include any information that is confidential or exempt from public records requirements under this code.

(4) STATEWIDE ELECTRONIC DATABASE OF VALID RESIDENTIAL STREET ADDRESSES.--

(a) The department shall compile and maintain a statewide electronic database of valid residential street addresses from the information provided by the supervisors of elections pursuant to s. 98.015. The department shall evaluate the information provided by the supervisors of elections to identify any duplicate addresses and any address that may overlap county boundaries.

(b) The department shall make the statewide database of valid street addresses available to the Department of Highway Safety and Motor Vehicles as provided in s. 97.057(10). The Department of Highway Safety and Motor Vehicles shall use the database for purposes of validating the legal residential addresses provided in voter registration applications received by the Department of Highway Safety and Motor Vehicles.

(5) FORMS.--The department may prescribe by rule forms necessary to conduct maintenance of records in the statewide voter registration system.

Section 19. Section 98.065, Florida Statutes, as amended by chapter 2002-281, Laws of Florida, is amended to read:

98.065 Registration list maintenance programs.--

(1) The supervisor must conduct a general registration list maintenance program to protect the integrity of the electoral process by ensuring the maintenance of accurate and current voter registration records in the statewide voter registration system. The program must be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965, the National Voter Registration Act of 1993, and the Help America Vote Act of 2002. As used in this subsection, the term "nondiscriminatory" applies to and includes persons with disabilities.

(2) A supervisor must incorporate one or more of the following procedures in the supervisor's biennial registration list maintenance program under which:

(a) Change-of-address information supplied by the United States Postal Service through its licensees is used to identify registered voters whose addresses might have changed;

(b) Change-of-address information is identified from returned nonforwardable return-if-undeliverable mail sent to all registered voters in the county; or

(c) Change-of-address information is identified from returned nonforwardable return-if-undeliverable address confirmation requests mailed to all registered voters who have not voted in the last 2 years and who did not make a written request that their registration records be updated during that time.

(3) A registration list maintenance program must be conducted by each supervisor, at a minimum, in each odd-numbered year and must be completed not later than 90 days prior to the date of any federal election. All list maintenance actions associated with each voter must be entered, tracked, and maintained in the statewide voter registration system.

(4)(a) If the supervisor receives change-of-address information pursuant to the activities conducted in subsection (2), from jury notices signed by the voter and returned to the courts, from the Department of Highway Safety and Motor Vehicles, or from other sources, which information indicates that the legal address of a registered voter might have changed, the supervisor shall send by forwardable return-if-undeliverable mail an address confirmation notice to the address at which the voter was last registered. A supervisor may also send an address confirmation notice to any voter who the supervisor has reason to believe has moved from his or her legal residence.

(b) The address confirmation notice shall contain a postage prepaid preaddressed return form on which:

1. If the voter has changed his or her address of legal residence to a location outside the state, the voter shall mark that the voter's legal residence has changed to a location outside the state. The form shall also include information on how to register in the new state in order to be eligible to vote. The form must be returned within 30 days after the date of the notice. The completed form shall constitute a request to be removed from the statewide voter registration system.

2. If the voter has changed his or her address of legal residence to a location inside the state, the voter shall set forth the updated or corrected address and submit the return form within 30 days after the date of the notice. The completed form shall constitute a request to update the statewide voter registration system with the updated or corrected address information.

3. If the voter has not changed his or her address of legal residence as printed on the address confirmation notice, the voter shall confirm that his or her address of legal residence has not changed and submit the form within 30 days after the date of the notice.

(c) The supervisor must designate as inactive all voters who have been sent an address confirmation notice and who have not returned the postage prepaid preaddressed return form within 30 days or for which an address confirmation notice has been returned as undeliverable. Names on the inactive list may not be used to calculate the number of signatures needed on any petition. A voter on the inactive list may be restored to the active list of voters upon the voter updating his or her registration, requesting an absentee ballot, or appearing to vote. However, if the voter does not update his or her voter registration information, request an

absentee ballot, or vote by the second general election after being placed on the inactive list, the voter's name shall be removed from the statewide voter registration system and the voter shall be required to reregister to have his or her name restored to the statewide voter registration system.

(5) A notice may not be issued pursuant to this section and a voter's name may not be removed from the statewide voter registration system later than 90 days prior to the date of a federal election. However, this section does not preclude the removal of the name of a voter from the statewide voter registration system at any time upon the voter's written request, by reason of the voter's death, or upon a determination of the voter's ineligibility as provided in s. 98.075(7).

(6)(a) No later than July 31 and January 31 of each year, the supervisor must certify to the department the list maintenance activities conducted during the first 6 months and the second 6 months of the year, respectively, including the number of address confirmation requests sent, the number of voters designated as inactive, and the number of voters removed from the statewide voter registration system.

(b) If, based on the certification provided pursuant to paragraph (a), the department determines that a supervisor has not conducted the list maintenance activities required by this section, the department shall conduct the appropriate list maintenance activities for that county. Failure to conduct list maintenance activities as required in this section constitutes a violation of s. 104.051. ~~A voter's name may not be removed from the registration books later than 90 days prior to the date of a federal election. However, nothing in this section shall preclude the removal of the name of a voter from the voter registration books, at any time and without prior notification, upon the written request of the voter, by reason of conviction of the voter of a felony, by reason of adjudication of the voter as mentally incapacitated with respect to voting, by reason of the death of the voter, or upon a determination of ineligibility as provided in s. 98.075(3).~~

~~(4) If the supervisor receives change of address information from the United States Postal Service or its licensees or from jury notices signed by the voter and returned to the courts, which indicates that:~~

~~(a) The voter has moved within the supervisor's county, the supervisor must change the registration records to show the new address and must send the voter a notice of the change by forwardable mail, including a postage prepaid preaddressed return form with which the voter may verify or correct the address information.~~

~~(b) The voter has moved outside the supervisor's county, or contains no forwarding address, the supervisor shall send an address confirmation final notice and remove the name of the voter from the registration record if that voter did not:~~

~~1. Return the postage prepaid preaddressed return form;~~

~~2. Appear to vote;~~

~~3. Change the voter's registration; or~~

~~4. Request an absentee ballot~~

~~during the period beginning on the date when the address confirmation final notice was sent and ending on the day after the date of the second general election thereafter.~~

~~(5) The supervisor must designate as inactive all voters who have been sent an address confirmation final notice and who have not returned the postage prepaid preaddressed return form within 30 days. A voter on the inactive list must be allowed to vote and to change the voter's name or address of legal residence at the polls pursuant to s. 101.045. Names on the inactive list may not be used to calculate the number of signatures needed on any petition or the quantity of voting equipment needed.~~

Section 20. Section 98.075, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 98.075, F.S., for present text.)

98.075 Registration records maintenance activities; ineligibility determinations.--

(1) MAINTENANCE OF RECORDS.--The department shall protect the integrity of the electoral process by ensuring the maintenance of accurate and current voter registration records. List maintenance activities must be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965, the National Voter Registration Act of 1993, and the Help America Vote Act of 2002. The department may adopt by rule uniform standards and procedures to interpret and administer this section.

(2) DUPLICATE REGISTRATION.--The department shall identify those voters who are registered more than once or those applicants whose registration applications would result in duplicate registrations. The most recent application shall be deemed an update to the voter registration record.

(3) DECEASED PERSONS.--The department shall identify those registered voters who are deceased by comparing information on the lists of deceased persons received from the Department of Health as provided in s. 98.093. Upon receipt of such information through the statewide voter registration system, the supervisor shall remove the name of the registered voter.

(4) ADJUDICATION OF MENTAL INCAPACITY.--The department shall identify those registered voters who have been adjudicated mentally incapacitated with respect to voting and who have not had their voting rights restored by comparing information received from the clerk of the circuit court as provided in s. 98.093. The department shall review such information and make an initial determination as to whether the information is credible and reliable. If the department determines that the information is credible and reliable, the department shall notify the supervisor and provide a copy of the supporting documentation indicating the potential ineligibility of the voter to be registered. Upon receipt of the notice that the department has made a determination of initial credibility and reliability, the supervisor shall adhere to the procedures set forth in subsection (7) prior to the removal of a registered voter from the statewide voter registration system.

(5) FELONY CONVICTION.--The department shall identify those registered voters who have been convicted of a felony and whose rights have not been restored by comparing information received from, but not limited to, a clerk of the circuit court, the Board of Executive Clemency, the Department of Corrections, the Department of Law Enforcement, or a United States Attorney's Office, as provided in s. 98.093. The department shall review such information and make an initial determination as to whether the information is credible and reliable. If the department determines that the information is credible and reliable, the department shall notify the supervisor and provide a copy of the supporting documentation indicating the potential ineligibility of the voter to be registered. Upon receipt of the notice that the department has made a determination of initial credibility and reliability, the supervisor shall adhere to the procedures set forth in subsection (7) prior to the removal of a registered voter's name from the statewide voter registration system.

(6) OTHER BASES FOR INELIGIBILITY.--If the department or supervisor receives information other than from the sources identified in subsections (2)-(5) that a registered voter does not meet the age requirement pursuant to s. 97.041, is not a United States citizen, is a fictitious person, or has listed a residence that is not his or her legal residence, the supervisor shall adhere to the procedures set forth in subsection (7) prior to the removal of a registered voter's name from the statewide voter registration system.

(7) PROCEDURES FOR REMOVAL.--

(a) If the supervisor receives notice or information pursuant to subsections (4)-(6), the supervisor of the county in which the voter is registered shall:

1. Notify the registered voter of his or her potential ineligibility by mail within 7 days after receipt of notice or information. The notice shall include:

a. A statement of the basis for the registered voter's potential ineligibility and a copy of any documentation upon which the potential ineligibility is based.

b. A statement that failure to respond within 30 days after receipt of the notice may result in a determination of ineligibility and in removal of the registered voter's name from the statewide voter registration system.

c. A return form that requires the registered voter to admit or deny the

accuracy of the information underlying the potential ineligibility for purposes of a final determination by the supervisor.

d. A statement that, if the voter is denying the accuracy of the information underlying the potential ineligibility, the voter has a right to request a hearing for the purpose of determining eligibility.

e. Instructions for the registered voter to contact the supervisor of elections of the county in which the voter is registered if assistance is needed in resolving the matter.

f. Instructions for seeking restoration of civil rights following a felony conviction, if applicable.

2. If the mailed notice is returned as undeliverable, the supervisor shall publish notice once in a newspaper of general circulation in the county in which the voter was last registered. The notice shall contain the following:

a. The voter's name and address.

b. A statement that the voter is potentially ineligible to be registered to vote.

c. A statement that failure to respond within 30 days after the notice is published may result in a determination of ineligibility by the supervisor and removal of the registered voter's name from the statewide voter registration system.

d. An instruction for the voter to contact the supervisor no later than 30 days after the date of the published notice to receive information regarding the basis for the potential ineligibility and the procedure to resolve the matter.

e. An instruction to the voter that, if further assistance is needed, the voter should contact the supervisor of elections of the county in which the voter is registered.

3. If a registered voter fails to respond to a notice pursuant to subparagraph 1. or subparagraph 2., the supervisor shall make a final determination of the voter's eligibility. If the supervisor determines that the voter is ineligible, the supervisor shall remove the name of the registered voter from the statewide voter registration system. The supervisor shall notify the registered voter of the supervisor's determination and action.

4. If a registered voter responds to the notice pursuant to subparagraph 1. or subparagraph 2. and admits the accuracy of the information underlying the potential ineligibility, the supervisor shall make a final determination of ineligibility and shall remove the voter's name from the statewide voter registration system. The supervisor shall notify the registered voter of the supervisor's determination and action.

5. If a registered voter responds to the notice issued pursuant to subparagraph 1. or subparagraph 2. and denies the accuracy of the information underlying the potential ineligibility but does not request a hearing, the supervisor shall review the evidence and make a final determination of eligibility. If such registered voter requests a hearing, the supervisor shall send notice to the registered voter to attend a hearing at a time and place specified in the notice. Upon hearing all evidence presented at the hearing, the supervisor shall make a determination of eligibility. If the supervisor determines that the registered voter is ineligible, the supervisor shall remove the voter's name from the statewide voter registration system and notify the registered voter of the supervisor's determination and action.

(b) The following shall apply to this subsection:

1. All determinations of eligibility shall be based on a preponderance of the evidence.

2. All proceedings are exempt from the provisions of chapter 120.

3. Any notice shall be sent to the registered voter by certified mail, return receipt requested, or other means that provides a verification of receipt or shall be published in a newspaper of general circulation where the voter was last registered, whichever is applicable.

4. The supervisor shall remove the name of any registered voter from the statewide voter registration system only after the supervisor makes a final determination that the voter is ineligible to vote.

5. Any voter whose name has been removed from the statewide voter registration system pursuant to a determination of ineligibility may appeal that determination under the provisions of s. 98.0755.

6. Any voter whose name was removed from the statewide voter registration system on the basis of a determination of ineligibility who subsequently becomes eligible to vote must reregister in order to have his or her name restored to the statewide voter registration system.

(8) CERTIFICATION.--

(a) No later than July 31 and January 31 of each year, the supervisor shall certify to the department the activities conducted pursuant to this section during the first 6 months and the second 6 months of the year, respectively. The certification shall include the number of persons to whom notices were sent pursuant to subsection (7), the number of persons who responded to the notices, the number of notices returned as undeliverable, the number of notices published in the newspaper, the number of hearings conducted, and the number of persons removed from the statewide voter registration systems and the reasons for such removals.

(b) If, based on the certification provided pursuant to paragraph (a), the department determines that a supervisor has not satisfied the requirements of this section, the department shall satisfy the appropriate requirements for that county. Failure to satisfy the requirements of this section shall constitute a violation of s. 104.051.

Section 21. Section 98.0755, Florida Statutes, is created to read:

98.0755 Appeal of determination of ineligibility.--Appeal of the supervisor's determination of ineligibility pursuant to s. 98.075(7) may be taken to the circuit court in and for the county where the person was registered. Notice of appeal must be filed within the time and in the manner provided by the Florida Rules of Appellate Procedure and acts as supersedeas. Trial in the circuit court is de novo and governed by the rules of that court. Unless the person can show that his or her name was erroneously or illegally removed from the statewide voter registration system, or that he or she is indigent, the person must bear the costs of the trial in the circuit court. Otherwise, the cost of the appeal must be paid by the supervisor of elections.

Section 22. Section 98.077, Florida Statutes, is amended to read:

98.077 Update of voter signature.--

(1) A registered voter may update his or her signature on file in the statewide voter registration system at any time using a voter registration application submitted to a voter registration official.

(2) The department and supervisors ~~supervisor~~ of elections shall include in any correspondence, other than postcard notifications and notices relating to eligibility, sent to a ~~provide to each~~ registered voter information regarding ~~of the county the opportunity to update his or her signature on file at the supervisor's office by providing notification of the ability to do so in any correspondence, other than postcard notifications, sent to the voter. The notice shall advise~~ when, where, and how to update the voter's signature and shall provide the voter information on how to obtain a voter registration application ~~form~~ from a voter registration official which ~~the supervisor that~~ can be returned to update the signature.

(3) ~~In addition,~~ At least once during each general election year, the supervisor shall publish in a newspaper of general circulation or other newspaper in the county deemed appropriate by the supervisor a notice specifying when, where, or how a voter can update his or her signature that is on file and ~~or~~ how a voter can obtain a voter registration application ~~form~~ from a voter registration official ~~the supervisor~~ to do so.

(4) All signature updates for use in verifying absentee and provisional ballots must be received by the appropriate supervisor of elections no later than the start of the canvassing of absentee ballots by the canvassing board. The signature on file at the start of the canvass of the absentees is the signature that shall be used in verifying the signature on the absentee and provisional ballot certificates.

Section 23. Section 98.081, Florida Statutes, is amended to read:

98.081 Names removed from the statewide voter registration system ~~books~~; restrictions on reregistering; recordkeeping; restoration of erroneously or illegally removed names.--

(1) Any person who requested that his or her name be removed from the statewide voter registration system ~~books~~ between the book-closing

date of the ~~first~~ primary and the date of the ~~second~~ primary may not register in a different political party until after the date of the ~~second~~ primary election.

(2) When the name of any elector is removed from the statewide voter registration system ~~books~~ pursuant to s. 98.065 or~~,~~ s. 98.075~~, or s. 98.093~~, the elector's original registration application ~~form~~ shall be retained by the supervisor of elections having custody of the application ~~filed alphabetically in the office of the supervisor~~. As alternatives, registrations removed from the statewide voter registration system ~~books~~ may be microfilmed and such microfilms substituted for the original registration applications ~~forms~~; or, when voter registration information, including the voter's signature, is maintained digitally or on electronic, magnetic, or optic media, such stored information may be substituted for the original registration application ~~form~~. Such microfilms or stored information shall be retained by the supervisor of elections having ~~in the~~ custody ~~of the supervisor~~. In the event the original registration applications ~~forms~~ are microfilmed or maintained digitally or on electronic or other media, such originals may be destroyed in accordance with the schedule approved by the Bureau of Archives and Records Management of the Division of Library and Information Services of the department.

(3) When the name of any elector has been erroneously or illegally removed from the statewide voter registration system ~~books~~, the name of the elector shall be restored by a voter registration official ~~the supervisor~~ upon satisfactory proof, even though the registration period for that election is closed.

Section 24. Section 98.093, Florida Statutes, is amended to read:

98.093 Duty of officials to furnish lists of deceased persons, persons adjudicated mentally incapacitated, and persons convicted of a felony.--

(1) In order to ensure the maintenance of accurate and current voter registration records, it is necessary for the department to receive certain information from state and federal officials and entities. The department and supervisors of elections shall use the information provided from the sources in subsection (2) to maintain the voter registration records.

(2) To the maximum extent feasible, state and local government agencies shall facilitate provision of information and access to data to the department, including, but not limited to, databases that contain reliable criminal records and records of deceased persons. State and local government agencies that provide such data shall do so without charge if the direct cost incurred by those agencies is not significant.

(a) The Department of Health shall furnish monthly to the department ~~each supervisor of elections~~ a list containing the name, address, date of birth, date of death, social security number, race, and sex of each deceased person 17 years of age or older ~~who was a resident of such supervisor's county~~.

(b)~~(2)~~ Each clerk of the circuit court shall furnish monthly to the department~~, at least once each month, deliver to each supervisor of elections~~ a list of those persons who have been adjudicated mentally incapacitated with respect to voting during the preceding calendar month, a list of those persons whose mental capacity with respect to voting has been restored during the preceding calendar month, and a list of those persons who have returned signed jury notices during the preceding months to the clerk of the circuit court indicating a change of address. Each list shall include ~~stating~~ the name, address, date of birth, race, ~~and~~ sex, and, whichever is available, the Florida driver's license number, Florida identification card number, or social security number of each such person ~~convicted of a felony during the preceding calendar month who was a resident of that supervisor's county, a list stating the name, address, date of birth, race, and sex of each person adjudicated mentally incapacitated with respect to voting during the preceding calendar month who was a resident of that supervisor's county, and a list stating the name, address, date of birth, race, and sex of each person whose mental capacity with respect to voting has been restored who was a resident of that supervisor's county~~.

(c)~~(3)~~ Upon receipt of information from the United States Attorney, listing persons convicted of a felony in federal court, the department shall use such information to identify registered voters or applicants for voter registration who may be potentially ineligible based on information provided in accordance with s. 98.075 ~~immediately forward such information to the supervisor of elections for the county where the offender resides~~.

(d) The Department of Law Enforcement shall identify those persons who have been convicted of a felony who appear in the voter registration records supplied by the statewide voter registration system, in a time and manner that enables the department to meet its obligations under state and federal law.

(e) The Board of Executive Clemency shall furnish monthly to the department a list of those persons granted clemency in the preceding month or any updates to prior records which have occurred in the preceding month. The list shall contain the Board of Executive Clemency case number, name, address, date of birth, race, sex, social security number, if available, and references to record identifiers assigned by the Department of Corrections, a unique identifier of each clemency case, and the effective date of clemency of each person.

(f) The Department of Corrections shall furnish monthly to the department a list of those persons transferred to the Department of Corrections in the preceding month or any updates to prior records which have occurred in the preceding month. The list shall contain the name, address, date of birth, race, sex, social security number, Department of Corrections record identification number, and associated Department of Law Enforcement felony conviction record number of each person.

(g) The Department of Highway Safety and Motor Vehicles shall furnish monthly to the department a list of those persons whose names have been removed from the driver's license database because they have been licensed in another state. The list shall contain the name, address, date of birth, sex, social security number, and driver's license number of each such person.

~~(4) Upon receipt of any such list, the supervisor shall remove from the registration books the name of any person listed who is deceased, convicted of a felony, or adjudicated mentally incapacitated with respect to voting. A person who has had his or her mental capacity with respect to voting restored or who has had his or her right to vote restored after conviction of a felony shall be required to reregister to have his or her name restored to the registration books.~~

(3)~~(5)~~ Nothing in this section shall limit or restrict the supervisor in his or her duty to remove the names of ~~such~~ persons from the statewide voter registration system pursuant to s. 98.075(7) based upon ~~books after verification of~~ information received from other sources.

Section 25. Effective August 1, 2006, section 98.0981, Florida Statutes, is created to read:

98.0981 Statewide voter registration database.--Within 75 days after a general election or within 15 days after all supervisors of elections have updated voter history information, whichever occurs later, the department shall send to the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader a report in electronic format of all voters qualified to vote in the election or primary. The report shall include for each voter the code used by the department to uniquely identify the voter; all information provided in the uniform statewide voter registration application pursuant to s. 97.052(2), except what is specifically identified as confidential or exempt from public-records requirements; the date of registration; the representative district, senatorial district, congressional district, and precinct in which the voter resides; and whether the voter voted at the precinct location, voted by early vote, voted by absentee ballot, attempted to vote by absentee ballot that was not counted, attempted to vote by provisional ballot that was not counted, or did not vote.

Section 26. Section 98.212, Florida Statutes, is amended to read:

98.212 Department and supervisors to furnish statistical and other information.--

(1)(a) Upon written request, the department and any supervisor of the respective counties ~~supervisors~~ shall, as promptly as possible, furnish to recognized public or private universities and senior colleges within the state, to state or county governmental agencies, and to recognized

political party committees statistical information for the purpose of analyzing election returns and results.

(b) The department and any supervisor ~~Supervisors~~ may require reimbursement for any part or all of the actual expenses of supplying any information requested under paragraph (a). For the purposes of this subsection, the department and supervisors may use the services of any research and statistical personnel that may be supplied.

(c) Lists of names submitted to the department and any supervisor of the respective counties ~~supervisors~~ for indication of registration or nonregistration or of party affiliation shall be processed at any time at cost, except that in no case shall the charge exceed 10 cents for each name on which the information is furnished.

(2) The supervisors shall provide information as requested by the department for program evaluation and reporting to the ~~Federal~~ Election Assistance Commission pursuant to federal law ~~the National Voter Registration Act of 1993~~.

Section 27. Section 98.461, Florida Statutes, is amended to read:

98.461 Registration application ~~form~~, precinct register; contents.--

(1) A registration application ~~form~~, approved by the Department of State, containing the information required in s. 97.052 shall be retained by the supervisor of elections of the county of the applicant's registration ~~filed alphabetically in the office of the supervisor as the master list of electors of the county~~. However, the registration application ~~forms~~ may be microfilmed and such microfilm ~~microfilms~~ substituted for the original registration application ~~forms~~; or, when voter registration information, including the voter's signature, is maintained digitally or on electronic, magnetic, or optic media, such stored information may be substituted for the original registration application ~~form~~. Such microfilms or stored information shall be retained in the custody of the supervisor of elections of the county of the applicant's registration. In the event the original registration applications ~~forms~~ are microfilmed or maintained digitally or on electronic or other media, such originals may be destroyed in accordance with the schedule approved by the Bureau of Archives and Records Management of the Division of Library and Information Services of the Department of State. ~~As an alternative, the information from the registration form, including the signature, may be electronically reproduced and stored as provided in s. 98.451.~~

(2) A computer printout or electronic database shall be used at the polls as a precinct register ~~in lieu of the registration books~~. The precinct register shall contain the date of the election, the precinct number, and the following information concerning each registered elector: last name, first name, ~~and~~ middle name or initial, and suffix; party affiliation; residence address; registration number; date of birth; sex, if provided; race, if provided; whether the voter needs assistance in voting; and such other additional information as to readily identify the elector. The precinct register shall also contain a space for the elector's signature and a space for the initials of the witnessing clerk or inspector or an electronic device may be provided for this purpose.

Section 28. Effective January 1, 2007, section 100.371, Florida Statutes, as amended by section 9 of chapter 2002-281, Laws of Florida, is amended to read:

100.371 Initiatives; procedure for placement on ballot.--

(1) Constitutional amendments proposed by initiative shall be placed on the ballot for the general election provided the initiative has been filed with ~~occurring in excess of 90 days from the certification of ballot position by~~ the Secretary of State no later than February 1 of the year the general election is held. A petition shall be deemed to be filed with the Secretary of State upon the date the secretary determines that the petition has been signed by the constitutionally required number of electors.

~~(2) Such certification shall be issued when the Secretary of State has received verification certificates from the supervisors of elections indicating that the requisite number and distribution of valid signatures of electors have been submitted to and verified by the supervisors. Every signature shall be dated when made and shall be valid for a period of 4 years following such date, provided all other requirements of law are complied with.~~

(2)~~(3)~~ The sponsor of an initiative amendment shall, prior to obtaining any signatures, register as a political committee pursuant to s. 106.03 and submit the text of the proposed amendment to the Secretary of State, with the form on which the signatures will be affixed, and shall obtain the approval of the Secretary of State of such form. The Secretary of State shall adopt rules pursuant to s. 120.54 prescribing the style and requirements of such form. Upon filing with the Secretary of State, the text of the proposed amendment and all forms filed in connection with this section must, upon request, be made available in alternative formats.

(3)~~(4)~~ Each signature shall be dated when made and shall be valid for a period of 4 years following such date, provided all other requirements of law are met. The sponsor shall submit signed and dated forms to the appropriate supervisor of elections for verification as to the number of registered electors whose valid signatures appear thereon. The supervisor shall promptly verify the signatures upon payment of the fee required by s. 99.097. The supervisor shall promptly record each valid signature in the statewide voter registration system in the manner prescribed by the Secretary of State. ~~Upon completion of verification, the supervisor shall execute a certificate indicating the total number of signatures checked, the number of signatures verified as valid and as being of registered electors, and the distribution by congressional district. This certificate shall be immediately transmitted to the Secretary of State.~~ The supervisor shall retain the signature forms for at least 1 year following the election in which the issue appeared on the ballot or until the Division of Elections notifies the supervisors of elections that the committee which circulated the petition is no longer seeking to obtain ballot position.

(4)~~(5)~~ The Secretary of State shall determine from the signatures verified by the ~~verification certificates received from~~ supervisors of elections and recorded in the statewide voter registration system the total number of verified valid signatures and the distribution of such signatures by congressional districts. Upon a determination that the requisite number and distribution of valid signatures have been obtained, the secretary shall issue a certificate of ballot position for that proposed amendment and shall assign a designating number pursuant to s. 101.161. ~~A petition shall be deemed to be filed with the Secretary of State upon the date of the receipt by the secretary of a certificate or certificates from supervisors of elections indicating the petition has been signed by the constitutionally required number of electors.~~

(5)~~(6)~~(a) Within 45 days after receipt of a proposed revision or amendment to the State Constitution by initiative petition from the Secretary of State ~~or, within 30 days after such receipt if receipt occurs 120 days or less before the election at which the question of ratifying the amendment will be presented~~, the Financial Impact Estimating Conference shall complete an analysis and financial impact statement to be placed on the ballot of the estimated increase or decrease in any revenues or costs to state or local governments resulting from the proposed initiative. The Financial Impact Estimating Conference shall submit the financial impact statement to the Attorney General and Secretary of State.

(b)1. The Financial Impact Estimating Conference shall provide an opportunity for any proponents or opponents of the initiative to submit information and may solicit information or analysis from any other entities or agencies, including the Office of Economic and Demographic Research. All meetings of the Financial Impact Estimating Conference shall be open to the public as provided in chapter 286.

2. The Financial Impact Estimating Conference is established to review, analyze, and estimate the financial impact of amendments to or revisions of the State Constitution proposed by initiative. The Financial Impact Estimating Conference shall consist of four principals: one person from the Executive Office of the Governor; the coordinator of the Office of Economic and Demographic Research, or his or her designee; one person from the professional staff of the Senate; and one person from the professional staff of the House of Representatives. Each principal shall have appropriate fiscal expertise in the subject matter of the initiative. A Financial Impact Estimating Conference may be appointed for each initiative.

3. Principals of the Financial Impact Estimating Conference shall reach a consensus or majority concurrence on a clear and unambiguous financial impact statement, no more than 75 words in length, and immediately submit the statement to the Attorney General. Nothing in this subsection prohibits the Financial Impact Estimating Conference from setting forth a range of potential impacts in the financial impact statement. Any financial impact statement that a court finds not to be in accordance with this section shall be remanded solely to the Financial Impact Estimating Conference for redrafting. The Financial Impact Estimating Conference shall redraft the financial impact statement within 15 days.

4. If the members of the Financial Impact Estimating Conference are unable to agree on the statement required by this subsection, or if the Supreme Court has rejected the initial submission by the Financial Impact Estimating Conference and no redraft has been approved by the Supreme Court by 5 p.m. on the 75th day before the election, the following statement shall appear on the ballot pursuant to s. 101.161(1): "The financial impact of this measure, if any, cannot be reasonably determined at this time."

(c) The financial impact statement must be separately contained and be set forth after the ballot summary as required in s. 101.161(1).

(d)1. Any financial impact statement that the Supreme Court finds not to be in accordance with this subsection shall be remanded solely to the Financial Impact Estimating Conference for redrafting, provided the court's advisory opinion is rendered at least 75 days before the election at which the question of ratifying the amendment will be presented. The Financial Impact Estimating Conference shall prepare and adopt a revised financial impact statement no later than 5 p.m. on the 15th day after the date of the court's opinion.

2. If, by 5 p.m. on the 75th day before the election, the Supreme Court has not issued an advisory opinion on the initial financial impact statement prepared by the Financial Impact Estimating Conference for an initiative amendment that otherwise meets the legal requirements for ballot placement, the financial impact statement shall be deemed approved for placement on the ballot.

3. In addition to the financial impact statement required by this subsection, the Financial Impact Estimating Conference shall draft an initiative financial information statement. The initiative financial information statement should describe in greater detail than the financial impact statement any projected increase or decrease in revenues or costs that the state or local governments would likely experience if the ballot measure were approved. If appropriate, the initiative financial information statement may include both estimated dollar amounts and a description placing the estimated dollar amounts into context. The initiative financial information statement must include both a summary of not more than 500 words and additional detailed information that includes the assumptions that were made to develop the financial impacts, workpapers, and any other information deemed relevant by the Financial Impact Estimating Conference.

4. The Department of State shall have printed, and shall furnish to each supervisor of elections, a copy of the summary from the initiative financial information statements. The supervisors shall have the summary from the initiative financial information statements available at each polling place and at the main office of the supervisor of elections upon request.

5. The Secretary of State and the Office of Economic and Demographic Research shall make available on the Internet each initiative financial information statement in its entirety. In addition, each supervisor of elections whose office has a website shall post the summary from each initiative financial information statement on the website. Each supervisor shall include the Internet addresses for the information statements on the Secretary of State's and the Office of Economic and Demographic Research's websites in the publication or mailing required by s. 101.20.

(6)~~(7)~~ The Department of State may adopt rules in accordance with s. 120.54 to carry out the provisions of subsections (1)-(5) ~~(1)-(6)~~.

Section 29. Subsection (3) of section 101.001, Florida Statutes, is amended to read:

101.001 Precincts and polling places; boundaries.--

(3)(a) Each supervisor of elections shall maintain a suitable map drawn to a scale no smaller than 3 miles to the inch and clearly delineating all major observable features such as roads, streams, and railway lines and showing the current geographical boundaries of each precinct, representative district, and senatorial district, and other type of district in the county subject to the elections process in this code.

(b) The supervisor of elections shall notify the Secretary of State in writing within 30 days after ~~of~~ any reorganization of precincts and shall furnish a copy of the map showing the current geographical boundaries and designation of each new precinct. However, if precincts are composed of whole census blocks, the supervisor may furnish, in lieu of a copy of the map, a list, in an electronic format prescribed by the Department of State, associating each census block in the county with its precinct.

(c) Any precinct established or altered under the provisions of this section shall consist of areas bounded on all sides only by:

1. Census block boundaries from the most recent United States Census;

2. Governmental unit boundaries reported in the most recent Boundary and Annexation Survey published by the United States Census Bureau;

3. Visible features that are readily distinguishable upon the ground, such as streets, railroads, tracks, streams, and lakes, and that are indicated upon current census maps, official Department of Transportation maps, official municipal maps, official county maps, or a combination of such maps;

4. Boundaries of public parks, public school grounds, or churches; or

5. Boundaries of counties, incorporated municipalities, or other political subdivisions that meet criteria established by the United States Census Bureau for block boundaries.

(d) Until July 1, 2012, a supervisor may apply for and obtain from the Secretary of State a waiver of the requirement in paragraph (c).

Section 30. Subsections (1) and (3) of section 101.043, Florida Statutes, are amended to read:

101.043 Identification required at polls.--

(1) The precinct register, as prescribed in s. 98.461, shall be used at the polls ~~in lieu of the registration books~~ for the purpose of identifying the elector at the polls prior to allowing him or her to vote. The clerk or inspector shall require each elector, upon entering the polling place, to present one of the following ~~a~~ current and valid picture identifications:

(a) Florida driver's license.

(b) Florida identification card issued by the Department of Highway Safety and Motor Vehicles.

(c) United States passport.

(d) Employee badge or identification.

(e) Buyer's club identification.

(f) Debit or credit card.

(g) Military identification.

(h) Student identification.

(i) Retirement center identification.

(j) Neighborhood association identification.

(k) Public assistance identification ~~as provided in s. 97.0535(3)(a)~~.

If the picture identification does not contain the signature of the voter, an additional identification that provides the voter's signature shall be required. The elector shall sign his or her name in the space provided on the precinct register or on an electronic device provided for recording the voter's signature.~~, and~~ The clerk or inspector shall compare the signature with that on the identification provided by the elector and enter his or her initials in the space provided on the precinct register or on an electronic device provided for that purpose and allow the elector to vote if the clerk or inspector is satisfied as to the identity of the elector.

(3) If the elector who fails to furnish the required identification is an elector subject to s. 97.0535 ~~a first-time voter who registered by mail~~ and

has not provided the required identification to a voter registration official ~~the supervisor of elections~~ prior to election day, the elector shall be allowed to vote a provisional ballot. The canvassing board shall determine the validity of the ballot pursuant to s. 101.048(2).

Section 31. Subsections (2) and (3) of section 101.045, Florida Statutes, are amended to read:

101.045 Electors must be registered in precinct; provisions for residence or name change.--

(2)(a) An elector who moves from the precinct ~~within the county~~ in which the elector is registered may be permitted to vote in the precinct to which he or she has moved his or her legal residence, provided such elector completes an affirmation in substantially the following form:

Change of Legal Residence of Registered Voter

Under penalties for false swearing, I, (Name of voter) , swear (or affirm) that the former address of my legal residence was (Address of legal residence) in the municipality of _____, in _____ County, Florida, and I was registered to vote in the _____ precinct of _____ County, Florida; that I have not voted in the precinct of my former registration in this election; that I now reside at (Address of legal residence) in the Municipality of _____, in _____ County, Florida, and am therefore eligible to vote in the _____ precinct of _____ County, Florida; and I further swear (or affirm) that I am otherwise legally registered and entitled to vote.

(Signature of voter whose address of legal residence has changed)

(b) An elector whose name changes because of marriage or other legal process may be permitted to vote, provided such elector completes an affirmation in substantially the following form:

Change of Name of Registered Voter

Under penalties for false swearing, I, (New name of voter) , swear (or affirm) that my name has been changed because of marriage or other legal process. My former name and address of legal residence appear on the registration records ~~books~~ of precinct _____ as follows:

Name
Address
Municipality
County
Florida, Zip

My present name and address of legal residence are as follows:

Name
Address
Municipality
County
Florida, Zip

and I further swear (or affirm) that I am otherwise legally registered and entitled to vote.

(Signature of voter whose name has changed)

(c) Such affirmation, when completed and presented at the precinct in which such elector is entitled to vote, and upon verification of the elector's registration, shall entitle such elector to vote as provided in this subsection. If the elector's eligibility to vote cannot be determined, he or she shall be entitled to vote a provisional ballot, subject to the requirements and procedures in s. 101.048. Upon receipt of an affirmation certifying a change in address of legal residence or name, the supervisor shall as soon as practicable make the necessary changes in the statewide voter registration system ~~records of the county~~ to indicate the change in address of legal residence or name of such elector.

(d) Instead of the affirmation contained in paragraph (a) or paragraph (b), an elector may complete a voter registration application that indicates the change of name or change of address of legal residence.

~~(e) A request for an absentee ballot pursuant to s. 101.62 which indicates that the elector has had a change of address of legal residence from that in the supervisor's records shall be sufficient as the notice to the supervisor of change of address of legal residence required by this section. Upon receipt of such request for an absentee ballot from an elector who has changed his or her address of legal residence, the supervisor shall provide the elector with the proper ballot for the precinct in which the elector then has his or her legal residence.~~

~~(3) When an elector's name does not appear on the registration books of the election precinct in which the elector is registered, the elector may have his or her name restored if the supervisor is otherwise satisfied that the elector is validly registered, that the elector's name has been erroneously omitted from the books, and that the elector is entitled to have his or her name restored. The supervisor, if he or she is satisfied as to the elector's previous registration, shall allow such person to vote and shall thereafter issue a duplicate registration identification card.~~

Section 32. Subsection (1) of section 101.048, Florida Statutes, is amended to read:

101.048 Provisional ballots.--

(1) At all elections, a voter claiming to be properly registered in the state ~~county~~ and eligible to vote at the precinct in the election, but whose eligibility cannot be determined, and other persons specified in the code shall be entitled to vote a provisional ballot. Once voted, the provisional ballot shall be placed in a secrecy envelope and thereafter sealed in a provisional ballot envelope. The provisional ballot shall be deposited in a ballot box. All provisional ballots shall remain sealed in their envelopes for return to the supervisor of elections. The department shall prescribe the form of the provisional ballot envelope.

Section 33. Effective January 1, 2007, subsection (1) of section 101.161, Florida Statutes, is amended to read:

101.161 Referenda; ballots.--

(1) Whenever a constitutional amendment or other public measure is submitted to the vote of the people, the substance of such amendment or other public measure shall be printed in clear and unambiguous language on the ballot after the list of candidates, followed by the word "yes" and also by the word "no," and shall be styled in such a manner that a "yes" vote will indicate approval of the proposal and a "no" vote will indicate rejection. The wording of the substance of the amendment or other public measure and the ballot title to appear on the ballot shall be embodied in the joint resolution, constitutional revision commission proposal, constitutional convention proposal, taxation and budget reform commission proposal, or enabling resolution or ordinance. Except for amendments and ballot language proposed by joint resolution, the substance of the amendment or other public measure shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure. In addition, for every amendment proposed by initiative, the ballot shall include, following the ballot summary, a separate financial impact statement concerning the measure prepared by the Financial Impact Estimating Conference in accordance with s. 100.371(5)~~(6)~~. The ballot title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of.

Section 34. Subsection (2) of section 101.56062, Florida Statutes, as created by chapter 2002-281, Laws of Florida, is amended to read:

101.56062 Standards for accessible voting systems.--

(2) Such voting system must include at least one accessible voter interface device installed in each polling place ~~precinct~~ which meets the requirements of this section, except for paragraph (1)(d).

Section 35. Subsection (1) of section 101.5608, Florida Statutes, is amended to read:

101.5608 Voting by electronic or electromechanical method; procedures.--

(1) Each elector desiring to vote shall be identified to the clerk or inspector of the election as a duly qualified elector of such election and shall sign his or her name on the ~~in ink or indelible pencil to an identification blank, signature slip,~~ precinct register~~,~~ or other form or device provided by the supervisor ~~ballot stub on which the ballot serial number may be recorded~~. The inspector shall compare the signature with the signature on the identification provided by the elector. If the inspector

is reasonably sure that the person is entitled to vote, the inspector shall provide the person with a ballot.

Section 36. Effective August 1, 2006, section 101.573, Florida Statutes, is created to read:

101.573 Record of votes by precinct.--

(1) Within 75 days after the date of a municipal election or runoff, whichever occurs later, a presidential preference primary, or a general election, the supervisor of elections shall file with the Department of State precinct-level election results for that election cycle, including any primary elections. Precinct-level election results shall record for each precinct the returns of ballots cast at the precinct location to which have been added the returns of absentee and early ballots cast by voters registered in the precinct.

(2) The Department of State shall adopt rules pursuant to ss. 120.536(1) and 120.54 prescribing the form by which supervisors of elections shall submit election results for each precinct.

Section 37. Effective January 1, 2007, paragraph (a) of subsection (4) of section 101.62, Florida Statutes, is amended to read:

101.62 Request for absentee ballots.--

(4)(a) To each absent qualified elector overseas who has requested an absentee ballot, the supervisor of elections shall, not fewer than 35 days before the first primary election, mail an absentee ballot. Not fewer than 45 days before the second primary and general election, the supervisor of elections shall mail an advance absentee ballot to those persons requesting ballots for such elections. The advance absentee ballot for the second primary shall be the same as the first primary absentee ballot as to the names of candidates, except that for any offices where there are only two candidates, those offices and all political party executive committee offices shall be omitted. Except as provided in ss. 99.063(4) and 100.371(5)~~(6)~~, the advance absentee ballot for the general election shall be as specified in s. 101.151, except that in the case of candidates of political parties where nominations were not made in the first primary, the names of the candidates placing first and second in the first primary election shall be printed on the advance absentee ballot. The advance absentee ballot or advance absentee ballot information booklet shall be of a different color for each election and also a different color from the absentee ballots for the first primary, second primary, and general election. The supervisor shall mail an advance absentee ballot for the second primary and general election to each qualified absent elector for whom a request is received until the absentee ballots are printed. The supervisor shall enclose with the advance second primary absentee ballot and advance general election absentee ballot an explanation stating that the absentee ballot for the election will be mailed as soon as it is printed; and, if both the advance absentee ballot and the absentee ballot for the election are returned in time to be counted, only the absentee ballot will be counted. The Department of State may prescribe by rule the requirements for preparing and mailing absentee ballots to absent qualified electors overseas.

Section 38. Subsection (3) is added to section 101.64, Florida Statutes, to read:

101.64 Delivery of absentee ballots; envelopes; form.--

(3) The supervisor shall mark, code, indicate on, or otherwise track the precinct of the absent elector for each absentee ballot.

Section 39. Paragraph (a) of subsection (1) of section 101.657, Florida Statutes, is amended to read:

101.657 Early voting.--

(1)(a) The supervisor of elections shall allow an elector to vote early in the main or branch office of the supervisor by depositing the voted ballot in a voting device used by the supervisor to collect or tabulate ballots. The supervisor shall mark, code, indicate on, or otherwise track the voter's precinct for each early voted ballot. In order for a branch office to be used for early voting, it shall be a full-service facility of the supervisor and shall have been designated as such at least 1 year prior to the election. The supervisor may designate any city hall or public library as early voting sites; however, if so designated, the sites must be geographically located so as to provide all voters in the county an equal opportunity to cast a ballot, insofar as is practicable. The results or tabulation may not be made before the close of the polls on election day.

Section 40. Section 101.663, Florida Statutes, is amended to read:

101.663 Electors; change of residence to another state.--

~~(1) An elector who changes his or her residence to another county in Florida from the county in Florida in which he or she is registered as an elector after the books in the county to which the elector has changed his or her residence are closed for any general, primary, or special election shall be permitted to vote absentee in the county of his or her former residence in that election for President and Vice President, United States Senator, statewide offices, and statewide issues. Such person shall not be permitted to vote in the county of the person's former residence after the general election.~~

~~(2)~~ An elector registered in this state who moves his or her permanent residence to another state and who is prohibited by the laws of that state from voting for the offices of President and Vice President of the United States shall be permitted to vote absentee in the county of his or her former residence for those offices.

Section 41. Subsection (1) of section 101.6921, Florida Statutes, is amended to read:

101.6921 Delivery of special absentee ballot to certain first-time voters.--

(1) The provisions of this section apply to voters who are subject to the provisions of s. 97.0535 ~~registered to vote by mail, who have not previously voted in the county,~~ and who have not provided the identification or certification required by s. 97.0535 by the time the absentee ballot is mailed.

Section 42. Section 101.6923, Florida Statutes, is amended to read:

101.6923 Special absentee ballot instructions for certain first-time voters.--

(1) The provisions of this section apply to voters who are subject to the provisions of s. 97.0535 ~~registered to vote by mail, who have not previously voted in the county,~~ and who have not provided the identification or information required by s. 97.0535 by the time the absentee ballot is mailed.

(2) A voter covered by this section shall be provided with ~~the following~~ printed instructions with his or her absentee ballot in substantially the following form:

READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING YOUR BALLOT. FAILURE TO FOLLOW THESE INSTRUCTIONS MAY CAUSE YOUR BALLOT NOT TO COUNT.

1. In order to ensure that your absentee ballot will be counted, it should be completed and returned as soon as possible so that it can reach the supervisor of elections of the county in which your precinct is located no later than 7 p.m. on the date of the election.

2. Mark your ballot in secret as instructed on the ballot. You must mark your own ballot unless you are unable to do so because of blindness, disability, or inability to read or write.

3. Mark only the number of candidates or issue choices for a race as indicated on the ballot. If you are allowed to "Vote for One" candidate and you vote for more than one, your vote in that race will not be counted.

4. Place your marked ballot in the enclosed secrecy envelope and seal the envelope.

5. Insert the secrecy envelope into the enclosed envelope bearing the Voter's Certificate. Seal the envelope and completely fill out the Voter's Certificate on the back of the envelope.

a. You must sign your name on the line above (Voter's Signature).

b. If you are an overseas voter, you must include the date you signed the Voter's Certificate on the line above (Date) or your ballot may not be counted.

6. Unless you meet one of the exemptions in Item 7., you must make a copy of one of the following forms of identification:

a. Identification which must include your name and photograph: ~~current and valid Florida driver's license; Florida identification card issued by the Department of Highway Safety and Motor Vehicles;~~ United States passport; employee badge or identification; buyer's club identification card; debit or credit card; military identification; student identification; retirement center identification; neighborhood association identification; ~~entertainment identification;~~ or public assistance identification; or

b. Identification which shows your name and current residence address: current utility bill, bank statement, government check, paycheck, or government document (excluding voter identification card).

7. The identification requirements of Item 6. do not apply if you meet one of the following requirements:

a. You are 65 years of age or older.

b. You have a temporary or permanent physical disability.

c. You are a member of a uniformed service on active duty who, by reason of such active duty, will be absent from the county on election day.

d. You are a member of the Merchant Marine who, by reason of service in the Merchant Marine, will be absent from the county on election day.

e. You are the spouse or dependent of a member referred to in paragraph c. or paragraph d. who, by reason of the active duty or service of the member, will be absent from the county on election day.

f. You are currently residing outside the United States.

8. Place the envelope bearing the Voter's Certificate into the mailing envelope addressed to the supervisor. Insert a copy of your identification in the mailing envelope. DO NOT PUT YOUR IDENTIFICATION INSIDE THE SECRECY ENVELOPE WITH THE BALLOT OR INSIDE THE ENVELOPE WHICH BEARS THE VOTER'S CERTIFICATE OR YOUR BALLOT WILL NOT COUNT.

9. Mail, deliver, or have delivered the completed mailing envelope. Be sure there is sufficient postage if mailed.

10. FELONY NOTICE. It is a felony under Florida law to accept any gift, payment, or gratuity in exchange for your vote for a candidate. It is also a felony under Florida law to vote in an election using a false identity or false address, or under any other circumstances making your ballot false or fraudulent.

Section 43. Subsection (3) of section 102.012, Florida Statutes, is amended to read:

102.012 Inspectors and clerks to conduct elections.--

(3) The supervisor shall furnish inspectors of election for each precinct with the list of registered electors for that precinct ~~registration books divided alphabetically as will best facilitate the holding of an election~~. The supervisor shall also furnish to the inspectors of election at the polling place at each precinct in the supervisor's county a sufficient number of forms and blanks for use on election day.

Section 44. Subsections (1), (2), and (3) of section 104.013, Florida Statutes, are amended to read:

104.013 Unauthorized use, possession, or destruction of voter information ~~registration identification~~ card.--

(1) It is unlawful for any person knowingly to have in his or her possession any blank, forged, stolen, fictitious, counterfeit, or unlawfully issued voter information ~~registration identification~~ card unless possession by such person has been duly authorized by the supervisor.

(2) It is unlawful for any person to barter, trade, sell, or give away a voter information ~~registration identification~~ card unless said person has been duly authorized to issue a voter information ~~registration identification~~ card.

(3) It is unlawful for any person willfully to destroy or deface the information ~~registration identification~~ card of a duly registered voter.

Section 45. Effective upon becoming a law, subsection (7) is added to section 106.0705, Florida Statutes, to read:

106.0705 Electronic filing of campaign treasurer's reports.--

(7) Notwithstanding anything in law to the contrary, any report required to have been filed under this section for the period ended March 31, 2005, shall be deemed to have been timely filed if the report is filed under this section on or before June 1, 2005.

Section 46. Subsection (2) of section 106.08, Florida Statutes, is amended to read:

106.08 Contributions; limitations on.--

(2)(a) A candidate may not accept contributions from national, state, including any subordinate committee of a national, state, or county committee of a political party, and county executive committees of a political party, which contributions in the aggregate exceed $50,000, no more than $25,000 of which may be accepted prior to the 28-day period immediately preceding the date of the general election.

(b) A candidate for statewide office may not accept contributions from national, state, or county executive committees of a political party, including any subordinate committee of a national, state, or county committee of a political party, which contributions in the aggregate exceed $250,000, no more than $125,000 of which may be accepted prior to the 28-day period immediately preceding the date of the general election. Polling services, research services, costs for campaign staff, professional consulting services, and telephone calls are not contributions to be counted toward the contribution limits of paragraph (a) or paragraph (b). Any item not expressly identified in this paragraph as nonallocable is a contribution in an amount equal to the fair market value of the item and must be counted as allocable toward the ~~$50,000~~ contribution limits of paragraph (a) or paragraph (b). Nonallocable, in-kind contributions must be reported by the candidate under s. 106.07 and by the political party under s. 106.29.

Section 47. Subsection (3) of section 106.33, Florida Statutes, is amended to read:

106.33 Election campaign financing; eligibility.--Each candidate for the office of Governor or member of the Cabinet who desires to receive contributions from the Election Campaign Financing Trust Fund shall, upon qualifying for office, file a request for such contributions with the filing officer on forms provided by the Division of Elections. If a candidate requesting contributions from the fund desires to have such funds distributed by electronic fund transfers, the request shall include information necessary to implement that procedure. For the purposes of ss. 106.30-106.36, candidates for Governor and Lieutenant Governor on the same ticket shall be considered as a single candidate. To be eligible to receive contributions from the fund, a candidate may not be an unopposed candidate as defined in s. 106.011(15) and must:

(3) Limit loans or contributions from the candidate's personal funds to $25,000 and contributions from national, state, and county executive committees of a political party to $250,000 ~~$25,000~~ in the aggregate, which loans or contributions shall not qualify for meeting the threshold amounts in subsection (2).

Section 48. Section 106.34, Florida Statutes, is amended to read:

106.34 Expenditure limits.--

(1) Any candidate for Governor and Lieutenant Governor or Cabinet officer who requests contributions from the Election Campaign Financing Trust Fund shall limit his or her total expenditures as follows:

(a) Governor and Lieutenant Governor: $2.00 for each Florida-registered voter ~~$5 million~~.

(b) Cabinet officer: $1.00 for each Florida-registered voter ~~$2 million~~.

(2) The expenditure limit for any candidate with primary election opposition only shall be 60 percent of the limit provided in subsection (1).

(3) For purposes of this section, "Florida-registered voter" means a voter who is registered to vote in Florida as of June 30 of each odd-numbered year. The Division of Elections shall certify the total number of Florida-registered voters no later than July 31 of each odd-numbered year. Such total number shall be calculated by adding the number of registered voters in each county as of June 30 in the year of the certification date. For the 2006 general election, the Division of Elections shall certify the total number of Florida-registered voters by July 31, 2005. ~~The expenditure limit shall be adjusted by the Secretary of State quadrennially to reflect the rate of inflation or deflation as indicated~~

~~in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, 1967=100, or successor reports as reported by the United States Department of Labor, Bureau of Labor Statistics.~~

(4) For the purposes of this section, the term "expenditure" does not include the payment of compensation for legal and accounting services rendered on behalf of a candidate.

Section 49. Section 196.141, Florida Statutes, is amended to read:

196.141 Homestead exemptions; duty of property appraiser.--

~~(1)~~ The property appraiser shall examine each claim for exemption filed with or referred to him or her and shall allow the same, if found to be in accordance with law, by marking the same approved and by making the proper deductions on the tax books.

~~(2) The property appraiser shall examine each referral, of a person registering to vote at an address different from the one where the person has filed for a homestead exemption, which has been provided by a supervisor of elections pursuant to s. 98.015. The property appraiser shall initiate procedures to terminate a person's homestead exemption and assess back taxes, if appropriate, if the person claiming such exemption is not entitled to the exemption under law.~~

Section 50. Subsection (4) of section 120.54, Florida Statutes, is amended to read:

120.54 Rulemaking.--

(4) EMERGENCY RULES.--

(a) If an agency finds that an immediate danger to the public health, safety, or welfare requires emergency action, the agency may adopt any rule necessitated by the immediate danger. The agency may adopt a rule by any procedure which is fair under the circumstances if:

1. The procedure provides at least the procedural protection given by other statutes, the State Constitution, or the United States Constitution.

2. The agency takes only that action necessary to protect the public interest under the emergency procedure.

3. The agency publishes in writing at the time of, or prior to, its action the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the circumstances. In any event, notice of emergency rules, other than those of educational units or units of government with jurisdiction in only one or a part of one county, including the full text of the rules, shall be published in the first available issue of the Florida Administrative Weekly and provided to the committee. The agency's findings of immediate danger, necessity, and procedural fairness shall be judicially reviewable.

(b) Rules pertaining to the public health, safety, or welfare shall include rules pertaining to perishable agricultural commodities or rules pertaining to the interpretation and implementation of the requirements of chapters 97 through 102 and 105 of the Election Code.

(c) An emergency rule adopted under this subsection shall not be effective for a period longer than 90 days and shall not be renewable, except during the pendency of a challenge to proposed rules addressing the subject of the emergency rule. However, the agency may take identical action by the rulemaking procedures specified in this chapter.

(d) Subject to applicable constitutional and statutory provisions, an emergency rule becomes effective immediately on filing, or on a date less than 20 days thereafter if specified in the rule, if the adopting agency finds that such effective date is necessary because of immediate danger to the public health, safety, or welfare.

Section 51. Subsection (1) of section 99.061, Florida Statutes, is amended to read:

99.061 Method of qualifying for nomination or election to federal, state, county, or district office.--

(1) The provisions of any special act to the contrary notwithstanding, each person seeking to qualify for nomination or election to a federal, state, or multicounty district office, other than election to a judicial office as defined in chapter 105 or the office of school board member, shall file his or her qualification papers with, and pay the qualifying fee, which shall consist of the filing fee and election assessment, and party assessment, if any has been levied, to, the Department of State, or qualify by the alternative method with the Department of State, at any time after noon of the 1st day for qualifying, which shall be as follows: the 120th day prior to the first primary, but not later than noon of the 116th day prior to the date of the first primary, for persons seeking to qualify for nomination or election to federal office or the office of the state attorney or public defender; and noon of the 50th day prior to the first primary, but not later than noon of the 46th day prior to the date of the first primary, for persons seeking to qualify for nomination or election to a state or multicounty district office, other than the office of state attorney or public defender.

Section 52. Subsection (4) of section 322.142, Florida Statutes, is amended to read:

322.142 Color photographic or digital imaged licenses.--

(4) The department may maintain a film negative or print file. The department shall maintain a record of the digital image and signature of the licensees, together with other data required by the department for identification and retrieval. Reproductions from the file or digital record shall be made and issued only for departmental administrative purposes; for the issuance of duplicate licenses; in response to law enforcement agency requests; to the Department of State pursuant to an interagency agreement to facilitate determinations of eligibility of voter registration applicants and registered voters in accordance with ss. 98.045 and 98.075; to the Department of Revenue pursuant to an interagency agreement to facilitate service of process in Title IV-D cases; or to the Department of Financial Services pursuant to an interagency agreement to facilitate the location of owners of unclaimed property, the validation of unclaimed property claims, and the identification of fraudulent or false claims, and are exempt from the provisions of s. 119.07(1).

Section 53. Absentee ballots and voting; violations.--Any person who provides or offers to provide, and any person who accepts, a pecuniary or other benefit in exchange for distributing, ordering, requesting, collecting, delivering, or otherwise physically possessing absentee ballots, with intent to alter, change, modify, or erase any vote on the absentee ballot, except as provided in sections 101.6105-101.695, Florida Statutes, commits a felony of the third degree, punishable as provided in section 775.082, section 775.083, or section 775.084, Florida Statutes.

Section 54. Subsection (1) of section 104.047, Florida Statutes, is repealed.

Section 55. Sections 98.055, 98.095, 98.0977, 98.0979, 98.101, 98.181, 98.231, 98.451, 98.481, and 101.635, Florida Statutes, are repealed.

Section 56. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon becoming a law, this act shall take effect January 1, 2006.

And the title is amended as follows:

Delete everything before the enacting clause

and insert:

A bill to be entitled

An act relating to elections; amending s. 97.012, F.S.; revising the duties of the Secretary of State and the Department of State relating to election laws; providing for rulemaking; authorizing the Secretary of State to delegate voter registration and records maintenance duties to voter registration officials; providing that the secretary has a duty to bring legal action to enforce the performance of county supervisors of elections or other officials performing duties relating to the Florida Election Code; providing a prerequisite to bringing such an action; providing venue; requiring that courts give priority to such an action; providing penalties; providing for the adoption of rules; amending s. 97.021, F.S.; revising and providing definitions; amending s. 97.026, F.S.; providing rulemaking authority to make forms available in alternative formats and via the Internet; correcting a cross-reference; amending s. 97.051, F.S.; revising the oath taken by a person registering to vote; amending s. 97.052, F.S.; requiring that the uniform statewide voter registration application be accepted for replacement of a voter information card and

signature update; revising the information the uniform statewide voter registration application must contain and must elicit from the applicant; providing for the failure of a voter registration applicant to answer questions on the voter registration application; amending s. 97.053, F.S.; revising the criteria for completeness of a voter registration application; specifying the possible valid recipients of a mailed voter registration application; revising the information needed on a voter registration application to establish an applicant's eligibility; providing for verification of authenticity of certain voter registration application information; providing for a provisional ballot to be provided to an applicant if the application is not verified by a certain date; requiring a voter registration official to enter all voter registration applications into the voter registration system within a certain time period and forward such applications to the supervisor of elections; amending s. 97.0535, F.S.; providing for applicants who have no valid Florida driver's license, identification card, or social security number; amending s. 97.055, F.S.; specifying the information updates permitted for purposes of an upcoming election once registration books are closed; amending s. 97.057, F.S.; revising the voter registration procedure by the Department of Highway Safety and Motor Vehicles; amending s. 97.058, F.S.; revising duties of voter registration agencies; amending s. 97.061, F.S.; revising special registration procedures for electors requiring assistance; amending s. 97.071, F.S.; redesignating the registration identification card as the voter information card; revising the required contents of the card; deleting provisions relating to the second primary; amending s. 97.073, F.S.; revising the procedure by which an applicant must supply missing information on the voter registration application; revising provisions relating to cancellation of previous registration; amending s. 97.1031, F.S.; revising provisions relating to notice of change of residence, name, or party affiliation; amending s. 97.105, F.S., relating to establishment of the permanent single registration system, to conform; amending s. 98.015, F.S.; revising the duties of supervisors of elections; creating s. 98.035, F.S.; establishing a statewide voter registration system; requiring the Secretary of State to be responsible for the implementation, operation, and maintenance of the system; prohibiting the department from contracting with any other entity to operate the system; authorizing the department to adopt rules relating to the access, use, and operation of the system; amending s. 98.045, F.S.; revising provisions relating to administration of voter registration; providing for the responsibility of such administration to be undertaken by the department in lieu of supervisors of elections; specifying ineligibility criteria; revising provisions relating to removal of registered voters; revising provisions relating to public records access and retention; providing for the establishment of a statewide electronic database of valid residential street addresses; authorizing the department to adopt rules relating to certain voter registration system forms; amending s. 98.065, F.S.; revising provisions relating to registration records maintenance; providing for change of address; providing limitations on notice and renewal; requiring supervisors of elections to certify to the department certain list maintenance activities; providing penalties; amending s. 98.075, F.S.; providing for registration records maintenance by the department; providing procedures in cases involving duplicate registration, deceased persons, adjudication of mental incapacity, felony conviction, and other bases for ineligibility; providing procedures for removal; requiring supervisors of elections to certify to the department certain registration records maintenance activities; creating s. 98.0755, F.S.; providing for appeal of a determination of ineligibility; providing for jurisdiction, burden of proof, and trial costs; amending s. 98.077, F.S.; revising provisions relating to updating a voter's signature; amending s. 98.081, F.S., relating to removal of names from the statewide voter registration system, to conform; deleting provisions relating to the second primary; amending s. 98.093, F.S.; revising the duty of officials to furnish lists of deceased persons, persons adjudicated mentally incapacitated, and persons convicted of a felony; creating 98.0981, F.S.; requiring the department to furnish certain voter information to the Legislature; amending s. 98.212, F.S., relating to furnishing of statistical and other information, to conform; amending s. 98.461, F.S.; authorizing use of an electronic database as a precinct register and use of an electronic device for voter signatures and witness initials; amending s. 100.371, F.S.; revising the procedure by which constitutional amendments proposed by initiative shall be placed on the ballot; amending s. 101.001, F.S.; revising requirements of supervisors relating to precincts and precinct boundaries; providing exceptions; amending s. 101.043, F.S.; revising requirements and procedures relating to identification required at polls; amending s. 101.045, F.S., relating to provisions for residence or name change at the polls, to conform; amending s. 101.048, F.S., relating to provisional ballots, to conform; amending s. 101.161, F.S.; conforming a cross-reference; amending s. 101.56062, F.S., relating to standards for accessible voting systems, to conform; amending s. 101.5608, F.S.; revising a provision relating to an elector's signature provided with identification prior to voting; creating s. 101.573, F.S.; requiring supervisors of elections to file precinct-level election results; requiring the Department of State to adopt rules; amending s. 101.62, F.S.; conforming a cross-reference; amending ss. 101.64 and 101.657, F.S.; requiring that the supervisor of elections indicate on each absentee or early voted ballot the precinct of the voter; amending s. 101.663, F.S., relating to change of residence, to conform; amending s. 101.6921, F.S., relating to delivery of special absentee ballots to certain first-time voters, to conform; amending s. 101.6923, F.S., relating to special absentee ballot instructions for certain first-time voters, to conform; amending s. 102.012, F.S., relating to conduct of elections by inspectors and clerks, to conform; amending s. 104.013, F.S., relating to unauthorized use, possession, or destruction of voter information cards, to conform; amending s. 106.0705, F.S.; providing for the timely filing of certain reports; amending s. 106.08; providing for contribution limits to statewide candidates; amending s. 106.33, F.S.; increasing certain contribution limits; amending s. 106.34, F.S.; revising provisions relating to certain candidate expenditure limits; providing a definition; amending s. 196.141, F.S., relating to homestead exemptions and duties of property appraisers, to conform; amending s. 120.54, F.S.; including certain rules pertaining to the Florida Election Code within the definition of emergency rules governing public health, safety, or welfare; amending s. 99.061, F.S.; providing the method of qualifying for nomination to the office of the state attorney or public defender; amending s. 322.142, F.S.; providing for disclosure of certain confidential driver's license information to the department under certain circumstances; making it a third-degree felony to participate in certain exchanges associated with voting by absentee ballot; repealing s. 104.047(1), F.S., relating to criminal penalties for participation in certain exchanges associated with voting by absentee ballot; repealing s. 98.055, F.S., relating to registration list maintenance forms; repealing s. 98.095, F.S., relating to county registers open to inspection and copies; repealing s. 98.0977, F.S., relating to the statewide voter registration database and its operation and maintenance; repealing s. 98.0979, F.S., relating to inspection of the statewide voter registration; repealing s. 98.101, F.S., relating to specifications for permanent registration binders, files, and forms; repealing s. 98.181, F.S., relating to duty of the supervisor of elections to make up indexes or records; repealing s. 98.231, F.S., relating to duty of the supervisor of elections to furnish the department the number of registered electors; repealing s. 98.451, F.S., relating to automation in processing registration data; repealing s. 98.481, F.S., relating to challenges to electors; repealing s. 101.635, F.S., relating to distribution of blocks of printed ballots; providing effective dates.

REPRESENTATIVE RUSSELL IN THE CHAIR

On motion by Rep. Brown, the House concurred in Senate Amendment 1. The question recurred on the passage of HB 1589. The vote was:

Session Vote Sequence: 548

Rep. Russell in the Chair.

Yeas—77

Adams	Davis, D.	Homan	Poppell
Altman	Davis, M.	Hukill	Proctor
Ambler	Dean	Johnson	Quinones
Arza	Detert	Jordan	Reagan
Attkisson	Domino	Kottkamp	Rivera
Barreiro	Evers	Kreegel	Robaina
Baxley	Farkas	Kyle	Ross
Bean	Flores	Legg	Rubio
Bense	Galvano	Littlefield	Russell
Benson	Garcia	Llorente	Sansom
Berfield	Gardiner	Lopez-Cantera	Simmons
Bilirakis	Gibson, H.	Mahon	Stargel
Bowen	Glorioso	Mayfield	Traviesa
Brown	Goldstein	Mealor	Troutman
Brummer	Goodlette	Murzin	Waters
Cannon	Grant	Needelman	Williams
Carroll	Grimsley	Negron	Zapata
Clarke	Harrell	Patterson	
Cretul	Hasner	Pickens	
Culp	Hays	Planas	

Nays—38

Allen	Gannon	Kendrick	Sands
Antone	Gelber	Machek	Seiler
Ausley	Gibson, A.	McInvale	Slosberg
Bendross-Mindingall	Gottlieb	Meadows	Smith
Brandenburg	Greenstein	Peterman	Sobel
Brutus	Henriquez	Porth	Stansel
Bucher	Holloway	Rice	Taylor
Bullard	Jennings	Richardson	Vana
Cusack	Joyner	Roberson	
Fields	Justice	Ryan	

Votes after roll call:
Yeas—Anderson, Bogdanoff

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

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1591, with amendment, by the required Constitutional two-thirds vote of the members of the Senate and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 1591—A bill to be entitled An act relating to public records; amending s. 97.0585, F.S.; revising an exemption from the public-records law which is provided for information concerning persons who decline to register to vote, information relating to the place where a person registered to vote or updated a registration, and a voter's signature and social security number; creating exemptions from disclosure for a voter's driver's license number and Florida identification number; deleting an exemption from disclosure provided for the voter's telephone number; providing certain exceptions; providing for future legislative review and repeal under the Open Government Sunset Review Act; providing a finding of public necessity; providing a contingent effective date.

(Amendment Bar Code: 225150)

Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause

and insert:

Section 1. Section 97.0585, Florida Statutes, is amended to read:

97.0585 Public-records exemption; information regarding voters and voter registration ~~Declinations to register; place of registration and registration information~~; confidentiality.--

(1) The following information concerning voters and voter registration held by an agency as defined in s. 119.011 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution and may be used only for purposes of voter registration:

(a) All declinations to register to vote made pursuant to ss. 97.057 and 97.058 ~~are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and may be used only for voter registration purposes~~.

(b)~~(2)~~ Information relating to the place where a person registered to vote or where a person updated a voter registration.

(c) The social security number, driver's license number, and Florida identification number of a voter registration applicant or voter.

(2) The signature of a voter registration applicant or a voter ~~is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution; and a voter's signature, social security number, and telephone number~~ may not be copied and is ~~are~~ exempt for that purpose from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(3) This section applies to information held by an agency before, on, or after the effective date of this exemption.

Section 2. Subsection (2) of section 741.465, Florida Statutes, is amended to read:

741.465 Public records exemption for the Address Confidentiality Program for Victims of Domestic Violence.--

(2) The names, addresses, and telephone numbers of participants in the Address Confidentiality Program for Victims of Domestic Violence contained in voter registration and voting records held by the supervisor of elections and the Department of State are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except the information may be disclosed under the following circumstances: to a law enforcement agency for purposes of assisting in the execution of an arrest warrant or, if directed by a court order, to a person identified in the order. This exemption applies to information made exempt by this subsection before, on, or after the effective date of the exemption.

Section 3. Sections 97.0585 and 741.465, Florida Statutes, as amended by this act, are subject to the Open Government Sunset Review Act of 1995 in accordance with section 119.15, Florida Statutes, and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 4. (1) The Legislature recognizes that the Help America Vote Act of 2002 requires the implementation of a new single, uniform, centralized, interactive, and computerized statewide voter registration system by January 1, 2006. The Florida Voter Registration System (FVRS) will replace the existing state's voter registration system. The FVRS will interface with and integrate voter registration information and records from the offices of the 67 county supervisors of elections. The FVRS will contain the name and other registration information of every legally registered voter in the state. The FVRS will be the official list of registered voters in the state and will be used as the registration system for federal and state elections. Any such system must keep information concerning a person's decision not to register or information concerning the place where a person registers to vote confidential in accordance with the National Voter Registration Act. Therefore, the Legislature finds it

necessary to continue the existing public-records exemption to keep such information confidential and exempt in order to conform with the requirements of the National Voter Registration Act. Additionally, because persons may register to vote or update voter registration information at designated voter registration agencies that may include any office that provides public assistance, this exemption is also necessary to protect from disclosure personal information concerning those persons who apply for or receive public assistance at these offices.

(2) The Legislature also finds it necessary to broaden the existing exemption from public-records access to social security numbers of voters and voter registration applicants to include driver's license numbers and Florida identification numbers. The Legislature finds that access to such information can lead to fraud, personal identity theft, and invasion of privacy. The Florida Voter Statewide Voter Registration System, once implemented and maintained, will constitute one of the most comprehensive and up-to-date databases of persons in this state. The Legislature finds it not only necessary to exempt from copying social security numbers, driver's license numbers, and Florida identification numbers of those persons in the Florida Voter Registration System but also to exempt those numbers from inspection. Even the memorization of a single person's social security number, driver's license number, or Florida identification number could result in economic and personal harm to that individual whose numbers may be used to perpetrate fraud or may be coupled with other readily available public information to commit personal identity theft or to gain access to records, such as financial, educational, or medical records. The Legislature also finds it necessary to keep the social security numbers, driver's license numbers, and Florida identification numbers in the Florida Voter Registration System confidential and exempt in order to encourage voter registration and remove disincentives to registering to vote.

(3) The Legislature also finds it necessary to continue and to expand the existing exemption that precludes the copying of a voter's signature. Currently, a voter's signature is exempt from copying but only if contained on a voter registration application or precinct register. Two advisory opinions from the Attorney General issued in 2001 stated that a voter's signature on an absentee ballot certificate is not part of the voter registration record and therefore not exempt from copying. Because express exemption from copying did not exist for absentee ballot certificates, any person or entity may request and obtain copies of all signatures of voters who voted absentee in any particular election. Consequently, any person or entity may also request and obtain copies of all signatures of voters who signed provisional ballot envelopes, early voting certificates, or any other voting-related documents other than a voter registration application or a precinct register. The Legislature intends that a voter's signature be protected in order to prevent fraud, identity theft, or invasion of privacy in all instances. Nonetheless, the Legislature finds that any exemption for such signatures must be balanced against the continuing administrative need to allow for public inspection of the signatures of voters or voter registration applicants for purposes of voter verification, matching, or authenticity as may occur in a voter's challenge or canvassing of an absentee ballot. Therefore, the Legislature finds that it is a public necessity to continue the existing exemption solely from copying of voters' signatures and to expand that exemption to apply to voters' signatures as may also appear on absentee ballot certificate envelopes, provisional ballot envelopes, early-voting certificates, or any other voting-related document that must be executed for purposes of voting or voter registration.

(4) The Legislature also finds that it is a public necessity that the names, addresses, and telephone numbers of participants in the Address Confidentiality Program for Victims of Domestic Violence which are contained in voter registration and voting records held by the supervisor of elections and the Department of State be made exempt from public-records requirements. Participants in the program have demonstrated to the Office of the Attorney General that there exists a risk to their physical safety and security. Nonetheless, program participants must be afforded the ability to participate in society and cast a vote in elections. However, the supervisor of elections and the Department of State must have a verifiable address for a program participant in order to place that participant in the proper voting district and to maintain accurate records for compliance with state and federal requirements. The public-records exemption for the participant's name is a public necessity because access to such name narrows the location of that participant to his or her voting area. In addition, access to the participant's address and telephone number provides specific location and contact information for the participant. Therefore, access to the participant's name, address, and telephone number defeats the sole purpose of the Address Confidentiality Program for Victims of Domestic Violence, which is to provide safety and security for each participant.

Section 5. This act shall take effect on the same date that Senate Bill 2176 or similar legislation takes effect, if such legislation is enacted in the same legislative session or an extension thereof and becomes law.

And the title is amended as follows:

Delete everything before the enacting clause

and insert:

A bill to be entitled

An act relating to public records; amending s. 97.0585, F.S.; revising an exemption from the public-records law which is provided for information concerning persons who decline to register to vote, information relating to the place where a person registered to vote or updated a registration, and a voter's signature and social security number; creating exemptions from disclosure for a voter's driver's license number and Florida identification number; deleting an exemption from disclosure provided for the voter's telephone number; providing certain exceptions; providing for retroactive application of the exemption; amending s. 741.465, F.S.; expanding a public-records exemption for the names, addresses, and telephone numbers of participants in the Address Confidentiality Program for Victims of Domestic Violence contained in certain voter records held by the supervisor of elections and the Department of State; providing for future legislative review and repeal under the Open Government Sunset Review Act; providing a finding of public necessity; providing a contingent effective date.

On motion by Rep. Brown, the House concurred in Senate Amendment 1. The question recurred on the passage of HB 1591. The vote was:

Session Vote Sequence: 549

Rep. Russell in the Chair.

Yeas—111

Adams	Bogdanoff	Evers	Hasner
Allen	Brandenburg	Farkas	Hays
Altman	Brown	Fields	Henriquez
Ambler	Brummer	Flores	Holloway
Anderson	Bucher	Galvano	Homan
Antone	Bullard	Garcia	Hukill
Arza	Cannon	Gardiner	Jennings
Attkisson	Carroll	Gelber	Johnson
Ausley	Clarke	Gibson, H.	Jordan
Barreiro	Cretul	Glorioso	Justice
Baxley	Culp	Goldstein	Kendrick
Bean	Cusack	Goodlette	Kottkamp
Bendross-Mindingall	Davis, D.	Gottlieb	Kreegel
Bense	Davis, M.	Grant	Kyle
Benson	Dean	Greenstein	Legg
Berfield	Detert	Grimsley	Littlefield
Bilirakis	Domino	Harrell	Llorente

Lopez-Cantera	Peterman	Robaina	Smith
Machek	Pickens	Roberson	Sobel
Mahon	Planas	Ross	Stansel
Mayfield	Poppell	Rubio	Stargel
McInvale	Porth	Russell	Taylor
Meadows	Proctor	Ryan	Traviesa
Mealor	Quinones	Sands	Troutman
Murzin	Reagan	Sansom	Waters
Needelman	Rice	Seiler	Williams
Negron	Richardson	Simmons	Zapata
Patterson	Rivera	Slosberg	

Nays—None

Votes after roll call:
Yeas—Brutus, Gannon, A. Gibson, Vana

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

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 77, with amendments, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 77—A bill to be entitled An act relating to waste-to-energy facilities; amending s. 403.7061, F.S.; revising a permit or certification requirement for a waste-to-energy facility; providing an effective date.

(Amendment Bar Code: 734522)

Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause

and insert:
Section 1. Section 366.91, Florida Statutes, is created to read:
366.91 Renewable energy.--
(1) The Legislature finds that it is in the public interest to promote the development of renewable energy resources in this state. Renewable energy resources have the potential to help diversify fuel types to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies.
(2) As used in this section, the term:
(a) "Biomass" means a power source that is comprised of, but not limited to, combustible residues or gases from forest-products manufacturing, agricultural and orchard crops, waste products from livestock and poultry operations and food processing, urban wood waste, municipal solid waste, municipal liquid waste treatment operations, and landfill gas.
(b) "Renewable energy" means electrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. The term includes the alternative energy resource, waste heat, from sulfuric acid manufacturing operations.
(3) On or before January 1, 2006, each public utility must continuously offer a purchase contract to producers of renewable energy. The commission shall establish requirements relating to the purchase of capacity and energy by public utilities from renewable energy producers and may adopt rules to administer this section. The contract shall contain payment provisions for energy and capacity which are based upon the utility's full avoided costs, as defined in s. 366.051; however, capacity payments are not required if, due to the operational characteristics of the renewable energy generator or the anticipated peak and off-peak availability and capacity factor of the utility's avoided unit, the producer is unlikely to provide any capacity value to the utility or the electric grid during the contract term. Each contract must provide a contract term of at least 10 years. Prudent and reasonable costs associated with a renewable energy contract shall be recovered from the ratepayers of the contracting utility, without differentiation among customer classes, through the appropriate cost-recovery clause mechanism administered by the commission.
(4) On or before January 1, 2006, each municipal electric utility and rural electric cooperative whose annual sales, as of July 1, 1993, to retail customers were greater than 2,000 gigawatt hours must continuously offer a purchase contract to producers of renewable energy containing payment provisions for energy and capacity which are based upon the utility's or cooperative's full avoided costs, as determined by the governing body of the municipal utility or cooperative; however, capacity payments are not required if, due to the operational characteristics of the renewable energy generator or the anticipated peak and off-peak availability and capacity factor of the utility's avoided unit, the producer is unlikely to provide any capacity value to the utility or the electric grid during the contract term. Each contract must provide a contract term of at least 10 years.
(5) A contracting producer of renewable energy must pay the actual costs of its interconnection with the transmission grid or distribution system.
Section 2. Subsection (1) of section 366.11, Florida Statutes, is amended to read:
366.11 Certain exemptions.--
(1) No provision of this chapter shall apply in any manner, other than as specified in ss. 366.04, 366.05(7) and (8), 366.051, 366.055, 366.093, 366.095, 366.14, ~~and~~ 366.80-366.85, and 366.91, to utilities owned and operated by municipalities, whether within or without any municipality, or by cooperatives organized and existing under the Rural Electric Cooperative Law of the state, or to the sale of electricity, manufactured gas, or natural gas at wholesale by any public utility to, and the purchase by, any municipality or cooperative under and pursuant to any contracts now in effect or which may be entered into in the future, when such municipality or cooperative is engaged in the sale and distribution of electricity or manufactured or natural gas, or to the rates provided for in such contracts.
Section 3. Section 403.7061, Florida Statutes, is amended to read:
403.7061 Requirements for review of new waste-to-energy facility capacity by the Department of Environmental Protection.--
(1) The Legislature recognizes the need to use an integrated approach to municipal solid waste management. Accordingly, the solid waste management legislation adopted in 1988 was guided by policies intended to foster integrated solid waste management by using waste reduction, recycling, waste-to-energy facilities, and landfills. Progress is being made in the state using this integrated approach to municipal solid waste management, and this approach should be continued. Waste-to-energy facilities will continue to be an integral part of the state's solid waste management practices. However, the state is committed to achieving its recycling and waste reduction goals and must ensure that waste-to-energy facilities are fully integrated with the state's waste management goals. Therefore, the Legislature finds that the department should evaluate applications for waste-to-energy facilities in accordance with the new criteria in subsection (3) to confirm that the facilities are part of an integrated waste management plan.
(2) Notwithstanding any other provisions of state law, the department shall not issue a construction permit or certification to build a waste-to-energy facility or expand an existing waste-to-energy facility unless the facility meets the requirements set forth in subsection (3). Any construction permit issued by the department between January 1, 1993,

and May 12, 1993, which does not address these new requirements shall be invalid. These new requirements do not apply to the issuance of permits or permit modifications to retrofit existing facilities with new or improved pollution control equipment to comply with state or federal law. The department shall initiate rulemaking to incorporate the criteria in subsection (3) into its permit review process.

(3) An applicant must provide reasonable assurance that the construction of a new waste-to-energy facility or the expansion of an existing waste-to-energy facility will comply with the following criteria ~~subsections~~:

(a) The facility is a necessary part of the local government's integrated solid waste management program in the jurisdiction where the facility is located and cannot be avoided through feasible and practical efforts to use recycling or waste reduction.

(b) The use of capacity at existing waste-to-energy facilities within reasonable transportation distance of the proposed facility must have been evaluated and found not to be economically feasible when compared to the use of the proposed facility for the expected life of the proposed facility. This paragraph does not apply to:

1. Applications to build or expand waste-to-energy facilities received by the department before March 1, 1993, or amendments to such applications that do not increase combustion capacity beyond that requested as of March 1, 1993; or

2. Any modification to waste-to-energy facility construction or operating permits or certifications or conditions thereto, including certifications under ss. 403.501-403.518, that do not increase combustion capacity above that amount applied for before March 1, 1993.

(c) The county in which the facility is located has implemented and maintains a solid waste management and recycling program that is designed to ~~will~~ achieve the ~~30 percent~~ waste reduction goal set forth in s. 403.706(4) ~~by the time the facility begins operation~~. For the purposes of this section, the provisions of s. 403.706(4)(c) for counties having ~~with~~ populations of 100,000 ~~75,000~~ or fewer ~~less~~ do not apply.

(d) The local government in which the facility is located has implemented a mulching, composting, or other waste reduction program for yard trash.

(e) The local governments served by the facility will have implemented or participated in a separation program designed to remove small-quantity generator and household hazardous waste, mercury containing devices, and mercuric-oxide batteries from the waste stream prior to incineration, by the time the facility begins operation.

(f) The local government in which the facility is located has implemented a program to procure products or materials with recycled content, pursuant to s. 403.7065.

(g) A program will exist in the local government in which the facility is located for collecting and recycling recovered material from the institutional, commercial, and industrial sectors by the time the facility begins operation.

(h) The facility will be in compliance with applicable local ordinances and with the approved state and local comprehensive plans required by chapter 163.

(i) The facility is in substantial compliance with its permit, conditions of certification, and any agreements or orders resulting from environmental enforcement actions by state agencies.

(4) For the purposes of this section, the term "waste-to-energy facility" means a facility that uses an enclosed device using controlled combustion to thermally break down solid, liquid, or gaseous combustible solid waste to an ash residue that contains little or no combustible material and that produces electricity, steam, or other energy as a result. The term does not include facilities that primarily burn fuels other than solid waste even if such facilities also burn some solid waste as a fuel supplement. The term also does not include facilities that burn vegetative, agricultural, or silvicultural wastes, bagasse, clean dry wood, methane or other landfill gas, wood fuel derived from construction or demolition debris, or waste tires, alone or in combination with fossil fuels.

Section 4. Requirements relating to solid waste disposal facility permitting.--Local government applicants for a permit to construct or expand a Class I landfill are encouraged to consider construction of a waste-to-energy facility as an alternative to additional landfill space.

Section 5. This act shall take effect October 1, 2005.

And the title is amended as follows:

Delete everything before the enacting clause

and insert:

A bill to be entitled

An act relating to renewable energy; creating s. 366.91, F.S.; providing legislative findings; providing definitions; requiring public utilities, municipal utilities, and rural electric cooperatives to offer a purchase contract to producers of renewable energy; requiring the Florida Public Service Commission to establish requirements relating to the purchase of capacity and energy by public utilities from renewable energy producers; authorizing the commission to adopt rules; providing requirements for contracts; requiring that a producer pay the costs for interconnection; amending s. 366.11, F.S.; specifying that requirements for the purchase of renewable energy apply to municipal utilities; amending s. 403.7061, F.S.; revising a permit requirement for a waste-to-energy facility; encouraging specified applicants for a landfill permit to consider construction of a waste-to-energy facility; providing an effective date.

On motion by Rep. Littlefield, the House concurred in Senate Amendment 1. The question recurred on the passage of HB 77. The vote was:

Session Vote Sequence: 550

Rep. Russell in the Chair.

Yeas—117

Adams	Davis, D.	Jennings	Reagan
Allen	Davis, M.	Johnson	Rice
Altman	Dean	Jordan	Richardson
Ambler	Detert	Joyner	Rivera
Anderson	Domino	Justice	Robaina
Antone	Evers	Kendrick	Roberson
Arza	Farkas	Kottkamp	Ross
Attkisson	Fields	Kreegel	Rubio
Ausley	Flores	Kyle	Russell
Barreiro	Galvano	Legg	Ryan
Baxley	Gannon	Littlefield	Sands
Bean	Garcia	Llorente	Sansom
Bendross-Mindingall	Gardiner	Lopez-Cantera	Seiler
Bense	Gelber	Machek	Simmons
Benson	Gibson, A.	Mahon	Slosberg
Berfield	Gibson, H.	Mayfield	Smith
Bilirakis	Glorioso	McInvale	Sobel
Bogdanoff	Goldstein	Meadows	Sorensen
Bowen	Goodlette	Mealor	Stansel
Brandenburg	Gottlieb	Murzin	Stargel
Brown	Grant	Needelman	Taylor
Brummer	Greenstein	Negron	Traviesa
Bucher	Grimsley	Patterson	Troutman
Bullard	Harrell	Peterman	Vana
Cannon	Hasner	Pickens	Waters
Carroll	Hays	Planas	Williams
Clarke	Henriquez	Poppell	Zapata
Cretul	Holloway	Porth	
Culp	Homan	Proctor	
Cusack	Hukill	Quinones	

Nays—None

Votes after roll call:
Yeas—Brutus

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

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 925, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 925—A bill to be entitled An act relating to traffic regulations; amending s. 316.1303, F.S.; requiring vehicle operators to stop and yield to mobility-impaired pedestrians who are assisted by guide dogs or other service animals; providing a penalty; providing an effective date.

(Amendment Bar Code: 854906)

Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause

and insert:
Section 1. Section 316.1303, Florida Statutes, is amended to read:
316.1303 Traffic regulations to assist mobility-impaired persons.--Whenever a pedestrian is in the process of crossing a public street or highway and the pedestrian is mobility-impaired (using a guide dog or service animal designated as such with a visible means of identification, a walker, a crutch, an orthopedic cane, or a wheelchair), the driver of every vehicle approaching the intersection, as defined in s. 316.003(17), shall bring his or her vehicle to a full stop before arriving at such intersection and, before proceeding, shall take such precautions as may be necessary to avoid injuring such pedestrian. A person who is convicted of a violation of this section shall be punished as provided in s. 318.18(3).
Section 2. This act shall take effect July 1, 2005.

And the title is amended as follows:
Delete everything before the enacting clause

and insert:
A bill to be entitled
An act relating to traffic regulations; amending s. 316.1303, F.S.; requiring vehicle operators to stop and yield to mobility-impaired pedestrians who are assisted by guide dogs or other service animals; providing a penalty; providing an effective date.

On motion by Rep. Bendross-Mindingall, the House concurred in Senate Amendment 1. The question recurred on the passage of HB 925. The vote was:

Session Vote Sequence: 551

Rep. Russell in the Chair.

Yeas—117

Adams	Baxley	Brown	Davis, D.
Allen	Bean	Brummer	Davis, M.
Altman	Bendross-Mindingall	Bucher	Dean
Ambler	Bense	Bullard	Detert
Anderson	Benson	Cannon	Domino
Antone	Berfield	Carroll	Evers
Arza	Bilirakis	Clarke	Farkas
Attkisson	Bogdanoff	Cretul	Fields
Ausley	Bowen	Culp	Flores
Barreiro	Brandenburg	Cusack	Galvano
Gannon	Jennings	Needelman	Sands
Garcia	Johnson	Negron	Sansom
Gardiner	Jordan	Patterson	Seiler
Gelber	Joyner	Peterman	Simmons
Gibson, A.	Justice	Pickens	Slosberg
Gibson, H.	Kendrick	Planas	Smith
Glorioso	Kottkamp	Poppell	Sobel
Goldstein	Kreegel	Porth	Sorensen
Goodlette	Kyle	Proctor	Stansel
Gottlieb	Legg	Quinones	Stargel
Grant	Littlefield	Reagan	Taylor
Greenstein	Llorente	Rice	Traviesa
Grimsley	Lopez-Cantera	Richardson	Troutman
Harrell	Machek	Rivera	Vana
Hasner	Mahon	Robaina	Waters
Hays	Mayfield	Roberson	Williams
Henriquez	McInvale	Ross	Zapata
Holloway	Meadows	Rubio	
Homan	Mealor	Russell	
Hukill	Murzin	Ryan	

Nays—None

Votes after roll call:
Yeas—Brutus

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

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 233, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 233—A bill to be entitled An act relating to unlawful killing of an unborn quick child; amending s. 316.193, F.S.; including the death of an unborn quick child under DUI manslaughter; amending s. 782.09, F.S.; providing that the unlawful killing of an unborn quick child by injury to the mother that would be murder in any degree if it resulted in the death of the mother is murder in the same degree; providing that the unlawful killing of an unborn quick child by injury to the mother that would be manslaughter if it resulted in the death of the mother is manslaughter; providing an exception for acts by the mother; providing penalties; providing that the death of the mother does not bar prosecution under specified circumstances; providing that the section does not authorize prosecution of a person in connection with a termination of pregnancy; amending ss. 435.03 and 435.04, F.S., to conform language to changes made by this act to s. 782.09, F.S.; reenacting s. 921.0022(3)(h) and (i), F.S., to incorporate the amendment to s. 316.193, F.S., in references thereto; reenacting s. 316.656(1) and (2)(b), F.S., relating to mandatory adjudication, to incorporate the amendment to s. 316.193, F.S., in references thereto; reenacting s. 947.146(3)(j), F.S., relating to the Control Release Authority, to incorporate the amendment to s. 316.193, F.S., in a reference thereto; providing applicability; providing an effective date.

(Amendment Bar Code: 305800)

Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause

and insert:
Section 1. Subsection (3) of section 316.193, Florida Statutes, is amended to read:
316.193 Driving under the influence; penalties.--

(3) Any person:

(a) Who is in violation of subsection (1);

(b) Who operates a vehicle; and

(c) Who, by reason of such operation, causes or contributes to causing:

1. Damage to the property or person of another commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. Serious bodily injury to another, as defined in s. 316.1933, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. The death of any human being or unborn quick child commits DUI manslaughter, and commits:

a. A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. A felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:

(I) At the time of the crash, the person knew, or should have known, that the crash occurred; and

(II) The person failed to give information and render aid as required by s. 316.062.

For purposes of this subsection, the definition of the term "unborn quick child" shall be determined in accordance with the definition of viable fetus as set forth in s. 782.071.

Section 2. Section 782.09, Florida Statutes, is amended to read:

782.09 Killing of unborn quick child by injury to mother.--

(1) The unlawful ~~willful~~ killing of an unborn quick child, by any injury to the mother of such child which would be murder if it resulted in the death of such mother, shall be deemed murder in the same degree as that which would have been committed against the mother. Any person, other than the mother, who unlawfully kills an unborn quick child by any injury to the mother:

(a) Which would be murder in the first degree constituting a capital felony if it resulted in the mother's death commits murder in the first degree constituting a capital felony, punishable as provided in s. 775.082.

(b) Which would be murder in the second degree if it resulted in the mother's death commits murder in the second degree, a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Which would be murder in the third degree if it resulted in the mother's death commits murder in the third degree ~~manslaughter~~, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) The unlawful killing of an unborn quick child by any injury to the mother of such child which would be manslaughter if it resulted in the death of such mother shall be deemed manslaughter. A person who unlawfully kills an unborn quick child by any injury to the mother which would be manslaughter if it resulted in the mother's death commits manslaughter, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) The death of the mother resulting from the same act or criminal episode that caused the death of the unborn quick child does not bar prosecution under this section.

(4) This section does not authorize the prosecution of any person in connection with a termination of pregnancy pursuant to chapter 390.

(5) For purposes of this section, the definition of the term "unborn quick child" shall be determined in accordance with the definition of viable fetus as set forth in s. 782.071.

Section 3. Paragraph (g) of subsection (2) of section 435.03, Florida Statutes, is amended to read:

435.03 Level 1 screening standards.--

(2) Any person for whom employment screening is required by statute must not 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:

(g) Section 782.09, relating to killing of an unborn quick child by injury to the mother.

Section 4. Paragraph (g) of subsection (2) of section 435.04, Florida Statutes, is amended to read:

435.04 Level 2 screening standards.--

(2) The security background investigations under this section must ensure that no persons subject to the provisions of this section have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

(g) Section 782.09, relating to killing of an unborn quick child by injury to the mother.

Section 5. For the purpose of incorporating the amendment to s. 316.193, Florida Statutes, in a reference thereto, paragraphs (h) and (i) of subsection (3) of section 921.0022, Florida Statutes, are reenacted to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.--

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
	(h)	LEVEL 8
316.193 (3)(c)3.a.	2nd	DUI manslaughter.
316.1935(4)(b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
499.0051(7)	1st	Forgery of prescription or legend drug labels.
499.0052	1st	Trafficking in contraband legend drugs.
560.123(8)(b)2.	2nd	Failure to report currency or payment instruments totaling or exceeding $20,000, but less than $100,000 by money transmitter.
560.125(5)(b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding $20,000, but less than $100,000.
655.50(10)(b)2.	2nd	Failure to report financial transactions totaling or exceeding $20,000, but less than $100,000 by financial institutions.
777.03(2)(a)	1st	Accessory after the fact, capital felony.
782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson,

		sexual battery, robbery, burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb.	825.1025(2)	2nd	disabled adult. Lewd or lascivious battery upon an elderly person or disabled adult.
782.051(2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).	825.103(2)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at $100,000 or more.
782.071(1)(b)	1st	Committing vehicular homicide and failing to render aid or give information.	837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
782.072(2)	1st	Committing vessel homicide and failing to render aid or give information.	837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.	860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.	860.16	1st	Aircraft piracy.
800.04(4)	2nd	Lewd or lascivious battery.	893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
810.02(2)(a)	1st,PBL	Burglary with assault or battery.	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.	893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or $1,000 or more property damage.	893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
812.014(2)(a)2.	1st	Property stolen; cargo valued at $50,000 or more, grand theft in 1st degree.	893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
812.13(2)(b)	1st	Robbery with a weapon.	893.135 (1)(d)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
812.135(2)(c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.	893.135 (1)(e)1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
817.568(6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.	893.135 (1)(f)1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
825.102(2)	2nd	Aggravated abuse of an elderly person or	893.135 (1)(g)1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.

893.135 (1)(h)1.b.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.			$100,000.
893.135 (1)(j)1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.	655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding $100,000 by financial institution.
893.135 (1)(k)2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.	775.0844	1st	Aggravated white collar crime.
895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.	782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.	782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.	782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
896.101(5)(b)	2nd	Money laundering, financial transactions totaling or exceeding $20,000, but less than $100,000.	782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
896.104(4)(a)2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding $20,000 but less than $100,000.	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
			787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
			787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
			787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
	(i)	LEVEL 9			
316.193 (3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.			
327.35(3)(c)3.b.	1st	BUI manslaughter; failing to render aid or give information.	790.161	1st	Attempted capital destructive device offense.
499.0053	1st	Sale or purchase of contraband legend drugs resulting in great bodily harm.	790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding $100,000 by money transmitter.	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
			794.011(4)	1st	Sexual battery; victim

		12 years or older, certain circumstances.
794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
800.04(5)(b)	1st	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
812.135(2)(b)	1st	Home-invasion robbery with weapon.
817.568(7)	2nd,PBL	Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.
827.03(2)	1st	Aggravated child abuse.
847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
859.01	1st	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill or injure another person.
893.135	1st	Attempted capital trafficking offense.
893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
893.135 (1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
893.135 (1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
893.135 (1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.
893.135 (1)(h)1.c.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.
893.135 (1)(j)1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
893.135 (1)(k)2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.
896.101(5)(c)	1st	Money laundering, financial instruments totaling or exceeding $100,000.
896.104(4)(a)3.	1st	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding $100,000.

Section 6. For the purpose of incorporating the amendment to section 316.193, Florida Statutes, in a reference thereto, subsection (1) of section 316.656, Florida Statutes, is reenacted to read:

316.656 Mandatory adjudication; prohibition against accepting plea to lesser included offense.--

(1) Notwithstanding the provisions of s. 948.01, no court may suspend, defer, or withhold adjudication of guilt or imposition of sentence for any violation of s. 316.193, for manslaughter resulting from the operation of a motor vehicle, or for vehicular homicide.

Section 7. For the purpose of incorporating the amendment to section 316.193, Florida Statutes, in a reference thereto, paragraph (j) of subsection (3) of section 947.146, Florida Statutes, is reenacted to read:

947.146 Control Release Authority.--

(3) Within 120 days prior to the date the state correctional system is projected pursuant to s. 216.136 to exceed 99 percent of total capacity, the authority shall determine eligibility for and establish a control release date for an appropriate number of parole ineligible inmates committed to the department and incarcerated within the state who have been determined by the authority to be eligible for discretionary early release pursuant to this section. In establishing control release dates, it is the intent of the Legislature that the authority prioritize consideration of eligible inmates closest to their tentative release date. The authority shall rely upon commitment data on the offender information system maintained by the department to initially identify inmates who are to be reviewed for control release consideration. The authority may use a method of objective risk assessment in determining if an eligible inmate should be released. Such assessment shall be a part of the department's management information system. However, the authority shall have sole responsibility for determining control release eligibility, establishing a control release date, and effectuating the release of a sufficient number of inmates to maintain the inmate population between 99 percent and 100 percent of total capacity. Inmates who are ineligible for control release are inmates who are parole eligible or inmates who:

(j) Are convicted, or have been previously convicted, of DUI manslaughter under s. 316.193(3)(c)3., and are sentenced, or have been sentenced at any time, as a habitual offender for such offense, or have been sentenced at any time in another jurisdiction as a habitual offender for such offense;

In making control release eligibility determinations under this

subsection, the authority may rely on any document leading to or generated during the course of the criminal proceedings, including, but not limited to, any presentence or postsentence investigation or any information contained in arrest reports relating to circumstances of the offense.

Section 8. For the purpose of incorporating the amendment to section 316.193, Florida Statutes, in a reference thereto, paragraph (b) of subsection (3) of section 960.03, Florida Statutes, is reenacted to read:

960.03 Definitions; ss. 960.01-960.28.--As used in ss. 960.01-960.28, unless the context otherwise requires, the term:

(3) "Crime" means:

(b) A violation of s. 316.193, s. 316.027(1), s. 327.35(1), s. 782.071(1)(b), or s. 860.13(1)(a) which results in physical injury or death; however, no other act involving the operation of a motor vehicle, boat, or aircraft which results in injury or death shall constitute a crime for the purpose of this chapter unless the injury or death was intentionally inflicted through the use of such vehicle, boat, or aircraft or unless such vehicle, boat, or aircraft is an implement of a crime to which this act applies.

Section 9. This act shall take effect October 1, 2005, and shall apply to offenses committed on or after that date.

And the title is amended as follows:
Delete everything before the enacting clause

and insert:

A bill to be entitled

An act relating to homicide of an unborn quick child; amending s. 316.193, F.S.; including the death of an unborn quick child under DUI manslaughter; adopting the definition of viable fetus for purposes of this offense; amending s. 782.09, F.S.; providing that killing an unborn quick child by injury to the mother which would be murder in any degree if it resulted in the death of the mother is murder in the same degree; providing penalties; providing that the unlawful killing of an unborn quick child by injury to the mother which would be manslaughter if it resulted in the death of the mother is manslaughter; providing penalties; providing that the death of the mother does not bar prosecution under specified circumstances; providing that the section does not authorize prosecution of a person in connection with a termination of pregnancy; adopting the definition of viable fetus for purposes of this offense; amending ss. 435.03 and 435.04, F.S., to conform provisions to changes made by the amendments to s. 782.09, F.S.; reenacting s. 921.0022(3)(h) and (i), F.S., relating to the Criminal Punishment Code offense severity ranking chart, to incorporate the amendment to s. 316.193, F.S., in references thereto; reenacting s. 316.656(3), F.S., relating to mandatory adjudication, to incorporate the amendment to s. 316.193, F.S., in a reference thereto; reenacting s. 947.146(3)(j), F.S., relating to the Control Release Authority, to incorporate the amendment to s. 316.193, F.S., in a reference thereto; reenacting s. 960.03(3)(b), F.S., relating to the definition of "crime" under the Florida Crimes Compensation Act, to incorporate the amendment to s. 316.193, F.S., in a reference thereto; providing an effective date.

On motion by Rep. Planas, the House concurred in Senate Amendment 1. The question recurred on the passage of HB 233. The vote was:

Session Vote Sequence: 552

Rep. Russell in the Chair.

Yeas—113

Adams	Ambler	Arza	Barreiro
Allen	Anderson	Attkisson	Baxley
Altman	Antone	Ausley	Bean
Bense	Galvano	Kottkamp	Richardson
Berfield	Gannon	Kreegel	Rivera
Bilirakis	Gardiner	Kyle	Robaina
Bogdanoff	Gelber	Legg	Roberson
Bowen	Gibson, A.	Littlefield	Ross
Brandenburg	Gibson, H.	Llorente	Rubio
Brown	Glorioso	Lopez-Cantera	Russell
Brummer	Goldstein	Machek	Ryan
Brutus	Goodlette	Mahon	Sands
Bucher	Gottlieb	Mayfield	Sansom
Bullard	Grant	McInvale	Seiler
Cannon	Greenstein	Meadows	Simmons
Carroll	Grimsley	Mealor	Slosberg
Clarke	Harrell	Murzin	Smith
Cretul	Hasner	Needelman	Sorensen
Culp	Hays	Negron	Stansel
Cusack	Henriquez	Patterson	Stargel
Davis, D.	Holloway	Peterman	Taylor
Davis, M.	Homan	Pickens	Traviesa
Dean	Hukill	Planas	Vana
Detert	Jennings	Poppell	Waters
Domino	Johnson	Porth	Williams
Evers	Jordan	Proctor	Zapata
Farkas	Joyner	Quinones	
Fields	Justice	Reagan	
Flores	Kendrick	Rice	

Nays—2

Bendross-Mindingall Sobel

Votes after roll call:
Yeas—Troutman
Nays to Yeas—Bendross-Mindingall

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

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 255, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 255—A bill to be entitled An act relating to rabies vaccination; amending s. 828.30, F.S.; revising requirements for the frequency of rabies vaccination for specified animals; revising rabies vaccination certificate requirements; deleting an obsolete provision; prohibiting local governments from mandating revaccination of currently vaccinated animals except in specified instances; providing legislative findings; providing an effective date.

(Amendment Bar Code: 902398)

Senate Amendment 1—On page 2, lines 40-53, delete those lines

and insert:
~~(a) The license number of the administering veterinarian.~~
~~(b) The name, address, and phone number of the veterinarian and owner.~~
~~(c) The date of vaccination.~~
~~(d) The expiration date of the vaccination.~~
~~(e) The species, age, sex, color, breed, weight, and name of the animal vaccinated.~~
~~(f) The rabies vaccine manufacturer.~~

~~(g) The vaccine lot number and expiration date.~~
~~(h) The type and brand of vaccine used.~~
~~(i) The route of administration of the vaccine.~~
~~(j) the signature or signature stamp of the licensed veterinarian.~~

On motion by Rep. Evers, the House concurred in Senate Amendment 1. The question recurred on the passage of HB 255. The vote was:

Session Vote Sequence: 553

Rep. Russell in the Chair.

Yeas—110

Adams	Cusack	Jennings	Quinones
Allen	Davis, D.	Johnson	Reagan
Altman	Davis, M.	Jordan	Rice
Ambler	Dean	Joyner	Richardson
Anderson	Detert	Justice	Rivera
Antone	Domino	Kendrick	Robaina
Arza	Evers	Kottkamp	Roberson
Attkisson	Farkas	Kreegel	Ross
Ausley	Fields	Kyle	Rubio
Barreiro	Flores	Legg	Russell
Baxley	Galvano	Littlefield	Ryan
Bean	Gannon	Llorente	Sands
Bendross-Mindingall	Gardiner	Lopez-Cantera	Sansom
Bense	Gelber	Machek	Seiler
Berfield	Gibson, H.	Mahon	Simmons
Bilirakis	Glorioso	Mayfield	Slosberg
Bogdanoff	Goldstein	McInvale	Smith
Bowen	Goodlette	Meadows	Sorensen
Brandenburg	Grant	Mealor	Stansel
Brown	Greenstein	Murzin	Taylor
Brummer	Grimsley	Needelman	Traviesa
Brutus	Harrell	Negron	Troutman
Bucher	Hasner	Peterman	Vana
Bullard	Hays	Pickens	Waters
Cannon	Henriquez	Planas	Williams
Clarke	Holloway	Poppell	Zapata
Cretul	Homan	Porth	
Culp	Hukill	Proctor	

Nays—None

Votes after roll call:
Yeas—Carroll, Garcia, A. Gibson, Gottlieb, Patterson, Sobel

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

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 385, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 385—A bill to be entitled An act relating to state facility designations; designating Ramon Puig Way, Shawn O'Dare Way, Marge Pearlson Way, and Jorge L. Cabrera Way in Miami-Dade County; designating the Correction Officers Memorial Bridge in Bradford and Union Counties; designating Martin Andersen Beachline Expressway in Orange and Brevard Counties; designating Daniel Webster Western Beltway in Orange County; designating Robert F. Grim, Sr., Memorial Parkway in Volusia County; designating Veteran's Memorial Boulevard in Walton County; designating the Southeastern Guide Dog Overpass in Manatee County; designating the Joseph O. Striska Florida Welcome Center in Hamilton County; designating Purple Heart Memorial Highway in Highlands County; repealing s. 25 of ch. 2004-392, Laws of Florida, relating to the designation of St. Petersburg/William C. Cramer Parkway in Pinellas County; designating St. Petersburg Parkway/William C. Cramer Memorial Highway in Pinellas County; designating Richard E. "Pete" Damon Bridge in Palm Beach County; designating Alexander Alden Ware Memorial Cable Barrier System in Palm Beach, St. Lucie, and Miami-Dade Counties; directing the Department of Transportation to erect suitable markers; designating Jorge L. Cabrera Way, Roi Henri Christophe Boulevard, Charles Summer Boulevard, Capois-La-Mort Boulevard, and Jean Baptiste Point du Sable Boulevard in Miami-Dade County; directing the Department of Transportation to erect suitable markers; providing an effective date.

(Amendment Bar Code: 335266)

Senate Amendment 1 (with title amendment)—On page 8, between lines 204 and 205,

insert:
Section 21. Eric Ulysses Ramirez Highway designated; Department of Transportation to erect suitable markers.--
(1) The portion of State Road 50 in Lake County between the community of Stuckey and the Mascotte city limits is designated as the "Eric Ulysses Ramirez Highway."
(2) The Department of Transportation is directed to erect suitable markers designating the Eric Ulysses Ramirez Highway as described in subsection (1).
Section 22. Trooper Darryl Haywood Highway designated; Department of Transportation to erect suitable markers.--
(1) That portion of Interstate Highway 4 in the vicinity of mile marker 123 in Volusia County is designated as "Trooper Darryl Haywood Highway."
(2) The Department of Transportation is directed to erect suitable markers designating Trooper Darryl Haywood Highway as described in subsection (1).
Section 23. David Hinson Parkway designated; Department of Transportation to erect suitable markers.--
(1) That portion of Nova Road in Volusia County between International Speedway Boulevard to George W. Ingram Boulevard is designated as the "David Hinson Parkway."
(2) The Department of Transportation is directed to erect suitable markers designating the David Hinson Parkway as described in subsection (1).
Section 24. Charles W. Cherry, Sr., Parkway designated; Department of Transportation to erect suitable markers.--
(1) That portion of International Speedway Boulevard between Nova Road and Beach Street in Volusia County is designated as "Charles W. Cherry, Sr., Parkway."
(2) The Department of Transportation is directed to erect suitable markers designating Charles W. Cherry, Sr., Parkway as described in subsection (1).
Section 25. Taye Brown Parkway designated; Department of Transportation to erect suitable markers.--
(1) That portion of New Kings Road (U.S. 1) in Duval County between the 2400 block and the 3700 block is designated as "Taye Brown Parkway."
(2) The Department of Transportation is directed to erect suitable markers designating Taye Brown Parkway as described in subsection (1).
Section 26. Charles B. Dailey Parkway designated; Department of Transportation to erect suitable markers.--
(1) That portion of the Haines Street Expressway between Jessie Street and Eighth Street in Duval County is designated as "Charles B. Dailey

Parkway."

(2) The Department of Transportation is directed to erect suitable markers designating Charles B. Dailey Parkway as described in subsection (1).

Section 27. Johnnie Mae Chappell Parkway designated; Department of Transportation to erect suitable markers.--

(1) That portion of U.S. Highway 1 between Finch Avenue and Redpoll Avenue in Duval County is designated as "Johnnie Mae Chappell Parkway."

(2) The Department of Transportation is directed to erect suitable markers designating Johnnie Mae Chappell Parkway as described in subsection (1).

Section 28. Dr. John M. Haile Memorial Boulevard designated; Department of Transportation to erect suitable markers.--

(1) That portion of East Silver Springs Boulevard, State Road 40, in the City of Ocala from East 11th Avenue to East 16th Avenue is designated as the "Dr. John M. Haile Memorial Boulevard."

(2) The Department of Transportation is directed to erect suitable markers designating the Dr. John M. Haile Memorial Boulevard, as directed in subsection (1).

Section 29. Bob Graham/Sunshine Skyway Bridge designated; Department of Transportation to erect suitable markers.--

(1) The Sunshine Skyway Bridge over Tampa Bay is designated as the "Bob Graham/Sunshine Skyway Bridge."

(2) The Department of Transportation is directed to erect suitable markers designating the Bob Graham/Sunshine Skyway Bridge as described in subsection (1).

Section 30. Ricardo Karakadze Street designated; Department of Transportation to erect suitable markers.--

(1) The portion of 104th Street between U.S. 1 and 97th Avenue is designated as the "Ricardo Karakadze Street."

(2) The Department of Transportation is directed to erect suitable markers designating the Ricardo Karakadze Street as described in subsection (1).

Section 31. Ralph C. Carter Parkway designated; Department of Transportation to erect suitable markers.--

(1) That portion of State Park Road at the entrance to the Falling Waters State Recreational area, from Joiner Road to Falling Waters Road, in Chipley, Washington County, is designated as the "Ralph C. Carter Parkway."

(2) The Department of Transportation is directed to erect suitable markers designating the Ralph C. Carter Parkway as described in subsection (1).

Section 32. Henry Koerber Parkway designated; Department of Transportation to erect suitable markers.--

(1) That portion of U.S. Highway 90, between Davis Lane and Old Airport Road, in DeFuniak Springs, Walton County, is designated as the "Henry Koerber Parkway."

(2) The Department of Transportation is directed to erect suitable markers designating the Henry Koerber Parkway as described in subsection (1).

Section 33. Fred N. Dunn, Sr. Highway designated; Department of Transportation to erect suitable markers.--

(1) The portion of U.S. Highway 441 between Plymouth Sorrento Road and State Road 436 in Orange County is designated as the "Fred N. Dunn, Sr. Highway."

(2) The Department of Transportation is directed to erect suitable markers designating the Fred N. Dunn, Sr. Highway as described in subsection (1).

Section 34. Art Pepin Boulevard designated; Department of Transportation to erect suitable markers.--

(1) That portion of 56th Street between Fletcher Avenue and Dr. Martin Luther King Boulevard in Hillsborough County is designated as "Art Pepin Boulevard."

(2) The Department of Transportation is directed to erect suitable markers designating Art Pepin Boulevard as described in subsection (1).

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 28, after the semicolon,

insert:

designating Eric Ulysses Ramirez Highway in Lake County; designating Trooper Darryl Haywood Highway; designating the David Hinson Parkway and the Charles W. Cherry Parkway in Volusia County; designating Taye Brown Parkway, Charles B. Dailey Parkway, and Johnnie Mae Chappell Parkway in Duval County; designating Dr. John M. Haile Memorial Boulevard in Marion County; designating Bob Graham/Sunshine Skyway Bridge in Pinellas County; designating Ricardo Karakadze Street in Miami-Dade County; directing the Department of Transportation to erect suitable markers; designating the Ralph C. Carter Parkway in Washington County; and designating the Henry Koerber Parkway in Walton County; and designating Fred N. Dunn, Sr. Highway in Orange County; directing the Department of Transportation to erect suitable markers; designating Art Pepin Boulevard in Hillsborough County; directing the Department of Transportation to erect suitable markers;

Representative(s) Bendross-Mindingall offered the following:

(Amendment Bar Code: 978561)

House Amendment 1 to Senate Amendment 1 (with title amendment)—On page 5, line 8,

insert:

Section 34. Osun's Village designated; Department of Transportation to erect suitable markers.--

(1) That portion of N.W. 7th Avenue between N.W. 54th Street and N.W. 60th Street in Miami-Dade County is designated as "Osun's Village."

(2) The Department of Transportation is directed to erect suitable markers designating Osun's Village as described in subsection (1).

Section 35. African Caribbean Cultural Arts Corridor designated; Department of Transportation to erect suitable markers.--

(1) That portion of N.W. 7th Avenue between N.W. 36th Street and N.W. 79th Street in Miami-Dade County is designated as "African Caribbean Cultural Arts Corridor."

(2) The Department of Transportation is directed to erect suitable markers designating African Caribbean Cultural Arts Corridor as described in subsection (1).

On page 6, line(s) 5,

remove: all of said line

and insert: Hillsborough County; designating Osun's Village and African Caribbean Cultural Arts Corridor in Miami-Dade County; directing the Department

Rep. Bendross-Mindingall moved the adoption of the amendment to the amendment. Subsequently, **House Amendment 1 to Senate Amendment 1** was withdrawn.

Representative(s) Justice offered the following:

(Amendment Bar Code: 410015)

House Amendment 2 to Senate Amendment 1 (with title amendment)—On page 5, line(s) 8,
insert:

Section 35. Kleist Health Education Center designated; Florida Gulf Coast University to erect suitable markers.--

(1) The student community educational facility for health at Florida Gulf Coast University is designated as the "Kleist Health Education Center."

(2) Florida Gulf Coast University is authorized to erect suitable markers designating the Kleist Health Education Center as described in subsection (1).

Section 36. Herbert J. and Margaret S. Sugden Hall designated; Florida Gulf Coast University to erect suitable markers.--

(1) The facility at Florida Gulf Coast University which will house the resort and hospitality management program is designated as the "Herbert J. and Margaret S. Sugden Hall."

(2) Florida Gulf Coast University is authorized to erect suitable markers designating the Herbert J. and Margaret S. Sugden Hall as described in subsection (1).

Section 37. James and Annie Ying Academic Center designated; University of Central Florida to erect suitable markers.--

(1) The building that houses the University of Central Florida Downtown Center is designated as the "James and Annie Ying Academic Center."

(2) The University of Central Florida is authorized to erect suitable markers designating the James and Annie Ying Academic Center as described in subsection (1).

Section 38. Anthony and Sonja Nicholson Field House designated; University of Central Florida to erect suitable markers.--

(1) The new field house at the University of Central Florida athletics complex is designated as the "Anthony and Sonja Nicholson Field House."

(2) The University of Central Florida is authorized to erect suitable markers designating the James and Annie Ying Academic Center as described in subsection (1).

Section 39. Sybil C. Mobley Business Building designated; Florida Agricultural and Mechanical University to erect suitable markers.--

(1) The School of Business and Industry Building at Florida Agricultural and Mechanical University is designated as the "Sybil C. Mobley Business Building."

(2) Florida Agricultural and Mechanical University is authorized to erect suitable markers designating the Sybil C. Mobley Business Building as described in subsection (1).

Section 40. Margaret W. Lewis/Jacqueline B. Beck Allied Health Building designated; Florida Agricultural and Mechanical University to erect suitable markers.--

(1) The new Allied Health Building at Florida Agricultural and Mechanical University is designated as the "Margaret W. Lewis/Jacqueline B. Beck Allied Health Building."

(2) Florida Agricultural and Mechanical University is authorized to erect suitable markers designating the Margaret W. Lewis/Jacqueline B. Beck Allied Health Building as described in subsection (1).

Section 41. Walter L. Smith Architecture Building designated; Florida Agricultural and Mechanical University to erect suitable markers.--

(1) The Architecture Building at Florida Agricultural and Mechanical University is designated as the "Walter L. Smith Architecture Building."

(2) Florida Agricultural and Mechanical University is authorized to erect suitable markers designating the Walter L. Smith Architecture Building as described in subsection (1).

Section 42. Carrie Meek/James N. Eaton, Sr. Southeastern Regional Black Archives Research Center and Museum designated; Florida Agricultural and Mechanical University to erect suitable markers.--

(1) The Archives Building at Florida Agricultural and Mechanical University is designated as the "Carrie Meek/James N. Eaton, Sr. Southeastern Regional Black Archives Research Center and Museum."

(2) Florida Agricultural and Mechanical University is authorized to erect suitable markers designating the Carrie Meek/James N. Eaton, Sr. Southeastern Regional Black Archives Research Center and Museum.

Section 43. Powell Family Structures and Materials Laboratory designated; University of Florida to erect suitable markers.--

(1) The new Structures and Materials Research Laboratory for the College of Engineering at the University of Florida is designated as the "Powell Family Structures and Materials Laboratory."

(2) The University of Florida is directed to erect suitable markers designating the Powell Family Structures and Materials Laboratory as described in subsection (1).

Section 44. Farrior Hall designated; University of Florida to erect suitable markers.--

(1) The Academic Advising Center at the University of Florida is designated as "Farrior Hall."

(2) The University of Florida is directed to erect suitable markers designating Farrior Hall as described in subsection (1).

Section 45. Steinbrenner Band Hall designated; University of Florida to erect suitable markers.--

(1) The proposed band rehearsal facility at the University of Florida is designated as the "Steinbrenner Band Hall."

(2) The University of Florida is directed to erect suitable markers designating the Steinbrenner Band Hall as described in subsection (1).

Section 46. James E. "Jim" and Linda King, Jr., Student Union Building designated; University of North Florida to erect suitable markers.--

(1) The Student Union Building at the University of North Florida is designated as the "James E. 'Jim' and Linda King, Jr., Student Union Building."

(2) The University of North Florida is authorized to erect suitable markers designating the James E. "Jim" and Linda King, Jr., Student Union Building as described in subsection (1).

Section 47. John M. McKay Visitors' Pavilion designated; Florida State University to erect suitable markers.--

(1) The proposed entrance pavilion at the John and Mabel Ringling Museum of Art at the Florida State University Center for Cultural Arts in Sarasota is designated as the "John M. McKay Visitors' Pavilion."

(2) Florida State University is authorized to erect suitable markers designating the John M. Mckay Visitors' Pavilion as described in subsection (1).

Section 48. Reubin O'D. Askew Student Life Center designated; Florida State University to erect suitable markers.--

(1) The Student Life Building at Florida State University is designated as the "Reubin O'D. Askew Student Life Center."

(2) Florida State University is authorized to erect suitable markers designating the Reubin O'D. Askew Student Life Center as described in subsection (1).

Section 49. Sherrill Williams Ragans Hall designated; Florida State University to erect suitable markers.--

(1) The new residence hall complex at Florida State University, located at 921 College Avenue, is designated as "Sherrill Williams Ragans Hall."

(2) Florida State University is authorized to erect suitable markers designating Sherrill Williams Ragans Hall as described in subsection (1).

Section 50. John Thrasher Building designated; Florida State University to erect suitable markers.--

(1) The Education and Administration Building at the Florida State University College of Medicine is designated as the "John Thrasher Building."

(2) Florida State University is authorized to erect suitable markers designating the John Thrasher Building as described in subsection (1).

Section 51. Mike Martin Field at Dick Howser Stadium designated; Florida State University to erect suitable markers.--

(1) The baseball field at Florida State University is designated as the "Mike Martin Field at Dick Howser Stadium."

(2) Florida State University is authorized to erect suitable markers

designating the Mike Martin Field at Dick Howser Stadium as described in subsection (1).

Section 52. JoAnne Graf Softball Field designated; Florida State University to erect suitable markers.--

(1) The softball field at Florida State University is designated as the "JoAnne Graf Field."

(2) Florida State University is authorized to erect suitable markers designating the JoAnne Graf Field as described in subsection (1).

Section 53. Herbert F. Morgan Building designated; Florida Agricultural and Mechanical University-Florida State University College of Engineering to erect suitable markers.--

(1) The Florida Agricultural and Mechanical University-Florida State University College of Engineering Building is designated as the "Herbert F. Morgan Building."

(2) Florida Agricultural and Mechanical University and Florida State University are authorized to erect markers designating the Herbert F. Morgan Building as described in subsection (1).

Section 54. Norman C. Hayslip Biological Control Research and Containment Laboratory designated; University of Florida/IFAS to erect suitable markers.--

(1) The University of Florida/IFAS Biological Control Research and Containment Laboratory Building in Ft. Pierce is designated as the "Norman C. Hayslip Biological Control Research and Containment Laboratory."

(2) The University of Florida/IFAS is directed to erect suitable markers designating the Norman C. Hayslip Biological Control Research and Containment Laboratory as described in subsection (1).

Section 55. H. William Heller Hall designated; University of South Florida St. Petersburg to erect suitable markers.--Effective upon the effective date of the retirement or resignation of H. William Heller from, or the termination of his employment with, the University of South Florida St. Petersburg:

(1) Coquina Hall, on the campus of the University of South Florida St. Petersburg, is designated as the "H. William Heller Hall."

(2) The University of South Florida St. Petersburg is directed to erect suitable markers and signs designating the H. William Heller Hall as described in subsection (1).

Section 56. John S. Curran, M.D., Children's Health Center designated; University of South Florida to erect suitable markers.--Effective upon the effective date of the retirement or resignation of John S. Curran from, or the termination of his employment with, the University of South Florida:

(1) Notwithstanding section 267.062, Florida Statutes, the building located at the University of South Florida which will house the Children's Medical Services of the Department of Health is designated as the "John S. Curran, M.D., Children's Health Center."

(2) The University of South Florida is directed to erect suitable markers designating the John S. Curran, M.D., Children's Health Center as described in subsection (1).

Section 57. Section 15.052, Florida Statutes, is created to read:

15.052 Official state maritime museum.--

(1) The State of Florida Maritime Museum and Research Center, to be built in the City of Pensacola, is designated as the official state maritime museum.

(2) This section shall stand repealed on July 1, 2015, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 58. Patricia and Phillip Frost Art Museum designated; Florida International University to erect suitable markers.--

(1) The art museum on the campus of Florida International University, University Park Campus Miami, is designated as the "Patricia and Phillip Frost Art Museum."

(2) The Florida International University is directed to erect suitable markers designating the Patricia and Phillip Frost Art Museum as described in subsection (1).

On page 6, line 7,

insert:

designating the Kleist Health Education Center and the Herbert J. and Margaret S. Sugden Hall at the Florida Gulf Coast University; designating the James and Annie Ying Academic Center and the Anthony and Sonja Nicholson Field House at the University of Central Florida; designating the Sybil C. Mobley Business Building, the Margaret W. Lewis/Jacqueline B. Beck Allied Health Building, the Walter L. Smith Architecture Building, and the Carrie Meek/James N. Eaton, Sr. Southeast Regional Black Archives Research Center and Museum at the Florida Agricultural and Mechanical University; designating the Powell Family Structures and Materials Laboratory, the Farrior Hall, and the Steinbrenner Band Hall at the University of Florida; designating the James E. "Jim" and Linda King, Jr. Student Union Building at the University of North Florida; designating the John M. McKay Visitors Pavilion at the John and Mabel Ringling Museum of Art at the Florida State University Center for Cultural Arts; designating Reubin O'D. Askew Student Life Center, the Sherrill Williams Ragans Hall, the John Thrasher Building, the Mike Martin Field at Dick Houser Stadium, and the JoAnne Graf Softball Field at Florida State University; designating the Herbert F. Morgan Building at the Florida Agricultural and Mechanical University-Florida State University College of Engineering; authorizing the universities to erect markers; designating the Norman C. Hayslip Biological Control Research and Containment Laboratory at the University of Florida/IFAS in Ft. Pierce; designating the H. William Heller Hall at the University of South Florida St. Petersburg; designating the John S. Curran, M.D., Children's Health Center at the University of South Florida; directing the university to erect suitable markers; creating s. 15.052, F.S.; designating the State of Florida Maritime Museum and Research Center in the City of Pensacola as the official state maritime museum; providing for future legislative review and repeal; designating the Patricia and Phillip Frost Art Museum at the Florida International University, University Park Campus Miami; directing the university to erect markers;

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

On motion by Rep. Rubio, the House concurred in Senate Amendment 1. The question recurred on the passage of HB 385. The vote was:

Session Vote Sequence: 554

Rep. Russell in the Chair.

Yeas—118

Adams	Brown	Galvano	Hukill
Allen	Brummer	Gannon	Jennings
Altman	Brutus	Garcia	Johnson
Ambler	Bucher	Gardiner	Jordan
Anderson	Bullard	Gelber	Joyner
Antone	Cannon	Gibson, A.	Justice
Arza	Carroll	Gibson, H.	Kendrick
Attkisson	Clarke	Glorioso	Kottkamp
Ausley	Cretul	Goldstein	Kreegel
Barreiro	Culp	Goodlette	Kyle
Baxley	Cusack	Gottlieb	Legg
Bean	Davis, D.	Grant	Littlefield
Bendross-Mindingall	Davis, M.	Greenstein	Llorente
Bense	Dean	Grimsley	Lopez-Cantera
Benson	Detert	Harrell	Machek
Berfield	Domino	Hasner	Mahon
Bilirakis	Evers	Hays	Mayfield
Bogdanoff	Farkas	Henriquez	McInvale
Bowen	Fields	Holloway	Meadows
Brandenburg	Flores	Homan	Mealor

Murzin	Quinones	Ryan	Stargel
Needelman	Reagan	Sands	Taylor
Negron	Rice	Sansom	Traviesa
Patterson	Richardson	Seiler	Troutman
Peterman	Rivera	Simmons	Vana
Pickens	Robaina	Slosberg	Waters
Planas	Roberson	Smith	Williams
Poppell	Ross	Sobel	Zapata
Porth	Rubio	Sorensen	
Proctor	Russell	Stansel	

Nays—None

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

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 879, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 879—A bill to be entitled An act relating to public school educational instruction; requiring the Department of Education to evaluate the extent to which the Sunshine State Standards in the arts are being taught; requiring a report to the Governor and the Legislature; providing an effective date.

(Amendment Bar Code: 172566)

Senate Amendment 1 (with title amendment)—Between lines 18 and 19,

insert:

Section 2. Subsections (4), (5), and (6) are added to section 1003.455, Florida Statutes, to read:

1003.455 Physical education; assessment.--

(4) By September 1, 2006, each school district shall submit to the Department of Education a copy of the wellness policy required by the Child Nutrition and WIC Reauthorization Act of 2004. The department shall post the policies on the department website so that they may be reviewed and shared.

(5) By January 1, 2006, each school district is encouraged to review the level of participation and evaluate the success of the wellness programs throughout the district in each school setting.

(6) School districts are encouraged to regularly solicit public input regarding their policies on school nutritional offerings and wellness plans so that the policies meet the intent and spirit of the law, applicable rules, and Sunshine State Standards and reflect the local community's expectations and needs.

Section 3. Each public high school that has athletic facilities or participates in interscholastic sports shall have an operational defibrillator on the high school grounds. Public and private partnerships are encouraged to cover the cost associated with purchase, placement, and training on the use of the defibrillator.

Section 4. Staff Development.--School boards are encouraged to review the research and best practices regarding how planned physical movement can foster enhanced learning in academic subjects. Staff development for physical education instructors and arts instructors must include content related to an integrated curriculum, particularly in the areas of reading, mathematics, arts, fitness-based instruction, and the connection between movement and learning.

(Redesignate subsequent sections.)

And the title is amended as follows:

On line 6, after the semicolon,

insert:

amending s. 1003.455, F.S.; requiring each school district to submit a copy of its wellness policy to the Department of Education; requiring the department to post each policy on its website; encouraging each school district to review its level of participation and evaluate the success of its wellness programs; encouraging school districts to solicit public input regarding their policies on nutritional offerings and wellness plans; requiring certain public high schools to have a defibrillator on the school grounds; encouraging public and private partnerships to cover the costs associated with the defibrillator; encouraging school boards to review research with regard to how physical movement can enhance learning in academic subjects; requiring certain content to be included in staff development of physical education and arts instructors;

Representative Ausley offered the following:

(Amendment Bar Code: 636279)

House Amendment 1 to Senate Amendment 1 (with title amendment)—On page 2, between lines 18 and 19, insert:

Section 5. Paragraph (a) of subsection (5) of section 411.01, Florida Statutes, as amended by chapter 2004-484, Laws of Florida, is amended to read:

411.01 School readiness programs; early learning coalitions.--

(5) CREATION OF EARLY LEARNING COALITIONS.--

(a) Early learning coalitions.--

1. The Agency for Workforce Innovation shall establish the minimum number of children to be served by each early learning coalition through the coalition's school readiness program. The Agency for Workforce Innovation may only approve school readiness plans in accordance with this minimum number. The minimum number must be uniform for every early learning coalition and must:

a. Permit 30 or fewer coalitions to be established; and

b. Require each coalition to serve at least 2,000 children based upon the average number of all children served per month through the coalition's school readiness program during the previous 12 months.

The Agency for Workforce Innovation shall adopt procedures for merging early learning coalitions, including procedures for the consolidation of merging coalitions, and for the early termination of the terms of coalition members which are necessary to accomplish the mergers. Each early learning coalition must comply with the merger procedures and shall be organized in accordance with this subparagraph by April 1, 2005. By June 30, 2005, each coalition must complete the transfer of powers, duties, functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds to the successor coalition, if applicable. Notwithstanding the provisions of this subsection , the early learning coalition that includes Jefferson, Liberty, Madison, Wakulla, and Taylor counties currently in operation is established and authorized to continue operation as an independent coalition and shall not be counted toward the limit of 30 coalitions pursuant to this subsection.

2. If an early learning coalition would serve fewer children than the minimum number established under subparagraph 1., the coalition must merge with another county to form a multicounty coalition. However, the Agency for Workforce Innovation may authorize an early learning coalition to serve fewer children than the minimum number established under subparagraph 1., if:

a. The coalition demonstrates to the Agency for Workforce Innovation that merging with another county or multicounty region contiguous to the coalition would cause an extreme hardship on the coalition;

b. The Agency for Workforce Innovation has determined during the most recent annual review of the coalition's school readiness plan, or through monitoring and performance evaluations conducted under paragraph (4)(l), that the coalition has substantially implemented its plan and substantially met the performance standards and outcome measures adopted by the agency; and

c. The coalition demonstrates to the Agency for Workforce Innovation the coalition's ability to effectively and efficiently implement the Voluntary Prekindergarten Education Program.

If an early learning coalition fails or refuses to merge as required by this subparagraph, the Agency for Workforce Innovation may dissolve the coalition and temporarily contract with a qualified entity to continue school readiness and prekindergarten services in the coalition's county or multicounty region until the coalition is reestablished through resubmission of a school readiness plan and approval by the agency.

3. Each early learning coalition shall be composed of at least 18 members but not more than 35 members. The Agency for Workforce Innovation shall adopt standards establishing within this range the minimum and maximum number of members that may be appointed to an early learning coalition. These standards must include variations for a coalition serving a multicounty region. Each early learning coalition must comply with these standards.

4. The Governor shall appoint the chair and two other members of each early learning coalition, who must each meet the same qualifications as private-sector business members appointed by the coalition under subparagraph 6.

5. Each early learning coalition must include the following members:

a. A Department of Children and Family Services district administrator or his or her designee who is authorized to make decisions on behalf of the department.

b. A district superintendent of schools or his or her designee who is authorized to make decisions on behalf of the district, who shall be a nonvoting member.

c. A regional workforce board executive director or his or her designee.

d. A county health department director or his or her designee.

e. A children's services council or juvenile welfare board chair or executive director, if applicable, who shall be a nonvoting member if the council or board is the fiscal agent of the coalition or if the council or board contracts with and receives funds from the coalition.

f. An agency head of a local licensing agency as defined in s. 402.302, where applicable.

g. A president of a community college or his or her designee.

h. One member appointed by a board of county commissioners.

i. A central agency administrator, where applicable, who shall be a nonvoting member.

j. A Head Start director, who shall be a nonvoting member.

k. A representative of private child care providers, including family day care homes, who shall be a nonvoting member.

l. A representative of faith-based child care providers, who shall be a nonvoting member.

m. A representative of programs for children with disabilities under the federal Individuals with Disabilities Education Act, who shall be a nonvoting member.

6. Including the members appointed by the Governor under subparagraph 4., more than one-third of the members of each early learning coalition must be private-sector business members who do not have, and none of whose relatives as defined in s. 112.3143 has, a substantial financial interest in the design or delivery of the Voluntary Prekindergarten Education Program created under part V of chapter 1002 or the coalition's school readiness program. To meet this requirement an early learning coalition must appoint additional members from a list of nominees submitted to the coalition by a chamber of commerce or economic development council within the geographic region served by the coalition. The Agency for Workforce Innovation shall establish criteria for appointing private-sector business members. These criteria must include standards for determining whether a member or relative has a substantial financial interest in the design or delivery of the Voluntary Prekindergarten Education Program or the coalition's school readiness program.

7. A majority of the voting membership of an early learning coalition constitutes a quorum required to conduct the business of the coalition.

8. A voting member of an early learning coalition may not appoint a designee to act in his or her place, except as otherwise provided in this paragraph. A voting member may send a representative to coalition meetings, but that representative does not have voting privileges. When a district administrator for the Department of Children and Family Services appoints a designee to an early learning coalition, the designee is the voting member of the coalition, and any individual attending in the designee's place, including the district administrator, does not have voting privileges.

9. Each member of an early learning coalition is subject to ss. 112.313, 112.3135, and 112.3143. For purposes of s. 112.3143(3)(a), each voting member is a local public officer who must abstain from voting when a voting conflict exists.

10. For purposes of tort liability, each member or employee of an early learning coalition shall be governed by s. 768.28.

11. An early learning coalition serving a multicounty region must include representation from each county.

12. Each early learning coalition shall establish terms for all appointed members of the coalition. The terms must be staggered and must be a uniform length that does not exceed 4 years per term. Appointed members may serve a maximum of two consecutive terms. When a vacancy occurs in an appointed position, the coalition must advertise the vacancy.

On page 3, line 15,
remove: all of said line

and insert:
education and arts instructors; amending s. 411.01, F.S.; providing that specified counties continue to operate as an independent early learning coalition for certain purposes;

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

Representatives Llorente and Arza offered the following:

(Amendment Bar Code: 023123)

House Amendment 2 to Senate Amendment 1 (with title amendment)—On page 2, between lines 18 and 19, insert:

Section 5. Paragraphs (e) and (f) are added to subsection (2) of section 1006.20, Florida Statutes, to read:

1006.20 Athletics in public K-12 schools.--

(2) ADOPTION OF BYLAWS.--

(e) The organization shall adopt bylaws in consultation with the Florida School Boards Association and the Florida Association of District School Superintendents specifying that, in order to qualify for membership in the organization, a school must abide by district school board procedure or private school procedure that requires:

1. Instruction in physical education or health classes on the dangers of steroid use.

2. Instruction by head coaches to the members of their teams on the dangers of steroid use.

3. Inclusion of a prohibition against steroid use in the student code of conduct.

4. Inclusion of steroid effects in drug suspicion criteria.

(f) The organization shall adopt bylaws requiring adherence to the Florida Coaches Code of Ethics, including penalties for noncompliance. The Florida Coaches Code of Ethics shall be developed by October 1,

2005.

Section 6. Not later than October 1, 2005, the Florida High School Athletic Association shall make recommendations to the Speaker of the House of Representatives and the President of the Senate for a pilot drug testing program to test for performance-enhancing drugs. The pilot program must involve statewide testing of a random sample of the student athletes in a selected sport.

On page 3, line 15,
remove: all of said line

and insert:
education and arts instructors; amending s. 1006.20, F.S.; requiring the Florida High School Athletic Association to adopt bylaws relating to steroid use and the adherence to a coaches code of ethics; requiring development of such code; requiring the Florida High School Athletic Association to make recommendations for a pilot drug testing program to test for performance-enhancing drugs;

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

Representative(s) Pickens offered the following:

(Amendment Bar Code: 824419)

House Amendment 3 to Senate Amendment 1 (with title amendment)—On page 2, line(s) 19, insert:

Section 5. Paragraph (b) of subsection (2) of section 287.055, Florida Statutes, is amended, and paragraph (e) is added to subsection (4) of said section, 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:

(b) "Agency" means the state, a state agency, a municipality, a political subdivision, a school district, ~~or~~ a school board, or a regional consortium service organization formed under s. 1001.451. The term "agency" does not extend to a nongovernmental developer that contributes public facilities to a political subdivision under s. 380.06 or ss. 163.3220-163.3243.

(4) COMPETITIVE SELECTION.--

(e) A member of a regional consortium service organization, formed under s. 1001.451, may make purchases under contracts procured pursuant to this section.

Section 6. Section 1001.453, Florida Statutes, is amended to read:

1001.453 Direct-support organization; use of property; board of directors; audit.--

(1) DEFINITIONS.--For the purposes of this section, the term:

(a) "~~District school board~~ Direct-support organization" means a district school board direct-support organization or a regional consortium service organization direct-support ~~an~~ organization that:

1. Is approved by the district school board or regional consortium service organization board of directors;

2. Is a Florida corporation not for profit, incorporated under the provisions of chapter 617 and approved by the Department of State; and

3. Is organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of public kindergarten through 12th grade education and adult career and community education programs in this state.

(b) "Personal services" includes full-time or part-time personnel, as well as payroll processing.

(c) "Regional consortium service organization" means an organization formed under s. 1001.451.

(2) USE OF PROPERTY.--A district school board or regional consortium service organization board of directors:

(a) Is authorized to permit the use of property, facilities, and personal services of the district or regional consortium service organization by a direct-support organization, subject to the provisions of this section.

(b) Shall prescribe by rule conditions with which a ~~district school board~~ direct-support organization must comply in order to use property, facilities, or personal services of the district or regional consortium service organization. Adoption of such rules shall be coordinated with the Department of Education. The rules shall provide for budget and audit review and oversight by the district school board or regional consortium service organization board of directors and the department.

(c) Shall not permit the use of property, facilities, or personal services of a direct-support organization if such organization does not provide equal employment opportunities to all persons, regardless of race, color, religion, sex, age, or national origin.

(3) BOARD OF DIRECTORS.--The board of directors of the ~~district school board~~ direct-support organization shall be approved by the district school board or the regional consortium service organization board of directors.

(4) ANNUAL AUDIT.--Each direct-support organization with more than $100,000 in expenditures or expenses shall provide for an annual ~~financial~~ audit of its financial statements in order to express an opinion on the fairness with which the financial statements are presented in conformance with generally accepted accounting principles. The audit is ~~accounts and records,~~ to be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General pursuant to s. 11.45(8) and the Commissioner of Education. The annual audit report shall be submitted to the Auditor General and the district school board or regional consortium service organization board of directors for review within 9 months after the end of the fiscal year or by the date established by ~~year's end to~~ the district school board or regional consortium service organization board of directors and the Auditor General, whichever is earlier. The Commissioner of Education, the Auditor General, and the Office of Program Policy Analysis and Government Accountability have the authority to require and receive from the organization or the district auditor or regional consortium service organization auditor any records relative to the operation of the organization. The identity of donors and all information identifying donors and prospective donors are confidential and exempt from the provisions of s. 119.07(1), and that anonymity shall be maintained in the auditor's report. All other records and information shall be considered public records for the purposes of chapter 119.

Section 7. Section 1010.09, Florida Statutes, is amended to read:

1010.09 Direct-support organizations.--School district, regional consortium service organization, community college, and university direct-support organizations shall be organized and conducted under the provisions of ss. 1001.453, 1004.28, and 1004.70 and rules of the State Board of Education, as applicable.

Section 8. Section 1011.765, Florida Statutes, is amended to read:

1011.765 Florida Academic Improvement Trust Fund matching grants.--

(1) MATCHING GRANTS.--The Florida Academic Improvement Trust Fund shall be utilized to provide matching grants to the Florida School for the Deaf and the Blind Endowment Fund, ~~and to~~ any public school district education foundation, and any regional consortium service organization education foundation that meets the requirements of this section and is recognized by the local school district as a ~~its~~ designated K-12 education foundation. For purposes of this section, "regional consortium service organization" means an organization formed under s. 1001.451.

(a) The State Board of Education shall adopt rules for the administration, submission, documentation, evaluation, and approval of requests for matching funds and for maintaining accountability for matching funds.

(b) Donations, state matching funds, or proceeds from endowments established pursuant to this section shall be used at the discretion of the public school district education foundation, the regional consortium

service organization education foundation, or the Florida School for the Deaf and the Blind for academic achievement within the school district, school districts, or school, and shall not be expended for the construction of facilities or for the support of interscholastic athletics. A ~~No~~ public school district education foundation, a regional consortium service organization education foundation, or the Florida School for the Deaf and the Blind shall not accept or purchase facilities for which the state will be asked for operating funds unless the Legislature has granted prior approval for such acquisition.

(2) ALLOCATION OF THE TRUST FUND.--Funds appropriated to the Florida Academic Improvement Trust Fund shall be allocated by the Department of Education in the following manner:

(a) For every year in which there is a legislative appropriation to the trust fund, an equal amount of the annual appropriation, to be determined by dividing the total legislative appropriation by the number of local education foundations and regional consortium service organization education foundations, as well as the Florida School for the Deaf and the Blind, must be reserved for each public school district education foundation, each regional consortium service organization education foundation, and the Florida School for the Deaf and the Blind Endowment Fund to provide each foundation and the Florida School for the Deaf and the Blind with an opportunity to receive and match appropriated funds. Trust funds that remain unmatched by contribution on April 1 of any year shall be made available for matching by any public school district education foundation, by any regional consortium service organization education foundation, and by the Florida School for the Deaf and the Blind which shall have an opportunity to apply for excess trust funds prior to the award of such funds.

(b) Matching grants shall be proportionately allocated from the trust fund on the basis of matching each $4 of state funds with $6 of private funds. To be eligible for matching, a minimum of $4,500 must be raised from private sources.

(c) Funds sufficient to provide the match shall be transferred from the state trust fund to the public school education foundation, to the regional consortium service organization education foundation, or to the Florida School for the Deaf and the Blind Endowment Fund upon notification that a proportionate amount has been received and deposited by the foundation or school into its own trust fund.

(d) If the total of the amounts to be distributed in any quarter pursuant to this subsection exceeds the amount of funds remaining from specific appropriations made for the implementation of this section, all grants shall be proportionately reduced so that the total of matching grants distributed does not exceed available appropriations.

(3) GRANT ADMINISTRATION.--

(a) Each public school district education foundation, each regional consortium service organization education foundation, and the Florida School for the Deaf and the Blind participating in the Florida Academic Improvement Trust Fund shall separately account for all funds received pursuant to this section, and may establish its own academic improvement trust fund as a depository for the private contributions, state matching funds, and earnings on investments of such funds. State matching funds shall be transferred to the public school district education foundation, to the regional consortium service organization education foundation, or to the Florida School for the Deaf and the Blind Endowment Fund upon notification that the foundation or school has received and deposited private contributions that meet the criteria for matching as provided in this section. The public school district education foundations, the regional consortium service organization education foundations, and the Florida School for the Deaf and the Blind are responsible for the maintenance, investment, and administration of their academic improvement trust funds.

(b) The public school district education foundations, the regional consortium service organization education foundations, and the Florida School for the Deaf and the Blind shall be responsible for soliciting and receiving contributions to be deposited and matched with grants for academic achievement within the school district, school districts, or school.

(c) Each public school district education foundation, each regional consortium service organization education foundation, and the Florida School for the Deaf and the Blind shall be responsible for proper expenditure of the funds received pursuant to this section.

On page 3, line(s) 15, after the semicolon, insert:
amending s. 287.055, F.S.; including regional consortium service organizations under provisions relating to procurement and competitive selection of certain professional services; amending 1001.453, F.S.; revising definition of direct-support organization to include a regional consortium service organization direct-support organization; authorizing use of property and requiring rules; providing for approval of a board of directors and requiring audits; amending s. 1010.09, F.S.; conforming a provision relating to direct-support organizations; amending s. 1011.765, F.S.; providing that the Florida Academic Improvement Trust Fund shall be utilized to provide matching grants to regional consortium service organization education foundations;

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

Representative Sobel offered the following:

(Amendment Bar Code: 279229)

House Amendment 4 to Senate Amendment 1 (with title amendment)—On page 2, line 19, insert:

Section 5. Subsections (6) and (7) are added to section 401.107, Florida Statutes, to read:

401.107 Definitions.--As used in this part, the term:

(6) "Youth athletic organization" means a private not-for-profit organization that promotes and provides organized athletic activities to youth.

(7) "Automated external defibrillator device" means a device as defined in s. 768.1325(2)(b).

Section 6. Section 401.111, Florida Statutes, is amended to read:

401.111 Emergency medical services grant program; authority.--The department is hereby authorized to make grants to local agencies, ~~and~~ emergency medical services organizations, and youth athletic organizations in accordance with any agreement entered into pursuant to this part. These grants shall be designed to assist local ~~said~~ agencies and emergency medical services organizations in providing emergency medical services, including emergency medical dispatch, and to assist youth athletic organizations that work in conjunction with local emergency medical services organizations to expand the use of automated external defibrillator devices in the community. The cost of administering this program shall be paid by the department from funds appropriated to it.

Section 7. Paragraphs (a) and (b) of subsection (2) of section 401.113, Florida Statutes, are amended to read:

401.113 Department; powers and duties.--

(2) The department shall annually dispense funds contained in the Emergency Medical Services Trust Fund as follows:

(a) Forty-five percent of such moneys must be divided among the counties according to the proportion of the combined amount deposited in the trust fund from the county. These funds may not be used to match grant funds as identified in paragraph (b). An individual board of county commissioners may distribute these funds to emergency medical service organizations and youth athletic organizations within the county, as it deems appropriate.

(b) Forty percent of such moneys must be used by the department for making matching grants to local agencies, municipalities, ~~and~~ emergency medical services organizations, and youth athletic organizations for the purpose of conducting research, increasing existing levels of emergency medical services, evaluation, community education, injury-prevention

programs, and training in cardiopulmonary resuscitation and other lifesaving and first aid techniques.

1. At least 90 percent of these moneys must be made available on a cash matching basis. A grant made under this subparagraph must be contingent upon the recipient providing a cash sum equal to 25 percent of the total department-approved grant amount.

2. No more than 10 percent of these moneys must be made available to rural emergency medical services, and notwithstanding the restrictions specified in subsection (1), these moneys may be used for improvement, expansion, or continuation of services provided. A grant made under this subparagraph must be contingent upon the recipient providing a cash sum equal to no more than 10 percent of the total department-approved grant amount.

The department shall develop procedures and standards for grant disbursement under this paragraph based on the need for emergency medical services, the requirements of the population to be served, and the objectives of the state emergency medical services plan.

Section 8. The Department of Health shall implement an educational campaign to inform any person who acquires an automated external defibrillator device that his or her immunity from liability under s. 768.1325, Florida Statutes, for harm resulting from the use or attempted use of the device, does not apply if he or she fails to:

(1) Properly maintain and test the device; or

(2) Provide appropriate training in the use of the device to his or her employee or agent when the employee or agent was the person who used the device on the victim, except as provided in s. 768.1325, Florida Statutes.

On page 2, line 28, through page 3, line 15,
remove: all of said lines

and insert:
An act relating to public school educational instruction and youth fitness; requiring the Department of Education to evaluate the extent to which the Sunshine State Standards in the arts are being taught; requiring a report to the Governor and the Legislature; amending s. 1003.455, F.S.; requiring each school district to submit a copy of its wellness policy to the Department of Education; requiring the department to post each policy on its website; encouraging each school district to review its level of participation and evaluate the success of its wellness programs; encouraging school districts to solicit public input regarding their policies on nutritional offerings and wellness plans; requiring certain public high schools to have a defibrillator on the school grounds; encouraging public and private partnerships to cover the costs associated with the defibrillator; encouraging school boards to review research with regard to how physical movement can enhance learning in academic subjects; requiring certain content to be included in staff development of physical education and arts instructors; amending s. 401.107, F.S.; defining the terms "youth athletic organization" and "automated external defibrillator device"; amending s. 401.111, F.S.; providing for grants to local agencies, emergency medical services organizations, and youth athletic organizations to expand the use of automated external defibrillator devices; amending s. 401.113, F.S.; providing for disbursement of funds from the Emergency Medical Services Trust Fund; requiring the Department of Health to implement an educational campaign to inform the public about the lack of immunity from liability regarding the use of automated external defibrillator devices under certain conditions;

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

On motion by Rep. Hukill, the House concurred in Senate Amendment 1, as amended. The question recurred on the passage of HB 879. The vote was:

Session Vote Sequence: 555

Rep. Russell in the Chair.

Yeas—117

Adams	Cusack	Jennings	Reagan
Allen	Davis, M.	Johnson	Rice
Altman	Dean	Jordan	Richardson
Ambler	Detert	Joyner	Rivera
Anderson	Domino	Justice	Robaina
Antone	Evers	Kendrick	Roberson
Arza	Farkas	Kottkamp	Ross
Attkisson	Fields	Kreegel	Rubio
Ausley	Flores	Kyle	Russell
Barreiro	Galvano	Legg	Ryan
Baxley	Gannon	Littlefield	Sands
Bean	Garcia	Llorente	Sansom
Bendross-Mindingall	Gardiner	Lopez-Cantera	Seiler
Bense	Gelber	Machek	Simmons
Benson	Gibson, A.	Mahon	Slosberg
Berfield	Gibson, H.	Mayfield	Smith
Bilirakis	Glorioso	McInvale	Sobel
Bogdanoff	Goldstein	Meadows	Sorensen
Bowen	Goodlette	Mealor	Stansel
Brandenburg	Gottlieb	Murzin	Stargel
Brown	Grant	Needelman	Taylor
Brummer	Greenstein	Negron	Traviesa
Brutus	Grimsley	Patterson	Troutman
Bucher	Harrell	Peterman	Vana
Bullard	Hasner	Pickens	Waters
Cannon	Hays	Planas	Williams
Carroll	Henriquez	Poppell	Zapata
Clarke	Holloway	Porth	
Cretul	Homan	Proctor	
Culp	Hukill	Quinones	

Nays—None

Votes after roll call:
Yeas—D. Davis

So the bill passed, as amended. The action, together with the bill and amendments thereto, was immediately certified to the Senate.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 913, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 913—A bill to be entitled An act relating to littering; amending s. 403.413, F.S.; revising the prohibition against dumping litter on private property; increasing the civil penalty for littering; dedicating a portion of the increase to the Solid Waste Management Trust Fund; providing an effective date.

(Amendment Bar Code: 114810)

Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause

and insert:
Section 1. Paragraph (a) of subsection (6) of section 403.413, Florida Statutes, is amended to read:

403.413 Florida Litter Law.--

(6) PENALTIES; ENFORCEMENT.--

(a) Any person who dumps litter in violation of subsection (4) in an amount not exceeding 15 pounds in weight or 27 cubic feet in volume and not for commercial purposes is guilty of a noncriminal infraction, punishable by a civil penalty of $100, from which $50 shall be deposited into the Solid Waste Management Trust Fund to be used for the solid waste management grant program pursuant to s. 403.7095 ~~$50~~. In addition, the court may require the violator to pick up litter or perform other labor commensurate with the offense committed.

Section 2. This act shall take effect July 1, 2005.

And the title is amended as follows:

Delete everything before the enacting clause

and insert:

A bill to be entitled

An act relating to the Florida Litter Law; amending s. 403.413, F.S.; increasing the fine for a noncriminal infraction of the Florida Litter Law from $50 to $100; dedicating a portion of the increase to the Solid Waste Management Trust Fund; providing a use for such funds; providing an effective date.

On motion by Rep. Culp, the House concurred in Senate Amendment 1. The question recurred on the passage of HB 913. The vote was:

Session Vote Sequence: 556

Rep. Russell in the Chair.

Yeas—117

Adams	Cusack	Jennings	Reagan
Allen	Davis, D.	Johnson	Rice
Altman	Davis, M.	Jordan	Richardson
Ambler	Dean	Joyner	Rivera
Anderson	Detert	Justice	Robaina
Antone	Domino	Kendrick	Roberson
Arza	Farkas	Kottkamp	Ross
Attkisson	Fields	Kreegel	Rubio
Ausley	Flores	Kyle	Russell
Barreiro	Galvano	Legg	Ryan
Baxley	Gannon	Littlefield	Sands
Bean	Garcia	Llorente	Sansom
Bendross-Mindingall	Gardiner	Lopez-Cantera	Seiler
Bense	Gelber	Machek	Simmons
Benson	Gibson, A.	Mahon	Slosberg
Berfield	Gibson, H.	Mayfield	Smith
Bilirakis	Glorioso	McInvale	Sobel
Bogdanoff	Goldstein	Meadows	Sorensen
Bowen	Goodlette	Mealor	Stansel
Brandenburg	Gottlieb	Murzin	Stargel
Brown	Grant	Needelman	Taylor
Brummer	Greenstein	Negron	Traviesa
Brutus	Grimsley	Patterson	Troutman
Bucher	Harrell	Peterman	Vana
Bullard	Hasner	Pickens	Waters
Cannon	Hays	Planas	Williams
Carroll	Henriquez	Poppell	Zapata
Clarke	Holloway	Porth	
Cretul	Homan	Proctor	
Culp	Hukill	Quinones	

Nays—1

Evers

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

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 209, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 209—A bill to be entitled An act relating to administration of medication to public school students; creating s. 1006.0625, F.S.; defining the term "psychotropic medication"; prohibiting a recipient of state funds from requiring a student to be prescribed or administered psychotropic medication as a condition of receipt of educational services financed by state funds; providing requirements for administration; requiring notification to parents prior to evaluation of certain students for classification or placement as an exceptional student; providing an effective date.

(Amendment Bar Code: 162680)

Senate Amendment 1—On line 43, delete the words, "and have future consequences"

On motion by Rep. Barreiro, the House concurred in Senate Amendment 1. The question recurred on the passage of HB 209. The vote was:

Session Vote Sequence: 557

Rep. Russell in the Chair.

Yeas—116

Adams	Culp	Holloway	Poppell
Allen	Cusack	Homan	Porth
Altman	Davis, D.	Hukill	Proctor
Ambler	Davis, M.	Jennings	Quinones
Anderson	Dean	Johnson	Rice
Antone	Detert	Jordan	Richardson
Arza	Domino	Joyner	Rivera
Attkisson	Evers	Justice	Robaina
Ausley	Farkas	Kendrick	Roberson
Barreiro	Fields	Kottkamp	Ross
Baxley	Flores	Kreegel	Rubio
Bean	Galvano	Kyle	Russell
Bendross-Mindingall	Gannon	Legg	Ryan
Bense	Garcia	Littlefield	Sands
Benson	Gardiner	Llorente	Sansom
Berfield	Gelber	Lopez-Cantera	Seiler
Bilirakis	Gibson, A.	Machek	Simmons
Bogdanoff	Gibson, H.	Mahon	Slosberg
Bowen	Glorioso	Mayfield	Smith
Brandenburg	Goldstein	McInvale	Sobel
Brown	Goodlette	Meadows	Stansel
Brummer	Gottlieb	Mealor	Stargel
Brutus	Grant	Murzin	Taylor
Bucher	Greenstein	Needelman	Traviesa
Bullard	Grimsley	Negron	Troutman
Cannon	Harrell	Patterson	Vana
Carroll	Hasner	Peterman	Waters
Clarke	Hays	Pickens	Williams
Cretul	Henriquez	Planas	Zapata

Nays—None

Votes after roll call:
Yeas—Reagan

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

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 835, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 835—A bill to be entitled An act relating to wind-protection provisions of the Florida Building Code; requiring the commission to adopt certain wind protection requirements for areas of the state not within the high velocity hurricane zone; providing construction; providing for incorporation into the Florida Building Code of the repeal of a design option relating to internal pressure for buildings within the windborne debris region; providing an appropriation for a joint program to educate contractors for certain purposes; requiring the commission to review damage from Hurricane Ivan and make recommendations to the Legislature for changes to the Florida Building Code, especially relating to certain areas; requiring a report; directing the commission to evaluate the definition of the term "exposure category C" and recommend a revision to accurately reflect certain conditions specific to the state; providing an effective date.

(Amendment Bar Code: 100090)

Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause and

insert:

Section 1. Subsection (3) of section 109 of chapter 2000-141, Laws of Florida, is amended to read:

Section 109. The Legislature has reviewed the Florida Building Code that was adopted by action of the Florida Building Commission on February 15, 2000, and that was noticed for rule adoption by reference in Rule 9B-3.047, F.A.C., on February 18, 2000, in the Florida Administrative Weekly on page 731. The Florida Building Commission is directed to continue the process to adopt the code, pursuant to section 120.54(3), Florida Statutes, and to incorporate the following provisions or standards for the State of Florida:

(3) For areas of the state not within the high velocity hurricane zone, the commission shall adopt, pursuant to s. 553.73, Florida Statutes, the most current edition of the wind protection requirements of the American Society of Civil Engineers, Standard 7, ~~1998 edition~~ as implemented by the International Building Code~~, 2000 edition, and as modified by the commission in its February 15, 2000, adoption of the Florida Building Code for rule adoption by reference in Rule 9B-3.047, Florida Administrative Code~~. However, from the eastern border of Franklin County to the Florida-Alabama line, only land within 1 mile of the coast shall be subject to the windborne-debris requirements adopted by the commission. The exact location of wind speed lines shall be established by local ordinance, using recognized physical landmarks such as major roads, canals, rivers, and lake shores, wherever possible. Buildings constructed in the windborne debris region must be either designed for internal pressures that may result inside a building when a window or door is broken or a hole is created in its walls or roof by large debris, or be designed with protected openings. Except in the high velocity hurricane zone, local governments may not prohibit the option of designing buildings to resist internal pressures.

Section 2. Notwithstanding any other provision of this act, the option for designing for internal pressure for buildings within the windborne debris region shall be repealed immediately upon adoption of standards and conditions within the International Building Code or International Residential Code prohibiting such design option. The Florida Building Commission shall initiate rulemaking to incorporate such standards and conditions prohibiting designing for internal pressure for buildings into the Florida Building Code when the base code is updated.

Section 3. The Legislature appropriates, for fiscal year 2005-2006 only, $200,000 from the Insurance Regulatory Trust Fund to the Department of Financial Services to be used to develop a joint program between the Florida Insurance Council and the Florida Home Builders Association to educate contractors on the benefits and options available for designing buildings for windborne debris protection and to develop a standardized affidavit to be used for verifying the insurance discounts for residential construction techniques demonstrated to reduce the amount of loss during a windstorm.

Section 4. The Florida Building Commission, in conjunction with local building officials, shall conduct a review of damage resulting from Hurricane Ivan and any other data to evaluate, and to make recommendations to the Legislature for any changes to, Florida's Building Code, specifically as it applies to the region from the eastern border of Franklin County to the Florida-Alabama line. The commission shall issue a report summarizing its findings and recommendations prior to the 2006 Regular Session.

Section 5. The Florida Building Commission shall evaluate the definition of "exposure category C" as currently defined in section 553.71(10), Florida Statutes, and make recommendations for a new definition that more accurately depicts Florida-specific conditions prior to the 2006 Regular Session.

Section 6. This act shall take effect July 1, 2005.

And the title is amended as follows:
Delete everything before the enacting clause

and insert:

A bill to be entitled

An act relating to wind-protection provisions of the Florida Building Code; amending ch. 2000-141, Laws of Florida; providing for removal of outdated wind-protection standards from the Florida Building Code; providing for an update of the code's wind-protection standards; providing an appropriation; providing for incorporation in the Florida Building Code of the repeal of a design option relating to internal pressure for buildings within the windborne debris region; requiring the Florida Building Commission to make recommendations to the Legislature; providing an effective date.

On motion by Rep. Detert, the House concurred in Senate Amendment 1. The question recurred on the passage of HB 835. The vote was:

Session Vote Sequence: 558

Rep. Russell in the Chair.

Yeas—116

Adams	Bean	Brutus	Dean
Allen	Bendross-Mindingall	Bucher	Detert
Altman	Bense	Bullard	Domino
Ambler	Benson	Cannon	Evers
Anderson	Berfield	Carroll	Farkas
Antone	Bilirakis	Clarke	Fields
Arza	Bogdanoff	Cretul	Flores
Attkisson	Bowen	Culp	Galvano
Ausley	Brandenburg	Cusack	Gannon
Barreiro	Brown	Davis, D.	Garcia
Baxley	Brummer	Davis, M.	Gelber

Gibson, A.	Jordan	Negron	Ryan
Gibson, H.	Joyner	Patterson	Sands
Glorioso	Justice	Peterman	Sansom
Goldstein	Kendrick	Pickens	Seiler
Goodlette	Kreegel	Planas	Simmons
Gottlieb	Kyle	Poppell	Slosberg
Grant	Legg	Porth	Smith
Greenstein	Littlefield	Proctor	Sobel
Grimsley	Llorente	Quinones	Sorensen
Harrell	Lopez-Cantera	Reagan	Stansel
Hasner	Machek	Rice	Stargel
Hays	Mahon	Richardson	Taylor
Henriquez	Mayfield	Rivera	Traviesa
Holloway	McInvale	Robaina	Troutman
Homan	Meadows	Roberson	Vana
Hukill	Mealor	Ross	Waters
Jennings	Murzin	Rubio	Williams
Johnson	Needelman	Russell	Zapata

Nays—None

Votes after roll call:
Yeas—Kottkamp

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

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 977, with amendments, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 977—A bill to be entitled An act relating to the regulation of airports; amending s. 330.30, F.S.; prohibiting the Department of Transportation from renewing or reissuing licenses to certain general aviation airports that fail to develop a security plan; requiring that the plans be consistent with certain published guidelines; requiring certain information in the plans to be submitted to the Department of Law Enforcement; requiring periodic update of the plans; providing an effective date.

(Amendment Bar Code: 065984)

Senate Amendment 1—On page 3, line 58-60, delete those lines

and insert: <u>to approving it for filing to determine whether it is consistent with Florida Airport Councils Guidelines. No renewal license shall be issued to the airport</u>

(Amendment Bar Code: 440414)

Senate Amendment 2—On page 2, line 51-53, delete those lines

and insert: <u>guidelines.</u>

On motion by Rep. Adams, the House concurred in Senate Amendments 1 and 2. The question recurred on the passage of HB 977. The vote was:

Session Vote Sequence: 559

Rep. Russell in the Chair.

Yeas—117

Adams	Allen	Altman	Ambler
Anderson	Detert	Jordan	Rice
Antone	Domino	Joyner	Richardson
Arza	Evers	Justice	Rivera
Attkisson	Farkas	Kendrick	Robaina
Ausley	Fields	Kottkamp	Roberson
Barreiro	Flores	Kreegel	Ross
Baxley	Galvano	Kyle	Rubio
Bean	Gannon	Legg	Russell
Bendross-Mindingall	Garcia	Littlefield	Ryan
Bense	Gardiner	Llorente	Sands
Berfield	Gelber	Lopez-Cantera	Sansom
Bilirakis	Gibson, A.	Machek	Seiler
Bogdanoff	Gibson, H.	Mahon	Simmons
Bowen	Glorioso	Mayfield	Slosberg
Brandenburg	Goldstein	McInvale	Smith
Brown	Goodlette	Meadows	Sobel
Brummer	Gottlieb	Mealor	Sorensen
Brutus	Grant	Murzin	Stansel
Bucher	Greenstein	Needelman	Stargel
Bullard	Grimsley	Negron	Taylor
Cannon	Harrell	Patterson	Traviesa
Carroll	Hasner	Peterman	Troutman
Clarke	Hays	Pickens	Vana
Cretul	Henriquez	Planas	Waters
Culp	Holloway	Poppell	Williams
Cusack	Homan	Porth	Zapata
Davis, D.	Hukill	Proctor	
Davis, M.	Jennings	Quinones	
Dean	Johnson	Reagan	

Nays—None

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

THE SPEAKER IN THE CHAIR

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 395, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 395—A bill to be entitled An act relating to recreational licenses and permits; amending s. 372.57, F.S.; providing for a military gold sportsman's license; providing for an annual fee; providing authorizations allowed under license; providing eligibility requirements; amending ss. 372.5712, 372.5715, and 372.573, F.S.; providing for uses of specified pro rata portions of revenue generated from the military gold sportsman's license; amending s. 372.661, F.S.; exempting patrons of licensed hunting preserves from the license and permit requirements of the military gold sportsman's license while hunting on the licensed preserve property; providing an effective date.

(Amendment Bar Code: 144848)

Senate Amendment 1 (with title amendment)—Between lines 116 and 117, insert

and insert:
Section 6. Section 327.803, Florida Statutes, is amended to read:
327.803 Boating Advisory Council.--
(1) The Boating Advisory Council is created within the Fish and Wildlife Conservation Commission and shall be composed of <u>18</u> ~~17~~

members. The members include:

(a) One representative from the Fish and Wildlife Conservation Commission, who shall serve as the chair of the council.

(b) One representative each from the Department of Environmental Protection, the United States Coast Guard Auxiliary, the United States Power Squadron, and the inland navigation districts.

(c) One representative of manatee protection interests, one representative of the marine industries, one representative ~~two representatives~~ of water-related environmental groups, one representative of canoe or kayak enthusiasts, one representative of marine manufacturers, one representative of commercial vessel owners or operators, one representative of marine special events ~~sport boat racing~~, one representative actively involved and working full-time in the scuba diving industry who has experience in recreational boating, one representative of either the commercial fishing industry or the commercial shellfishing industry, and two representatives of the boating public, each of whom shall be nominated by the executive director of the Fish and Wildlife Conservation Commission and appointed by the Governor to serve staggered 3-year ~~2-year~~ terms. Members appointed by the Governor may serve no more than two full consecutive terms.

(d) One member of the House of Representatives, who shall be appointed by the Speaker of the House of Representatives.

(e) One member of the Senate, who shall be appointed by the President of the Senate.

(2) The council shall meet at the call of the chair, at the request of a majority of its membership, or at such times as may be prescribed by rule.

(3) The purpose of the council is to make recommendations to the Fish and Wildlife Conservation Commission and the Department of Community Affairs regarding issues affecting the boating community, including, but not limited to, issues related to:

(a) Boating and diving safety education.

(b) Boating-related facilities, including marinas and boat testing facilities.

(c) Boat usage.

(d) Boat access.

(e) Working waterfronts.

(4) Members of the council shall serve without compensation but are entitled to reimbursement of expenses as provided in s. 112.061.

(5) A vacancy on the council shall be filled for the remainder of the unexpired term in the same manner as the original appointment. Members whose terms have expired may continue to serve until replaced or reappointed.

(6) Members of the council may be removed for cause.

Section 7. Paragraphs (d) and (e) of subsection (2) of section 370.06, Florida Statutes, are amended to read:

370.06 Licenses.--

(2) SALTWATER PRODUCTS LICENSE.--

(d) A saltwater products license may be issued in the name of an individual or a valid commercial vessel ~~boat~~ registration number. However, a firm or corporation may only receive a license issued to a valid commercial vessel registration number. A saltwater products license may not be transferred by the licenseholder to another individual, firm, or corporation. ~~Such license is not transferable.~~ A decal shall be issued with each saltwater products license issued to a valid commercial vessel ~~boat~~ registration number. The saltwater products license decal shall be the same color as the vessel registration decal issued each year pursuant to s. 328.48(5) and shall indicate the period of time such license is valid. The saltwater products license decal shall be placed beside the vessel registration decal and, in the case of an undocumented vessel, shall be placed so that the vessel registration decal lies between the commercial vessel registration number and the saltwater products license decal. Any saltwater products license decal for a previous year shall be removed from a vessel operating on the waters of the state.

(e) The annual fee for a saltwater products license is:

1. For a license issued in the name of an individual which authorizes only that individual to engage in commercial fishing activities from the shore or a vessel: a resident must pay $50; a nonresident must pay $200; or an alien must pay $300.

2. For a license issued in the name of an individual which authorizes that named individual to engage in commercial fishing activities from the shore or a vessel and also authorizes each person who is fishing with the named individual aboard a vessel to engage in such activities: a resident must pay $150; a nonresident must pay $600; or an alien must pay $900.

3. For a license issued to a valid commercial vessel registration number which authorizes each person aboard such registered vessel to engage in commercial fishing activities: a resident, or a resident firm or corporation, must pay $100; a nonresident, or a nonresident firm or corporation, must pay $400; or an alien, or an alien firm or corporation, must pay $600. For purposes of this subparagraph, a resident firm or corporation means a firm or corporation formed under the laws of this state; a nonresident firm or corporation means a firm or corporation formed under the laws of any state other than Florida; and an alien firm or corporation means a firm or corporation organized under any laws other than laws of the United States, any United States territory or possession, or any state of the United States. ~~A resident shall pay an annual license fee of $50 for a saltwater products license issued in the name of an individual or $100 for a saltwater products license issued to a valid boat registration number. A nonresident shall pay an annual license fee of $200 for a saltwater products license issued in the name of an individual or $400 for a saltwater products license issued to a valid boat registration number. An alien shall pay an annual license fee of $300 for a saltwater products license issued in the name of an individual or $600 for a saltwater products license issued to a valid boat registration number.~~

Section 8. Paragraph (b) of subsection (1) of section 370.13, Florida Statutes, is amended to read:

370.13 Stone crab; regulation.--

(1) FEES AND EQUITABLE RENT.--

(b) Certificate fees.--

1. For each trap certificate issued by the commission under the requirements of the stone crab trap limitation program established by commission rule, there is an annual fee of $.50 per certificate. Replacement tags for lost or damaged tags cost $.50 each, except that tags lost in the event of a major natural disaster declared as an emergency disaster by the Governor shall be replaced for the cost of the tag as incurred by the commission.

2. The fee for transferring trap certificates is $1 per certificate transferred, except that the fee for eligible crew members is 50 cents per certificate transferred. ~~Except for transfers to~~ Eligible crew members shall be ~~as~~ determined according to criteria established by rule of the commission~~, the fee for transferring certificates is $2 per certificate transferred to be paid by the purchaser of the certificate or certificates. The transfer fee for eligible crew members is $1 per certificate~~. Payment must be made by money order or cashier's check, submitted with the certificate transfer form developed by the commission.

3. In addition to the transfer fee, a surcharge of $1 ~~$2~~ per certificate transferred, or 25 percent of the actual value of the transferred certificate, whichever is greater, will be assessed the first time a certificate is transferred outside the original holder's immediate family.

4. Transfer fees and surcharges only apply to the actual number of certificates received by the purchaser. A transfer of a certificate is not effective until the commission receives a notarized copy of the bill of sale as proof of the actual value of the transferred certificate or certificates, which must also be submitted with the transfer form and payment.

5. A transfer fee will not be assessed or required when the transfer is within a family as a result of the death or disability of the certificate owner. A surcharge will not be assessed for any transfer within an individual's immediate family.

6. The fees and surcharge amounts in this paragraph apply in the 2005-2006 license year and subsequent years.

Section 9. Section 372.674, Florida Statutes, is repealed.

Section 10. Paragraph (d) of subsection (2) of section 372.672, Florida Statutes, is amended to read:

372.672 Florida Panther Research and Management Trust Fund.--

(2) Money from the fund shall be spent only for the following purposes:

~~(d) To fund and administer education programs authorized in s. 372.674.~~

(Redesignate subsequent sections.)

And the title is amended as follows:

On line 13, after the semicolon

insert:

amending s. 327.803, F.S.; revising the membership of the Boating Advisory Council; increasing the terms of office of members appointed by the Governor and limiting the number of consecutive terms they may serve; adding issues upon which the council makes recommendations to the commission and the Department of Community Affairs; authorizing reimbursement of expenses for members of the council; providing for the filling of vacancies; providing for members of the council to be removed for cause; amending s. 370.06, F.S.; providing for receipt of a saltwater products license issued by the commission to a firm or corporation; revising a provision barring transfer of a saltwater products license; revising a provision regarding the annual fee that an individual, firm, or corporation must pay for a license; providing for an increase in annual saltwater products license fees; providing definitions; amending s. 370.13, F.S.; reducing stone crab trap certificate transfer fees; reducing surcharge fees; repealing s. 372.674, F.S., relating to environmental education and the Advisory Council on Environmental Education; amending s. 372.672, F.S., relating to the Florida Panther Research and Management Trust Fund, to conform;

On motion by Rep. Kendrick, the House refused to concur in Senate Amendment 1 and requested the Senate to recede therefrom. The action, together with the bill and amendment thereto, was immediately certified to the Senate.

Explanation of the General Appropriations Bill

Rep. Negron, Chair of the Fiscal Council, discussed the Conference Report on the budget, as agreed to by the conference managers, and requested that the following Appropriations Committee Chairs further explain portions of the budget: Rep. D. Davis, Chair of the Transportation & Economic Development Appropriations Committee; Rep. Barreiro, Chair of the Justice Appropriations Committee; Rep. Berfield, Chair of the State Administration Appropriations Committee; and Rep. Pickens, Chair of the Education Appropriations Committee.

THE SPEAKER PRO TEMPORE IN THE CHAIR

Rep. Bean, Chair of the Health Care Appropriations Committee, and Rep. Mayfield, Chair of the Agriculture & Environment Appropriations Committee,were recognized to further explain portions of the budget.

THE SPEAKER IN THE CHAIR

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for CS for CS for SB 360, as amended, and requests the concurrence of the House; and if the House refuses to pass the bill as amended by the Senate, then the Senate requests that a conference committee be appointed.

Faye W. Blanton, Secretary

By the Committees on Ways and Means, Transportation, Community Affairs and Senator Bennett—

CS for CS for CS for SB 360—A bill to be entitled An act relating to infrastructure planning and funding; amending s. 163.3164, F.S.; defining the term "financial feasibility"; amending s. 163.3177, F.S.; revising requirements for the capital improvements element of a comprehensive plan; requiring a schedule of capital improvements; providing a deadline for certain amendments; providing an exception; providing for sanctions; requiring incorporation of selected water supply projects in the comprehensive plan; authorizing planning for multijurisdictional water supply facilities; providing requirements for counties and municipalities with respect to the public school facilities element; requiring an interlocal agreement; providing for a waiver under certain circumstances; exempting certain municipalities from such requirements; requiring that the state land planning agency establish a schedule for adopting and updating the public school facilities element; revising the requirements and criteria for establishing a rural land stewardship area; revising the requirements for designating a stewardship receiving area to address listed species; revising requirements for an ordinance adopting a plan amendment to create a rural land stewardship area; encouraging local governments to include a community vision and an urban service boundary as a component of their comprehensive plans; prescribing taxing authority of local governments doing so; providing an exception; repealing s. 163.31776, F.S., relating to the public educational facilities element; amending s. 163.31777, F.S.; revising the requirements for the public schools interlocal agreement to conform to changes made by the act; requiring the school board to provide certain information to the local government; amending s. 163.3180, F.S.; revising requirements for concurrency; providing for schools to be subject to concurrency requirements; requiring that an adequate water supply be available for new development; revising requirements for transportation facilities; requiring that the Department of Transportation be consulted regarding certain level-of-service standards; revising criteria and providing guidelines for transportation concurrency exception areas; requiring a local government to consider the transportation level-of-service standards of adjacent jurisdictions for certain roads; providing a process to monitor de minimis impacts; revising the requirements for a long-term transportation concurrency management system; providing for a long-term school concurrency management system; requiring that school concurrency be established on less than a districtwide basis within 5 years; providing certain exceptions; authorizing a local government to approve a development order if the developer executes a commitment to mitigate the impacts on public school facilities; providing for the adoption of a transportation concurrency management system by ordinance; providing requirements for proportionate fair-share mitigation; providing an exception; amending s. 163.3184, F.S.; prescribing authority of local governments to adopt plan amendments after adopting community vision and an urban service boundary; providing for small scale plan amendment review under certain circumstances; providing exemptions; providing concurrency exemption for certain DRI projects; amending s. 163.3191, F.S.; providing additional requirements for the evaluation and assessment of the comprehensive plan for counties and municipalities that do not have a public schools interlocal agreement; revising requirements for the evaluation and appraisal report; providing time limit for amendments relating to the report; amending s. 212.055, F.S.; revising permissible rates for charter county transit system surtax; revising methods for approving such a surtax; providing for a noncharter county to levy this surtax under certain circumstances; limiting the expenditure of the proceeds to a specified area under certain circumstances; revising methods for approving a local government infrastructure surtax; limiting the expenditure of the proceeds to a specified area under certain circumstances; revising a ceiling on rates of small county surtaxes; revising methods for approving a school capital outlay surtax; amending s. 336.021, F.S.; revising methods for approving such a fuel tax; limiting authority of a county to impose the ninth-cent fuel tax without adopting a community vision; amending s. 336.025, F.S.; limiting authority of a county to impose the local option fuel tax without adopting a community vision; revising methods for approving such a fuel

tax; amending s. 339.135, F.S., relating to tentative work programs of the Department of Transportation; conforming provisions to changes made by the act; requiring the Office of Program Policy Analysis and Government Accountability to perform a study of the boundaries of specified state entities; requiring a report to the Legislature; creating s. 163.3247, F.S.; providing a popular name; providing legislative findings and intent; creating the Century Commission for certain purposes; providing for appointment of commission members; providing for terms; providing for meetings and votes of members; requiring members to serve without compensation; providing for per diem and travel expenses; providing powers and duties of the commission; requiring the creation of a joint select committee of the Legislature; providing purposes; requiring the Secretary of Community Affairs to select an executive director of the commission; requiring the Department of Community Affairs to provide staff for the commission; providing for other agency staff support for the commission; creating s. 339.2819, F.S.; creating the Transportation Regional Incentive Program within the Department of Transportation; providing matching funds for projects meeting certain criteria; amending s. 337.107, F.S.; allowing the inclusion of right-of-way services in certain design-build contracts; amending s. 337.107, F.S., effective July 1, 2007; eliminating the inclusion of right-of-way services and as part of design-build contracts under certain circumstances; amending s. 337.11, F.S.; allowing the Department of Transportation to include right-of-way services and design and construction into a single contract; providing an exception; delaying construction activities in certain circumstances; amending s. 337.11, F.S., effective July 1, 2007; deleting language allowing right-of-way services and design and construction phases to be combined for certain projects; deleting an exception; amending s. 380.06, F.S.; providing exceptions; amending s. 1013.33, F.S.; conforming provisions to changes made by the act; amending s. 206.46, F.S.; increasing the threshold for maximum debt service for transfers in the State Transportation Trust Fund; amending s. 339.08, F.S.; providing for expenditure of moneys in the State Transportation Trust Fund; amending s. 339.155, F.S.; providing for the development of regional transportation plans in Regional Transportation Areas; amending s. 339.175, F.S.; making conforming changes to provisions of the act; amending s. 339.55, F.S.; providing for loans for certain projects from the state-funded infrastructure bank within the Department of Transportation; amending s. 1013.64, F.S.; providing for the expenditure of funds in the Public Education Capital Outlay and Debt Service Trust Fund; amending s. 1013.65, F.S.; providing funding for the Classrooms for Kids Program; amending s. 163.3174, F.S.; allowing municipalities in charter counties the option to exercise exclusive land use planning authority under certain circumstances; creating s. 166.31, F.S.; authorizing the governing authority of a municipality to levy a surtax on documents pursuant to an ordinance approved by the electors of the municipality; requiring that the proceeds from the surtax be expended for infrastructure improvements; requiring that an advisory board be created to recommend infrastructure projects; providing requirements for developing, amending, and adopting a list of infrastructure projects; requiring notice and public hearings; requiring that the advisory board monitor the expenditure of the surtax proceeds; requiring the governing authority to notify the Department of Revenue of the imposition of the surtax; authorizing the department to retain a portion of the proceeds for administrative costs; requiring that a municipality levying the surtax file certain financial reports; amending s. 201.15, F.S.; providing for the expenditure of certain excise taxes on documents; providing for appropriations for the 2005-2006 fiscal year on a nonrecurring basis for certain purposes; specifying the evidentiary standard a local government must meet when defending a challenge to an ordinance establishing an impact fee; requiring the Department of Transportation to amend the tentative work program and budget for 2005-2006; prohibits reversion of certain funds; providing a declaration of important state interest; providing effective dates.

—was read the first time by title. On motion by Rep. Goodlette, the rules were waived and the bill was read the second time by title.

Representative(s) Johnson offered the following:

(Amendment Bar Code: 882799)

Amendment 1—Remove everything after the enacting clause, and insert:

Section 1. Subsection (32) is added to section 163.3164, Florida Statutes, to read:

163.3164 Local Government Comprehensive Planning and Land Development Regulation Act; definitions.--As used in this act:

(32) "Financial feasibility" means that sufficient revenues are currently available or will be available from committed or planned funding sources available for financing capital improvements, such as ad valorem taxes, bonds, state and federal funds, tax revenues, impact fees, and developer contributions, which are adequate to fund the projected costs of the capital improvements and as otherwise identified within this act necessary to ensure that adopted level-of-service standards are achieved and maintained within the 5-year schedule of capital improvements. The requirement that level-of service standards be achieved and maintained shall not apply if the proportionate-share process set forth in ss. 163.3180(12), (16), and (17) is used.

Section 2. Subsection (3), paragraphs (a), (c), and (h) of subsection (6), paragraph (d) of subsection (11), and subsection (12) of section 163.3177, Florida Statutes, are amended, and subsections (13) and (14) are added to that section, to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.--

(3)(a) The comprehensive plan shall contain a capital improvements element designed to consider the need for and the location of public facilities in order to encourage the efficient utilization of such facilities and set forth:

1. A component which outlines principles for construction, extension, or increase in capacity of public facilities, as well as a component which outlines principles for correcting existing public facility deficiencies, which are necessary to implement the comprehensive plan. The components shall cover at least a 5-year period.

2. Estimated public facility costs, including a delineation of when facilities will be needed, the general location of the facilities, and projected revenue sources to fund the facilities.

3. Standards to ensure the availability of public facilities and the adequacy of those facilities including acceptable levels of service.

4. Standards for the management of debt.

5. A schedule of capital improvements which includes publicly funded projects, and which may include privately funded projects.

6. The schedule must include transportation improvements included in the applicable metropolitan planning organization's transportation improvement program adopted pursuant to s. 339.175(7) to the extent that such improvements are relied upon to ensure concurrency and financial feasibility. The schedule must also be coordinated with the applicable metropolitan planning organization's long-range transportation plan adopted pursuant to s. 339.175(6).

(b)1. The capital improvements element shall be reviewed on an annual basis and modified as necessary in accordance with s. 163.3187 or s. 163.3189 in order to maintain a financially feasible 5-year schedule of capital improvements.~~, except that~~ Corrections~~, updates,~~ and modifications concerning costs; revenue sources; or acceptance of facilities pursuant to dedications which are consistent with the plan~~; or the date of construction~~ of any facility enumerated in the capital improvements schedule ~~element~~ may be accomplished by ordinance and shall not be deemed to be amendments to the local comprehensive plan. A copy of the ordinance shall be transmitted to the state land planning agency. An amendment to the comprehensive plan is required to update the schedule on an annual basis or to eliminate, defer, or delay the construction for any facility listed in the 5-year schedule. All public facilities shall be consistent with the capital improvements element. Amendments to implement this section must be adopted and transmitted

no later than December 1, 2007. Thereafter, a local government may not amend its future land use map, except for plan amendments to meet new requirements under this part and emergency amendments pursuant to s. 163.3187(1)(a), after December 1, 2007, and every year thereafter, unless and until the local government has adopted the annual update and it has been transmitted to the state land planning agency.

2. Capital improvements element amendments adopted after the effective date of this act shall require at least two public hearings before the governing board, the last of which shall be an adoption hearing as described in s. 163.3184(7). Such amendments are not subject to the requirements of s. 163.3184(3)-(6). All public comments submitted shall be forwarded to the department for consideration during the department's review. Amendments to the 5-year schedule of capital improvements adopted after the effective date of this act shall not be subject to challenge by an affected party. If the department determines that an amendment pursuant to this subparagraph is not in compliance, the local government may challenge that determination pursuant to s. 163.3184(10). An affected party may intervene in such challenge but may not maintain an independent action if the local government and the department enter into a compliance agreement.

(c) If the local government does not adopt the required annual update to the schedule of capital improvements or the annual update is found not in compliance, the state land planning agency must notify the Administration Commission. A local government that has a demonstrated lack of commitment to meeting its obligations identified in the capital improvement element may be subject to sanctions by the Administration Commission pursuant to s. 163.3184(11).

(d) If a local government adopts a long-term concurrency management system pursuant to s. 163.3180(9), it must also adopt a long-term capital improvements schedule covering up to a 10-year or 15-year period, and must update the long-term schedule annually. The long-term schedule of capital improvements must be financially feasible.

(6) In addition to the requirements of subsections (1)-(5) and (12), the comprehensive plan shall include the following elements:

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities, and other categories of the public and private uses of land. Counties are encouraged to designate rural land stewardship areas, pursuant to the provisions of paragraph (11)(d), as overlays on the future land use map. Each future land use category must be defined in terms of uses included, and must include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives. The future land use plan shall be based upon surveys, studies, and data regarding the area, including the amount of land required to accommodate anticipated growth; the projected population of the area; the character of undeveloped land; the availability of water supplies, public facilities, and services; the need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community; the compatibility of uses on lands adjacent to or closely proximate to military installations; and, in rural communities, the need for job creation, capital investment, and economic development that will strengthen and diversify the community's economy. The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this act. The future land use plan element shall include criteria to be used to achieve the compatibility of adjacent or closely proximate lands with military installations. In addition, for rural communities, the amount of land designated for future planned industrial use shall be based upon surveys and studies that reflect the need for job creation, capital investment, and the necessity to strengthen and diversify the local economies, and shall not be limited solely by the projected population of the rural community. The future land use plan of a county may also designate areas for possible future municipal incorporation. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. The future land use element must clearly identify the land use categories in which public schools are an allowable use. When delineating the land use categories in which public schools are an allowable use, a local government shall include in the categories sufficient land proximate to residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use. ~~All comprehensive plans must comply with the school siting requirements of this paragraph no later than October 1, 1999.~~ The failure by a local government to comply with these school siting requirements ~~by October 1, 1999~~, will result in the prohibition of the local government's ability to amend the local comprehensive plan, except for plan amendments described in s. 163.3187(1)(b), until the school siting requirements are met. Amendments proposed by a local government for purposes of identifying the land use categories in which public schools are an allowable use ~~or for adopting or amending the school siting maps pursuant to s. 163.31776(3)~~ are exempt from the limitation on the frequency of plan amendments contained in s. 163.3187. The future land use element shall include criteria that encourage the location of schools proximate to urban residential areas to the extent possible and shall require that the local government seek to collocate public facilities, such as parks, libraries, and community centers, with schools to the extent possible and to encourage the use of elementary schools as focal points for neighborhoods. For schools serving predominantly rural counties, defined as a county with a population of 100,000 or fewer, an agricultural land use category shall be eligible for the location of public school facilities if the local comprehensive plan contains school siting criteria and the location is consistent with such criteria. Local governments required to update or amend their comprehensive plan to include criteria and address compatibility of adjacent or closely proximate lands with existing military installations in their future land use plan element shall transmit the update or amendment to the department by June 30, 2006.

(c) A general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, drainage, sanitary sewer, solid waste, and aquifer recharge protection requirements for the area. The element may be a detailed engineering plan including a topographic map depicting areas of prime groundwater recharge. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs. The element shall also include a topographic map depicting any areas adopted by a regional water management district as prime groundwater recharge areas for the Floridan or Biscayne aquifers, pursuant to s. 373.0395. These areas shall be given special consideration when the local government is engaged in zoning or considering future land use for said designated areas. For areas served by septic tanks, soil surveys shall be provided which indicate the suitability of soils for septic tanks. Within 18 months after the governing board approves an updated regional water supply plan ~~By December 1, 2006~~, the element must incorporate the alternative water supply project or projects selected by the local government from those identified in the regional water supply plan pursuant to s. 373.0361(2)(a) or proposed by the local government under s. 373.0361(7)(b) ~~consider the appropriate water management district's regional water supply plan approved pursuant to s. 373.0361~~. If a local government is located within two water management districts, the local government shall adopt its comprehensive plan amendment within 18 months after the later updated regional water supply plan. The element

must identify such alternative water supply projects and traditional water supply projects and conservation and reuse necessary to meet the water needs identified in s. 373.0361(2)(a) within the local government's jurisdiction and include a work plan, covering at least a 10-year planning period, for building public, private, and regional water supply facilities, including development of alternative water supplies, which ~~that~~ are identified in the element as necessary to serve existing and new development ~~and for which the local government is responsible~~. The work plan shall be updated, at a minimum, every 5 years within 18 ~~12~~ months after the governing board of a water management district approves an updated regional water supply plan. Amendments to incorporate the work plan do not count toward the limitation on the frequency of adoption of amendments to the comprehensive plan. Local governments, public and private utilities, regional water supply authorities, special districts, and water management districts are encouraged to cooperatively plan for the development of multijurisdictional water supply facilities that are sufficient to meet projected demands for established planning periods, including the development of alternative water sources to supplement traditional sources of ground and surface water supplies.

(h)1. An intergovernmental coordination element showing relationships and stating principles and guidelines to be used in the accomplishment of coordination of the adopted comprehensive plan with the plans of school boards, regional water supply authorities, and other units of local government providing services but not having regulatory authority over the use of land, with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region, with the state comprehensive plan and with the applicable regional water supply plan approved pursuant to s. 373.0361, as the case may require and as such adopted plans or plans in preparation may exist. This element of the local comprehensive plan shall demonstrate consideration of the particular effects of the local plan, when adopted, upon the development of adjacent municipalities, the county, adjacent counties, or the region, or upon the state comprehensive plan, as the case may require.

a. The intergovernmental coordination element shall provide for procedures to identify and implement joint planning areas, especially for the purpose of annexation, municipal incorporation, and joint infrastructure service areas.

b. The intergovernmental coordination element shall provide for recognition of campus master plans prepared pursuant to s. 1013.30.

c. The intergovernmental coordination element may provide for a voluntary dispute resolution process as established pursuant to s. 186.509 for bringing to closure in a timely manner intergovernmental disputes. A local government may develop and use an alternative local dispute resolution process for this purpose.

2. The intergovernmental coordination element shall further state principles and guidelines to be used in the accomplishment of coordination of the adopted comprehensive plan with the plans of school boards and other units of local government providing facilities and services but not having regulatory authority over the use of land. In addition, the intergovernmental coordination element shall describe joint processes for collaborative planning and decisionmaking on population projections and public school siting, the location and extension of public facilities subject to concurrency, and siting facilities with countywide significance, including locally unwanted land uses whose nature and identity are established in an agreement. Within 1 year of adopting their intergovernmental coordination elements, each county, all the municipalities within that county, the district school board, and any unit of local government service providers in that county shall establish by interlocal or other formal agreement executed by all affected entities, the joint processes described in this subparagraph consistent with their adopted intergovernmental coordination elements.

3. To foster coordination between special districts and local general-purpose governments as local general-purpose governments implement local comprehensive plans, each independent special district must submit a public facilities report to the appropriate local government as required by s. 189.415.

4.a. Local governments ~~adopting a public educational facilities element pursuant to s. 163.31776~~ must execute an interlocal agreement with the district school board, the county, and nonexempt municipalities pursuant to s. 163.31777~~, as defined by s. 163.31776(1), which includes the items listed in s. 163.31777(2)~~. The local government shall amend the intergovernmental coordination element to provide that coordination between the local government and school board is pursuant to the agreement and shall state the obligations of the local government under the agreement.

b. Plan amendments that comply with this subparagraph are exempt from the provisions of s. 163.3187(1).

5. The state land planning agency shall establish a schedule for phased completion and transmittal of plan amendments to implement subparagraphs 1., 2., and 3. from all jurisdictions so as to accomplish their adoption by December 31, 1999. A local government may complete and transmit its plan amendments to carry out these provisions prior to the scheduled date established by the state land planning agency. The plan amendments are exempt from the provisions of s. 163.3187(1).

6. By January 1, 2004, any county having a population greater than 100,000, and the municipalities and special districts within that county, shall submit a report to the Department of Community Affairs which:

a. Identifies all existing or proposed interlocal service-delivery agreements regarding the following: education; sanitary sewer; public safety; solid waste; drainage; potable water; parks and recreation; and transportation facilities.

b. Identifies any deficits or duplication in the provision of services within its jurisdiction, whether capital or operational. Upon request, the Department of Community Affairs shall provide technical assistance to the local governments in identifying deficits or duplication.

7. Within 6 months after submission of the report, the Department of Community Affairs shall, through the appropriate regional planning council, coordinate a meeting of all local governments within the regional planning area to discuss the reports and potential strategies to remedy any identified deficiencies or duplications.

8. Each local government shall update its intergovernmental coordination element based upon the findings in the report submitted pursuant to subparagraph 6. The report may be used as supporting data and analysis for the intergovernmental coordination element.

~~9. By February 1, 2003, Representatives of municipalities, counties, and special districts shall provide to the Legislature recommended statutory changes for annexation, including any changes that address the delivery of local government services in areas planned for annexation.~~

(11)

(d)1. The department, in cooperation with the Department of Agriculture and Consumer Services, the Department of Environmental Protection, water management districts, and regional planning councils, shall provide assistance to local governments in the implementation of this paragraph and rule 9J-5.006(5)(l), Florida Administrative Code. Implementation of those provisions shall include a process by which the department may authorize local governments to designate all or portions of lands classified in the future land use element as predominantly agricultural, rural, open, open-rural, or a substantively equivalent land use, as a rural land stewardship area within which planning and economic incentives are applied to encourage the implementation of innovative and flexible planning and development strategies and creative land use planning techniques, including those contained herein and in rule 9J-5.006(5)(l), Florida Administrative Code. Assistance may include, but is not limited to:

a. Assistance from the Department of Environmental Protection and water management districts in creating the geographic information systems land cover database and aerial photogrammetry needed to prepare for a rural land stewardship area;

b. Support for local government implementation of rural land stewardship concepts by providing information and assistance to local governments regarding land acquisition programs that may be used by the

local government or landowners to leverage the protection of greater acreage and maximize the effectiveness of rural land stewardship areas; and

c. Expansion of the role of the Department of Community Affairs as a resource agency to facilitate establishment of rural land stewardship areas in smaller rural counties that do not have the staff or planning budgets to create a rural land stewardship area.

2. The state land planning agency ~~department~~ shall encourage participation by local governments of different sizes and rural characteristics in establishing and implementing rural land stewardship areas. It is the intent of the Legislature that rural land stewardship areas be used to further the following broad principles of rural sustainability: restoration and maintenance of the economic value of rural land; control of urban sprawl; identification and protection of ecosystems, habitats, and natural resources; promotion of rural economic activity; maintenance of the viability of Florida's agricultural economy; and protection of the character of rural areas of Florida. Rural land stewardship areas may be multicounty in order to encourage coordinated regional stewardship planning.

3. A local government, in conjunction with a regional planning council, a stakeholder organization of private land owners, or another local government, shall notify the department in writing of its intent to designate a rural land stewardship area. The written notification shall describe the basis for the designation, including the extent to which the rural land stewardship area enhances rural land values, controls urban sprawl, provides necessary open space for agriculture and protection of the natural environment, promotes rural economic activity, and maintains rural character and the economic viability of agriculture.

4. A rural land stewardship area shall be not less than 10,000 acres and shall be located outside of municipalities and established urban growth boundaries, and shall be designated by plan amendment. The plan amendment designating a rural land stewardship area shall be subject to review by the Department of Community Affairs pursuant to s. 163.3184 and shall provide for the following:

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

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

c. A process for the implementation of innovative planning and development strategies within the rural land stewardship area, including those described in this subsection and rule 9J-5.006(5)(l), Florida Administrative Code, which provide for a functional mix of land uses, including adequate available work force housing, including low, very-low, and moderate income housing for the development anticipated in the receiving area and which are applied through the adoption by the local government of zoning and land development regulations applicable to the rural land stewardship area.

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

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

5. A receiving area shall be designated by the adoption of a land development regulation. Prior to the designation of a receiving area, the local government shall provide the Department of Community Affairs a period of 30 days in which to review a proposed receiving area for consistency with the rural land stewardship area plan amendment and to provide comments to the local government. At the time of designation of a stewardship receiving area, a listed species survey will be performed. If listed species occur on the receiving area site, the developer shall coordinate with each appropriate local, state, or federal agency to determine if adequate provisions have been made to protect those species in accordance with applicable regulations. In determining the adequacy of provisions for the protection of listed species and their habitats, the rural land stewardship area shall be considered as a whole, and the impacts to areas to be developed as receiving areas shall be considered together with the environmental benefits of areas protected as sending areas in fulfilling this criteria.

6. Upon the adoption of a plan amendment creating a rural land stewardship area, the local government shall, by ordinance, establish the methodology for the creation, conveyance, and use of transferable rural land use credits, otherwise referred to as stewardship credits, the application of ~~assign to the area a certain number of credits, to be known as "transferable rural land use credits,"~~ which shall not constitute a right to develop land, nor increase density of land, except as provided by this section. The total amount of transferable rural land use credits within ~~assigned to~~ the rural land stewardship area must enable the realization of the long-term vision and goals for ~~correspond to~~ the 25-year or greater projected population of the rural land stewardship area. Transferable rural land use credits are subject to the following limitations:

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

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

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

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

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

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

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

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

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

j. Transferable rural land use credits may be assigned at different ratios of credits per acre according to the natural resource or other beneficial use characteristics of the land and according to the land use

remaining following the transfer of credits, with the highest number of credits per acre assigned to the most environmentally valuable land, or in locations where the retention of ~~and a lesser number of credits to be assigned to~~ open space and agricultural land is a priority, to such lands.

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

7. Owners of land within rural land stewardship areas should be provided incentives to enter into rural land stewardship agreements, pursuant to existing law and rules adopted thereto, with state agencies, water management districts, and local governments to achieve mutually agreed upon conservation objectives. Such incentives may include, but not be limited to, the following:

a. Opportunity to accumulate transferable mitigation credits.

b. Extended permit agreements.

c. Opportunities for recreational leases and ecotourism.

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

e. Option agreements for sale to public entities or private land conservation entities, in either fee or easement, upon achievement of conservation objectives.

8. The department shall report to the Legislature on an annual basis on the results of implementation of rural land stewardship areas authorized by the department, including successes and failures in achieving the intent of the Legislature as expressed in this paragraph.

(12) A public school facilities element adopted to implement a school concurrency program shall meet the requirements of this subsection. Each county and each municipality within the county, unless exempt or subject to a waiver, must adopt a public school facilities element that is consistent with those adopted by the other local governments within the county and enter the interlocal agreement pursuant to s. 163.31777.

(a) The state land planning agency may provide a waiver to a county and to the municipalities within the county if the capacity rate for all schools within the school district is no greater than 100 percent and the projected 5-year capital outlay full-time equivalent student growth rate is less than 10 percent. The state land planning agency may allow for a single school to exceed the 100-percent limitation if it can be demonstrated that the capacity rate for that single school is not greater than 105 percent. In making this determination, the state land planning agency shall consider the following criteria:

1. Whether the exceedance is due to temporary circumstances;

2. Whether the projected 5-year capital outlay full time equivalent student growth rate for the school district is approaching the 10-percent threshold;

3. Whether one or more additional schools within the school district are at or approaching the 100-percent threshold; and

4. The adequacy of the data and analysis submitted to support the waiver request.

(b) A municipality in a nonexempt county is exempt if the municipality meets all of the following criteria for having no significant impact on school attendance:

1. The municipality has issued development orders for fewer than 50 residential dwelling units during the preceding 5 years, or the municipality has generated fewer than 25 additional public school students during the preceding 5 years.

2. The municipality has not annexed new land during the preceding 5 years in land use categories that permit residential uses that will affect school attendance rates.

3. The municipality has no public schools located within its boundaries.

(b)~~(a)~~ A public school facilities element shall be based upon data and analyses that address, among other items, how level-of-service standards will be achieved and maintained. Such data and analyses must include, at a minimum, such items as: the interlocal agreement adopted pursuant to s. 163.31777 and the 5-year school district facilities work program adopted pursuant to s. 1013.35; the educational plant survey prepared pursuant to s. 1013.31 and an existing educational and ancillary plant map or map series; information on existing development and development anticipated for the next 5 years and the long-term planning period; an analysis of problems and opportunities for existing schools and schools anticipated in the future; an analysis of opportunities to collocate future schools with other public facilities such as parks, libraries, and community centers; an analysis of the need for supporting public facilities for existing and future schools; an analysis of opportunities to locate schools to serve as community focal points; projected future population and associated demographics, including development patterns year by year for the upcoming 5-year and long-term planning periods; and anticipated educational and ancillary plants with land area requirements.

(c)~~(b)~~ The element shall contain one or more goals which establish the long-term end toward which public school programs and activities are ultimately directed.

(d)~~(c)~~ The element shall contain one or more objectives for each goal, setting specific, measurable, intermediate ends that are achievable and mark progress toward the goal.

(e)~~(d)~~ The element shall contain one or more policies for each objective which establish the way in which programs and activities will be conducted to achieve an identified goal.

(f)~~(e)~~ The objectives and policies shall address items such as:

1. The procedure for an annual update process;

2. The procedure for school site selection;

3. The procedure for school permitting;

4. Provision for ~~of supporting~~ infrastructure necessary to support proposed schools, including potable water, wastewater, drainage, solid waste, transportation, and means by which to assure safe access to schools, including sidewalks, bicycle paths, turn lanes, and signalization;

5. Provision for colocation of other public facilities, such as parks, libraries, and community centers, in proximity to public schools;

6. Provision for location of schools proximate to residential areas and to complement patterns of development, including the location of future school sites so they serve as community focal points;

7. Measures to ensure compatibility of school sites and surrounding land uses;

8. Coordination with adjacent local governments and the school district on emergency preparedness issues, including the use of public schools to serve as emergency shelters; and

9. Coordination with the future land use element.

(g)~~(f)~~ The element shall include one or more future conditions maps which depict the anticipated location of educational and ancillary plants, including the general location of improvements to existing schools or new schools anticipated over the 5-year, or long-term planning period. The maps will of necessity be general for the long-term planning period and more specific for the 5-year period. Maps indicating general locations of future schools or school improvements may not prescribe a land use on a particular parcel of land.

(h) The state land planning agency shall establish a phased schedule for adoption of the public school facilities element and the required updates to the public schools interlocal agreement pursuant to s. 163.31777. The schedule shall provide for each county and local government within the county to adopt the element and update to the agreement no later than December 1, 2008. Plan amendments to adopt a public school facilities element are exempt from the provisions of s. 163.3187(1).

(i) Failure to adopt the public school facility element, to enter into an approved interlocal agreement as required by subparagraph (6)(h)2. and 163.31777, or to amend the comprehensive plan as necessary to implement school concurrency, according to the phased schedule, shall result in a local government being prohibited from adopting amendments to the comprehensive plan which increase residential density until the

necessary amendments have been adopted and transmitted to the state land planning agency.

(j) The state land planning agency may issue the school board a notice to show cause why sanctions should not be enforced for failure to enter into an approved interlocal agreement as required by s. 163.31777 or for failure to implement the provisions of this act relating to public school concurrency. The school board may be subject to sanctions imposed by the Administration Commission directing the Department of Education to withhold from the district school board an equivalent amount of funds for school construction available pursuant to ss. 1013.65, 1013.68, 1013.70, and 1013.72.

(13) Local governments are encouraged to develop a community vision that provides for sustainable growth, recognizes its fiscal constraints, and protects its natural resources. At the request of a local government, the applicable regional planning council shall provide assistance in the development of a community vision.

(a) As part of the process of developing a community vision under this section, the local government must hold two public meetings with at least one of those meetings before the local planning agency. Before those public meetings, the local government must hold at least one public workshop with stakeholder groups such as neighborhood associations, community organizations, businesses, private property owners, housing and development interests, and environmental organizations.

(b) The local government must, at a minimum, discuss five of the following topics as part of the workshops and public meetings required under paragraph (a):

1. Future growth in the area using population forecasts from the Bureau of Economic and Business Research;

2. Priorities for economic development;

3. Preservation of open space, environmentally sensitive lands, and agricultural lands;

4. Appropriate areas and standards for mixed-use development;

5. Appropriate areas and standards for high-density commercial and residential development;

6. Appropriate areas and standards for economic-development opportunities and employment centers;

7. Provisions for adequate workforce housing;

8. An efficient, interconnected multimodal transportation system; and

9. Opportunities to create land use patterns that accommodate the issues listed in subparagraphs 1.-8.

(c) As part of the workshops and public meetings, the local government must discuss strategies for addressing the topics discussed under paragraph (b), including:

1. Strategies to preserve open space and environmentally sensitive lands, and to encourage a healthy agricultural economy, including innovative planning and development strategies, such as the transfer of development rights;

2. Incentives for mixed-use development, including increased height and intensity standards for buildings that provide residential use in combination with office or commercial space;

3. Incentives for workforce housing;

4. Designation of an urban service boundary pursuant to subsection (2); and

5. Strategies to provide mobility within the community and to protect the Strategic Intermodal System, including the development of a transportation corridor management plan under s. 337.273.

(d) The community vision must reflect the community's shared concept for growth and development of the community, including visual representations depicting the desired land-use patterns and character of the community during a 10-year planning timeframe. The community vision must also take into consideration economic viability of the vision and private property interests.

(e) After the workshops and public meetings required under paragraph (a) are held, the local government may amend its comprehensive plan to include the community vision as a component in the plan. This plan amendment must be transmitted and adopted pursuant to the procedures in ss. 163.3184 and 163.3189 at public hearings of the governing body other than those identified in paragraph (a).

(f) Amendments submitted under this subsection are exempt from the limitation on the frequency of plan amendments in s. 163.3187.

Section 3. Sections 163.31776 and 339.2817, Florida Statutes, is repealed.

Section 4. Subsections (2), (5), (6), and (7) of section 163.31777, Florida Statutes, are amended to read:

163.31777 Public schools interlocal agreement.--

(2) At a minimum, the interlocal agreement must address interlocal-agreement requirements in s. 163.3180(13)(g), except for exempt local governments as provided in s. 163.3177(12), and must address the following issues:

(a) A process by which each local government and the district school board agree and base their plans on consistent projections of the amount, type, and distribution of population growth and student enrollment. The geographic distribution of jurisdiction-wide growth forecasts is a major objective of the process.

(b) A process to coordinate and share information relating to existing and planned public school facilities, including school renovations and closures, and local government plans for development and redevelopment.

(c) Participation by affected local governments with the district school board in the process of evaluating potential school closures, significant renovations to existing schools, and new school site selection before land acquisition. Local governments shall advise the district school board as to the consistency of the proposed closure, renovation, or new site with the local comprehensive plan, including appropriate circumstances and criteria under which a district school board may request an amendment to the comprehensive plan for school siting.

(d) A process for determining the need for and timing of onsite and offsite improvements to support new, proposed expansion, or redevelopment of existing schools. The process must address identification of the party or parties responsible for the improvements.

(e) A process for the school board to inform the local government regarding the effect of comprehensive plan amendments on school capacity. The capacity reporting must be consistent with laws and rules relating to measurement of school facility capacity and must also identify how the district school board will meet the public school demand based on the facilities work program adopted pursuant to s. 1013.35.

(f) Participation of the local governments in the preparation of the annual update to the district school board's 5-year district facilities work program and educational plant survey prepared pursuant to s. 1013.35.

(g) A process for determining where and how joint use of either school board or local government facilities can be shared for mutual benefit and efficiency.

(h) A procedure for the resolution of disputes between the district school board and local governments, which may include the dispute resolution processes contained in chapters 164 and 186.

(i) An oversight process, including an opportunity for public participation, for the implementation of the interlocal agreement.

~~A signatory to the interlocal agreement may elect not to include a provision meeting the requirements of paragraph (e); however, such a decision may be made only after a public hearing on such election, which may include the public hearing in which a district school board or a local government adopts the interlocal agreement. An interlocal agreement entered into pursuant to this section must be consistent with the adopted comprehensive plan and land development regulations of any local government that is a signatory.~~

(5) Any local government transmitting a public school element to implement school concurrency pursuant to the requirements of s. 163.3180 before July 1, 2005, ~~the effective date of this section~~ is not required to amend the element or any interlocal agreement to conform with the provisions of this section ~~if the element is adopted prior to or within 1 year after the effective date of this section and remains in effect~~.

(6) Except as provided in subsection (7), municipalities meeting the exemption criteria in s. 163.3177(12) ~~having no established need for a new school facility and meeting the following criteria~~ are exempt from the requirements of subsections (1), (2), and (3).~~:~~

~~(a) The municipality has no public schools located within its boundaries.~~

~~(b) The district school board's 5-year facilities work program and the long-term 10-year and 20-year work programs, as provided in s. 1013.35, demonstrate that no new school facility is needed in the municipality. In addition, the district school board must verify in writing that no new school facility will be needed in the municipality within the 5-year and 10-year timeframes.~~

(7) At the time of the evaluation and appraisal report, each exempt municipality shall assess the extent to which it continues to meet the criteria for exemption under s. 163.3177(12) ~~subsection (6)~~. If the municipality continues to meet these criteria ~~and the district school board verifies in writing that no new school facilities will be needed within the 5-year and 10-year timeframes~~, the municipality shall continue to be exempt from the interlocal-agreement requirement. Each municipality exempt under s. 163.3177(12) ~~subsection (6)~~ must comply with the provisions of this section within 1 year after the district school board proposes, in its 5-year district facilities work program, a new school within the municipality's jurisdiction.

Section 5. Paragraph (a) of subsection (1), subsection (2), paragraph (c) of subsection (4), subsections (5), (7), (9), (10), (13), and (15) of section 163.3180, Florida Statutes, are amended, and subsections (16) and (17) are added to that section, to read:

163.3180 Concurrency.--

(1)(a) Sanitary sewer, solid waste, drainage, potable water, parks and recreation, schools, and transportation facilities, including mass transit, where applicable, are the only public facilities and services subject to the concurrency requirement on a statewide basis. Additional public facilities and services may not be made subject to concurrency on a statewide basis without appropriate study and approval by the Legislature; however, any local government may extend the concurrency requirement so that it applies to additional public facilities within its jurisdiction.

(2)(a) Consistent with public health and safety, sanitary sewer, solid waste, drainage, adequate water supplies, and potable water facilities shall be in place and available to serve new development no later than the issuance by the local government of a certificate of occupancy or its functional equivalent. Prior to approval of a building permit or its functional equivalent, the local government shall consult with the applicable water supplier to determine whether adequate water supplies to serve the new development will be available no later than the anticipated date of issuance by the local government of a certificate of occupancy or its functional equivalent.

(b) Consistent with the public welfare, and except as otherwise provided in this section, parks and recreation facilities to serve new development shall be in place or under actual construction no later than 1 year after issuance by the local government of a certificate of occupancy or its functional equivalent. However, the acreage for such facilities shall be dedicated or be acquired by the local government prior to issuance by the local government of a certificate of occupancy or its functional equivalent, or funds in the amount of the developer's fair share shall be committed no later than ~~prior to issuance by~~ the local government's approval to commence construction ~~government of a certificate of occupancy or its functional equivalent~~.

(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 within 3 ~~not more than 5~~ years after the local government approves a building permit or its functional equivalent that results in traffic generation. For purposes of this paragraph, if the construction funding needed for facilities is in the first 3 years of the Department of Transportation's work program or the local government's schedule of capital improvements, the under-actual-construction requirements of this paragraph shall be deemed to have been met. However, a local government's concurrency management system may specify that the term "under-actual-construction" refers to the contents of the first 2 years of the local government's schedule of capital improvements or the Department of Transportation's work program ~~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.~~

(4)

(c) The concurrency requirement, except as it relates to transportation facilities and public schools, as implemented in local government comprehensive plans, may be waived by a local government for urban infill and redevelopment areas designated pursuant to s. 163.2517 if such a waiver does not endanger public health or safety as defined by the local government in its local government comprehensive plan. The waiver shall be adopted as a plan amendment pursuant to the process set forth in s. 163.3187(3)(a). A local government may grant a concurrency exception pursuant to subsection (5) for transportation facilities located within these urban infill and redevelopment areas.

(5)(a) The Legislature finds that under limited circumstances dealing with transportation facilities, countervailing planning and public policy goals may come into conflict with the requirement that adequate public facilities and services be available concurrent with the impacts of such development. The Legislature further finds that often the unintended result of the concurrency requirement for transportation facilities is the discouragement of urban infill development and redevelopment. Such unintended results directly conflict with the goals and policies of the state comprehensive plan and the intent of this part. Therefore, exceptions from the concurrency requirement for transportation facilities may be granted as provided by this subsection.

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

1. Urban infill development,
2. Urban redevelopment,
3. Downtown revitalization, or
4. Urban infill and redevelopment under s. 163.2517.

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

(d) A local government shall establish guidelines in the comprehensive plan for granting the exceptions authorized in paragraphs (b) and (c) and subsections (7) and (15) which must be consistent with and support a comprehensive strategy adopted in the plan to promote the purpose of the exceptions.

(e) The local government shall adopt into the plan and implement strategies to support and fund mobility within the designated exception area, including alternative modes of transportation. The plan amendment shall also demonstrate how strategies will support the purpose of the exception and how mobility within the designated exception area will be provided. In addition, the strategies must address urban design; appropriate land use mixes, including intensity and density; and network connectivity plans needed to promote urban infill, redevelopment, or downtown revitalization. The comprehensive plan amendment designating the concurrency exception area shall be accompanied by data and analysis justifying the size of the area.

(f) Prior to the designation of a concurrency exception area, the

Department of Transportation shall be consulted by the local government to assess the impact that the proposed exception area is expected to have on the adopted level of service standards established for Strategic Intermodal System facilities, as defined in s. 339.64, and roadway facilities funded in accordance with s. 339.28171. Further, the local government shall, in cooperation with the Department of Transportation, develop a plan to mitigate any impacts to the Strategic Intermodal System, including, if appropriate, the development of a long-term concurrency management system pursuant to ss. 163.3177(3)(d) and 163.3180(9). ~~in the comprehensive plan. These guidelines must include consideration of the impacts on the Florida Intrastate Highway System, as defined in s. 338.001.~~ The exceptions may be available only within the specific geographic area of the jurisdiction designated in the plan. Pursuant to s. 163.3184, any affected person may challenge a plan amendment establishing these guidelines and the areas within which an exception could be granted.

(g) Transportation concurrency exception areas existing prior to July 1, 2005, shall meet, at a minimum, the provisions of this section by July 1, 2006, or at the time of the comprehensive plan update pursuant to the evaluation and appraisal report, whichever occurs last.

(h) It is a high state priority that urban infill and redevelopment be promoted and provide incentives. By promoting the revitalization of existing communities of this state, a more efficient maximization of space and facilities may be achieved and urban sprawl will be discouraged. If a local government creates a long-term vision pursuant to s. 163.3177(13)(a)-(d) for its community, the transportation facilities concurrency requirements of paragraph (2)(c) are waived for:

1.a. Urban infill development as designated in the comprehensive plan;

b. Urban redevelopment as designated in the comprehensive plan;

c. Downtown revitalization as designated in the comprehensive plan; or

d. Urban infill and redevelopment under s. 163.2517 as designated in the comprehensive plan.

Further, the local government shall, in cooperation with the Department of Transportation, develop a plan to mitigate any impacts to the Strategic Intermodal System, including, if appropriate, the development of a long-term concurrency management system pursuant to ss. 163.3177(3)(d) and 163.3180(9).

2. Municipalities that are at least 90 percent built-out. For purposes of this exemption:

a. The term "built-out" means that 90 percent of the property within the municipality's boundaries, excluding lands that are designated as conservation, preservation, recreation, or public facilities categories, have been developed, or are the subject of an approved development order that has received a building permit and the municipality has an average density of 5 units per acre for residential developments.

b. The municipality must have adopted an ordinance that provides the methodology for determining its built-out percentage, declares that transportation concurrency requirements are waived within its municipal boundary or within a designated area of the municipality, and addresses multimodal options and strategies, including alternative modes of transportation within the municipality. Prior to the adoption of the ordinance, the Department of Transportation shall be consulted by the local government to assess the impact that the waiver of the transportation concurrency requirements is expected to have on the adopted level-of-service standards established for Strategic Intermodal System facilities, as defined in s. 339.64. Further, the local government shall, in cooperation with the Department of Transportation, develop a plan to mitigate any impacts to the Strategic Intermodal System, including, if appropriate, the development of a long-term concurrency management system pursuant to ss. 163.3177(3)(d) and 163.3180(9).

c. If a municipality annexes any property, the municipality must recalculate its built-out percentage pursuant to the methodology set forth in its ordinance to verify whether the annexed property may be included within this exemption.

d. If transportation concurrency requirements are waived under this subparagraph, the municipality must adopt a comprehensive plan amendment pursuant to s. 163.3187(1)(c) which updates its transportation element to reflect the transportation concurrency requirements waiver and must submit a copy of its ordinance adopted in subparagraph b. to the state land planning agency.

3. The community vision created pursuant to s. 13.3177(13)(a)-(d) is not required to be adopted into the comprehensive plan for this transportation facilities concurrency waiver to apply.

(7) In order to promote infill development and redevelopment, one or more transportation concurrency management areas may be designated in a local government comprehensive plan. A transportation concurrency management area must be a compact geographic area with an existing network of roads where multiple, viable alternative travel paths or modes are available for common trips. A local government may establish an areawide level-of-service standard for such a transportation concurrency management area based upon an analysis that provides for a justification for the areawide level of service, how urban infill development or redevelopment will be promoted, and how mobility will be accomplished within the transportation concurrency management area. Prior to the designation of a concurrency management area, the Department of Transportation shall be consulted by the local government to assess the impact that the proposed concurrency management area is expected to have on the adopted level of service standards established for Strategic Intermodal System facilities, as defined in s. 339.64, and roadway facilities funded in accordance with s. 339.28171. Further, the local government shall, in cooperation with the Department of Transportation, develop a plan to mitigate any impacts to the Strategic Intermodal System, including, if appropriate, the development of a long-term concurrency management system pursuant to ss. 163.3177(3)(d) and 163.3180(9). Transportation concurrency management areas existing prior to July 1, 2005, shall meet, at a minimum, the provisions of this section by July 1, 2006, or at the time of the comprehensive plan update pursuant to the evaluation and appraisal report, whichever occurs last. The state land planning agency shall amend chapter 9J-5, Florida Administrative Code, to be consistent with this subsection.

(9)(a) Each local government may adopt as a part of its plan, ~~a~~ long-term transportation and school concurrency management systems ~~system~~ with a planning period of up to 10 years for specially designated districts or areas where significant backlogs exist. The plan may include interim level-of-service standards on certain facilities and shall ~~may~~ rely on the local government's schedule of capital improvements for up to 10 years as a basis for issuing development orders that authorize commencement of construction ~~permits~~ in these designated districts or areas. The concurrency management system. ~~It~~ must be designed to correct existing deficiencies and set priorities for addressing backlogged facilities. The concurrency management system ~~It~~ must be financially feasible and consistent with other portions of the adopted local plan, including the future land use map.

(b) If a local government has a transportation or school facility backlog for existing development which cannot be adequately addressed in a 10-year plan, the state land planning agency may allow it to develop a plan and long-term schedule of capital improvements covering ~~of~~ up to 15 years for good and sufficient cause, based on a general comparison between that local government and all other similarly situated local jurisdictions, using the following factors:

1. The extent of the backlog.
2. For roads, whether the backlog is on local or state roads.
3. The cost of eliminating the backlog.
4. The local government's tax and other revenue-raising efforts.

(c) The local government may issue approvals to commence construction notwithstanding s. 163.3180, consistent with and in areas that are subject to a long-term concurrency management system.

(d) If the local government adopts a long-term concurrency management system, it must evaluate the system periodically. At a

minimum, the local government must assess its progress toward improving levels of service within the long-term concurrency management district or area in the evaluation and appraisal report and determine any changes that are necessary to accelerate progress in meeting acceptable levels of service or providing other methods of transportation.

(10) With regard to roadway facilities on the Strategic Intermodal System designated in accordance with ss. 339.61, 339.62, 339.63, and 339.64 ~~Florida Intrastate Highway System as defined in s. 338.001, with concurrence from the Department of Transportation, the level-of-service standard for general lanes in urbanized areas, as defined in s. 334.03(36), may be established by the local government in the comprehensive plan. For all other facilities on the Florida Intrastate Highway System~~, local governments shall adopt the level-of-service standard established by the Department of Transportation by rule. For all other roads on the State Highway System, local governments shall establish an adequate level-of-service standard that need not be consistent with any level-of-service standard established by the Department of Transportation. In establishing adequate level-of-service standards for any arterial roads, or collector roads as appropriate, which traverse multiple jurisdictions, local governments shall consider compatibility with the roadway facility's adopted level-of-service standards in adjacent jurisdictions. Each local government within a county shall use a professionally accepted methodology for measuring impacts on transportation facilities for the purposes of implementing its concurrency management system. Counties are encouraged to coordinate with adjacent counties, and local governments within a county are encouraged to coordinate, for the purpose of using common methodologies for measuring impacts on transportation facilities for the purpose of implementing their concurrency management systems.

(13) In accordance with the schedule adopted pursuant to s. 163.3177(12)(h), school concurrency~~, if imposed by local option,~~ shall be established on a districtwide basis and shall include all public schools in the district and all portions of the district, whether located in a municipality or an unincorporated area unless exempt from the public school facilities element pursuant to s. 163.3177(12). This subsection shall not apply to the Florida School for the Deaf and Blind. The school concurrency requirement shall not be effective until the adoption of the public school facilities element. The application of school concurrency to development shall be based upon the adopted comprehensive plan, as amended. All local governments within a county, except as provided in paragraph (f), shall adopt and transmit to the state land planning agency the necessary plan amendments, along with the interlocal agreement, for a compliance review pursuant to s. 163.3184(7) and (8). ~~School concurrency shall not become effective in a county until all local governments, except as provided in paragraph (f), have adopted the necessary plan amendments, which together with the interlocal agreement, are determined to be in compliance with the requirements of this part.~~ The minimum requirements for school concurrency are the following:

(a) Public school facilities element.--A local government shall adopt and transmit to the state land planning agency a plan or plan amendment which includes a public school facilities element which is consistent with the requirements of s. 163.3177(12) and which is determined to be in compliance as defined in s. 163.3184(1)(b). All local government public school facilities plan elements within a county must be consistent with each other as well as the requirements of this part.

(b) Level-of-service standards.--The Legislature recognizes that an essential requirement for a concurrency management system is the level of service at which a public facility is expected to operate.

1. Local governments and school boards imposing school concurrency shall exercise authority in conjunction with each other to establish jointly adequate level-of-service standards, as defined in chapter 9J-5, Florida Administrative Code, necessary to implement the adopted local government comprehensive plan, based on data and analysis.

2. Public school level-of-service standards shall be included and adopted into the capital improvements element of the local comprehensive plan and shall apply districtwide to all schools of the same type. Types of schools may include elementary, middle, and high schools as well as special purpose facilities such as magnet schools.

3. Local governments and school boards shall have the option to utilize tiered level-of-service standards to allow time to achieve an adequate and desirable level of service as circumstances warrant.

(c) Service areas.--The Legislature recognizes that an essential requirement for a concurrency system is a designation of the area within which the level of service will be measured when an application for a residential development permit is reviewed for school concurrency purposes. This delineation is also important for purposes of determining whether the local government has a financially feasible public school capital facilities program that will provide schools which will achieve and maintain the adopted level-of-service standards.

1. In order to balance competing interests, preserve the constitutional concept of uniformity, and avoid disruption of existing educational and growth management processes, local governments are encouraged to initially apply school concurrency to development only on a districtwide basis so that a concurrency determination for a specific development will be based upon the availability of school capacity districtwide. To ensure that development is coordinated with schools having available capacity, within 5 years after adoption of school concurrency, local governments shall apply school concurrency on a less than districtwide basis, such as using school attendance zones or concurrency service areas, as provided in subparagraph 2.

2. For local governments applying school concurrency on a less than districtwide basis, such as utilizing school attendance zones or larger school concurrency service areas, local governments and school boards shall have the burden to demonstrate that the utilization of school capacity is maximized to the greatest extent possible in the comprehensive plan and amendment, taking into account transportation costs and court-approved desegregation plans, as well as other factors. In addition, in order to achieve concurrency within the service area boundaries selected by local governments and school boards, the service area boundaries, together with the standards for establishing those boundaries, shall be identified and~~,~~ included as supporting data and analysis for~~, and adopted as part of~~ the comprehensive plan. ~~Any subsequent change to the service area boundaries for purposes of a school concurrency system shall be by plan amendment and shall be exempt from the limitation on the frequency of plan amendments in s. 163.3187(1).~~

3. Where school capacity is available on a districtwide basis but school concurrency is applied on a less than districtwide basis in the form of concurrency service areas, if the adopted level-of-service standard cannot be met in a particular service area as applied to an application for a development permit and if the needed capacity for the particular service area is available in one or more contiguous service areas, as adopted by the local government, then the local government may not deny an application for site plan or final subdivision approval or the functional equivalent for a development or phase of a development on the basis of school concurrency, and if ~~order shall be~~ issued, development impacts shall be shifted to contiguous service areas with schools having available capacity ~~and mitigation measures shall not be exacted~~.

(d) Financial feasibility.--The Legislature recognizes that financial feasibility is an important issue because the premise of concurrency is that the public facilities will be provided in order to achieve and maintain the adopted level-of-service standard. This part and chapter 9J-5, Florida Administrative Code, contain specific standards to determine the financial feasibility of capital programs. These standards were adopted to make concurrency more predictable and local governments more accountable.

1. A comprehensive plan amendment seeking to impose school concurrency shall contain appropriate amendments to the capital improvements element of the comprehensive plan, consistent with the requirements of s. 163.3177(3) and rule 9J-5.016, Florida Administrative

Code. The capital improvements element shall set forth a financially feasible public school capital facilities program, established in conjunction with the school board, that demonstrates that the adopted level-of-service standards will be achieved and maintained.

2. Such amendments shall demonstrate that the public school capital facilities program meets all of the financial feasibility standards of this part and chapter 9J-5, Florida Administrative Code, that apply to capital programs which provide the basis for mandatory concurrency on other public facilities and services.

3. When the financial feasibility of a public school capital facilities program is evaluated by the state land planning agency for purposes of a compliance determination, the evaluation shall be based upon the service areas selected by the local governments and school board.

(e) Availability standard.--Consistent with the public welfare, a local government may not deny an application for site plan, final subdivision approval, or the functional equivalent for a development or phase of a development ~~permit~~ authorizing residential development for failure to achieve and maintain the level-of-service standard for public school capacity in a local ~~option~~ school concurrency management system where adequate school facilities will be in place or under actual construction within 3 years after the ~~permit~~ issuance of final subdivision or site plan approval, or the functional equivalent. School concurrency shall be satisfied if the developer executes a legally binding commitment to provide mitigation proportionate to the demand for public school facilities to be created by actual development of the property, including, but not limited to, the options described in subparagraph 1. Approval of a funding agreement shall not be unreasonably withheld. Any dispute shall be mediated pursuant to s. 120.573. Options for proportionate-share mitigation of impacts on public school facilities shall be established in the interlocal agreement pursuant to s. 163.31777.

1. Appropriate mitigation options include the contribution of land; the construction, expansion, or payment for land acquisition or construction of a public school facility; or the creation of mitigation banking based on the construction of a public school facility in exchange for the right to sell capacity credits. Such options must include execution by the applicant and the local government of a binding development agreement that constitutes a legally binding commitment to pay proportionate-share mitigation for the additional residential units approved by the local government in a development order and actually developed on the property, taking into account residential density allowed on the property prior to the plan amendment that increased overall residential density. Mitigation for development impact to public schools requires the concurrence of the local school board. As a condition of its entry into such a development agreement, the local government may require the landowner to agree to continuing renewal of the agreement upon its expiration.

2. If the education facilities plan and the interlocal agreement adopted pursuant to s. 163.317777 authorize a contribution of land; the construction, expansion, or payment for land acquisition; or the construction or expansion of a public school facility, or a portion thereof, as proportionate-share mitigation, the local government shall credit such a contribution, construction, expansion, or payment toward any other impact fee or exaction imposed by local ordinance for the same need, on a dollar-for-dollar basis at fair market value.

3. Any proportionate-share mitigation must be directed by the school board toward a school capacity improvement identified in a financially feasible 5-year district work plan and which satisfies the demands created by that development in accordance with a binding developer's agreement.

4. An offer or agreement to pay a local government's proportionate share for a project's impact does not obligate a local government to approve a development that is not otherwise qualified for approval pursuant to a local government's comprehensive plan and land development regulations.

(f) Intergovernmental coordination.--

1. When establishing concurrency requirements for public schools, a local government shall satisfy the requirements for intergovernmental coordination set forth in s. 163.3177(6)(h)1. and 2., except that a municipality is not required to be a signatory to the interlocal agreement required by ss. ~~s.~~ 163.3177(6)(h)2. and 163.31777(6), as a prerequisite for imposition of school concurrency, and as a nonsignatory, shall not participate in the adopted local school concurrency system, if the municipality meets all of the following criteria for having no significant impact on school attendance:

a. The municipality has issued development orders for fewer than 50 residential dwelling units during the preceding 5 years, or the municipality has generated fewer than 25 additional public school students during the preceding 5 years.

b. The municipality has not annexed new land during the preceding 5 years in land use categories which permit residential uses that will affect school attendance rates.

c. The municipality has no public schools located within its boundaries.

d. At least 80 percent of the developable land within the boundaries of the municipality has been built upon.

2. A municipality which qualifies as having no significant impact on school attendance pursuant to the criteria of subparagraph 1. must review and determine at the time of its evaluation and appraisal report pursuant to s. 163.3191 whether it continues to meet the criteria pursuant to s. 163.31777(6). If the municipality determines that it no longer meets the criteria, it must adopt appropriate school concurrency goals, objectives, and policies in its plan amendments based on the evaluation and appraisal report, and enter into the existing interlocal agreement required by ss. ~~s.~~ 163.3177(6)(h)2. and 163.31777, in order to fully participate in the school concurrency system. If such a municipality fails to do so, it will be subject to the enforcement provisions of s. 163.3191.

(g) Interlocal agreement for school concurrency.--When establishing concurrency requirements for public schools, a local government must enter into an interlocal agreement that ~~which~~ satisfies the requirements in ss. ~~s.~~ 163.3177(6)(h)1. and 2. and 163.31777 and the requirements of this subsection. The interlocal agreement shall acknowledge both the school board's constitutional and statutory obligations to provide a uniform system of free public schools on a countywide basis, and the land use authority of local governments, including their authority to approve or deny comprehensive plan amendments and development orders. The interlocal agreement shall be submitted to the state land planning agency by the local government as a part of the compliance review, along with the other necessary amendments to the comprehensive plan required by this part. In addition to the requirements of ss. ~~s.~~ 163.3177(6)(h) and 163.31777, the interlocal agreement shall meet the following requirements:

1. Establish the mechanisms for coordinating the development, adoption, and amendment of each local government's public school facilities element with each other and the plans of the school board to ensure a uniform districtwide school concurrency system.

~~2. Establish a process by which each local government and the school board shall agree and base their plans on consistent projections of the amount, type, and distribution of population growth and coordinate and share information relating to existing and planned public school facilities projections and proposals for development and redevelopment, and infrastructure required to support public school facilities.~~

2.~~3.~~ Establish a process for the development of siting criteria which encourages the location of public schools proximate to urban residential areas to the extent possible and seeks to collocate schools with other public facilities such as parks, libraries, and community centers to the extent possible.

3.~~4.~~ Specify uniform, districtwide level-of-service standards for public schools of the same type and the process for modifying the adopted level-of-service standards.

4.~~5.~~ Establish a process for the preparation, amendment, and joint approval by each local government and the school board of a public school capital facilities program which is financially feasible, and a process and schedule for incorporation of the public school capital

facilities program into the local government comprehensive plans on an annual basis.

5.~~6.~~ Define the geographic application of school concurrency. If school concurrency is to be applied on a less than districtwide basis in the form of concurrency service areas, the agreement shall establish criteria and standards for the establishment and modification of school concurrency service areas. The agreement shall also establish a process and schedule for the mandatory incorporation of the school concurrency service areas and the criteria and standards for establishment of the service areas into the local government comprehensive plans. The agreement shall ensure maximum utilization of school capacity, taking into account transportation costs and court-approved desegregation plans, as well as other factors. The agreement shall also ensure the achievement and maintenance of the adopted level-of-service standards for the geographic area of application throughout the 5 years covered by the public school capital facilities plan and thereafter by adding a new fifth year during the annual update.

6.~~7.~~ Establish a uniform districtwide procedure for implementing school concurrency which provides for:

a. The evaluation of development applications for compliance with school concurrency requirements, including information provided by the school board on affected schools, impact on levels of service, and programmed improvements for affected schools and any options to provide sufficient capacity;

b. An opportunity for the school board to review and comment on the effect of comprehensive plan amendments and rezonings on the public school facilities plan; and

c. The monitoring and evaluation of the school concurrency system.

7.~~8.~~ Include provisions relating to ~~termination, suspension, and~~ amendment of the agreement. ~~The agreement shall provide that if the agreement is terminated or suspended, the application of school concurrency shall be terminated or suspended.~~

8. A process and uniform methodology for determining proportionate-share mitigation pursuant to subparagraph (e)1.

(h) This subsection does not limit the authority of a local government to grant or deny a development permit or its functional equivalent prior to the implementation of school concurrency.

(15)(a) Multimodal transportation districts may be established under a local government comprehensive plan in areas delineated on the future land use map for which the local comprehensive plan assigns secondary priority to vehicle mobility and primary priority to assuring a safe, comfortable, and attractive pedestrian environment, with convenient interconnection to transit. Such districts must incorporate community design features that will reduce the number of automobile trips or vehicle miles of travel and will support an integrated, multimodal transportation system. Prior to the designation of multimodal transportation districts, the Department of Transportation shall be consulted by the local government to assess the impact that the proposed multimodal district area is expected to have on the adopted level of service standards established for Strategic Intermodal System facilities, as defined in s. 339.64, and roadway facilities funded in accordance with s. 339.28171. Further, the local government shall, in cooperation with the Department of Transportation, develop a plan to mitigate any impacts to the Strategic Intermodal System, including the development of a long-term concurrency management system pursuant to ss. 163.3177(3)(d) and 163.3180(9). Multimodal transportation districts existing prior to July 1, 2005, shall meet, at a minimum, the provisions of this section by July 1, 2006, or at the time of the comprehensive plan update pursuant to the evaluation and appraisal report, whichever occurs last.

(b) Community design elements of such a district include: a complementary mix and range of land uses, including educational, recreational, and cultural uses; interconnected networks of streets designed to encourage walking and bicycling, with traffic-calming where desirable; appropriate densities and intensities of use within walking distance of transit stops; daily activities within walking distance of residences, allowing independence to persons who do not drive; public uses, streets, and squares that are safe, comfortable, and attractive for the pedestrian, with adjoining buildings open to the street and with parking not interfering with pedestrian, transit, automobile, and truck travel modes.

(c) Local governments may establish multimodal level-of-service standards that rely primarily on nonvehicular modes of transportation within the district, when justified by an analysis demonstrating that the existing and planned community design will provide an adequate level of mobility within the district based upon professionally accepted multimodal level-of-service methodologies. ~~The analysis must take into consideration the impact on the Florida Intrastate Highway System.~~ The analysis must also demonstrate that the capital improvements required to promote community design are financially feasible over the development or redevelopment timeframe for the district and that community design features within the district provide convenient interconnection for a multimodal transportation system. Local governments may issue development permits in reliance upon all planned community design capital improvements that are financially feasible over the development or redevelopment timeframe for the district, without regard to the period of time between development or redevelopment and the scheduled construction of the capital improvements. A determination of financial feasibility shall be based upon currently available funding or funding sources that could reasonably be expected to become available over the planning period.

(d) Local governments may reduce impact fees or local access fees for development within multimodal transportation districts based on the reduction of vehicle trips per household or vehicle miles of travel expected from the development pattern planned for the district.

(16)(a) It is the intent of the Legislature to provide a method by which the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors through the use of proportionate-share mitigation contributions for development impacts on transportation facilities.

(b) By December 1, 2007, each local government shall adopt by ordinance a transportation concurrency management system that shall include a methodology for assessing proportionate-share mitigation options. By December 1, 2005, the Department of Transportation shall develop model transportation concurrency management ordinances with alternative methodologies for assessing proportionate-share mitigation options. The transportation concurrency management ordinances may assess concurrency impact areas by district or systemwide.

(c) By December 1, 2006, the Department of Transportation shall develop a process and uniform methodology for determining proportionate-share mitigation contributions for developments impacts to transportation facilities included in the Strategic Intermodal System. The department shall consult with local governments regarding the methodologies for impacts on transportation corridors.

(d) Transportation facilities concurrency shall be satisfied if the developer executes a legally binding commitment that provides proportionate-share mitigation contributions proportionate to the demand for transportation facilities to be created by actual development of the property. This may include, but shall not be limited to , the options for mitigation established in the transportation element or traffic circulation element. Appropriate transportation mitigation contribution may include public or private funds; the contribution of right-of-way; the construction of a transportation facility or payment for the right-of-way or construction of a transportation facility or service; or the provision of transit service. Such options shall include execution of an enforceable development agreement for project to be funded by a developer. Developer's proportionate-share mitigation contributions shall be used to satisfy the transportation concurrency requirements of this section and may be applied as a credit against impact fees.

(e) Approval of a development agreement shall not be unreasonably withheld by the local government. Any dispute shall be resolved through mediation or other alternative dispute resolution.

(f) A local government may not require a development to contribute

more than its proportionate-share mitigation regardless of the method of mitigation.

(g) The local government shall notify the Department of Transportation of all proportionate-share mitigation contributions made for impacts on the transportation facilities included in the Strategic Intermodal System. In addition, the Department of Transportation is not authorized to arbitrarily charge a fee or require additional mitigation from a developer.

(h) Local governments may create mitigation banks for transportation facilities within its local government comprehensive plan to assist with the concurrency provisions of this section.

(i) The provisions of this subsection shall not apply to a development of regional impact using the provisions of s. 163.3180(12).

(17) Concurrency requirements imposed by a local comprehensive plan, a local government's land development regulations, and s. 380.06, shall be satisfied if a developer enters into a legally binding commitment to provide mitigation proportionate to the impact of the development on parks and recreation and stormwater. A local government may not require a development to pay more than its proportionate-share mitigation regardless of the method mitigation.

Section 6. Paragraph (b) of subsection (1), subsection (4), and paragraph (a) of subsection (6) of section 163.3184, Florida Statutes, are amended to read:

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

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

(b) "In compliance" means consistent with the requirements of s. ~~ss.~~ 163.3177, ~~163.31776,~~ when a local government adopts an educational facilities element, 163.3178, 163.3180, 163.3191, and 163.3245, with the state comprehensive plan, with the appropriate strategic regional policy plan, and with chapter 9J-5, Florida Administrative Code, where such rule is not inconsistent with this part and with the principles for guiding development in designated areas of critical state concern and with part III of chapter 369, where applicable.

(4) INTERGOVERNMENTAL REVIEW.--The governmental agencies specified in paragraph (3)(a) shall provide comments to the state land planning agency within 30 days after receipt by the state land planning agency of the complete proposed plan amendment. If the plan or plan amendment includes or relates to the public school facilities element pursuant to s. 163.3177 ~~163.31776~~, the state land planning agency shall submit a copy to the Office of Educational Facilities of the Commissioner of Education for review and comment. The appropriate regional planning council shall also provide its written comments to the state land planning agency within 30 days after receipt by the state land planning agency of the complete proposed plan amendment and shall specify any objections, recommendations for modifications, and comments of any other regional agencies to which the regional planning council may have referred the proposed plan amendment. Written comments submitted by the public within 30 days after notice of transmittal by the local government of the proposed plan amendment will be considered as if submitted by governmental agencies. All written agency and public comments must be made part of the file maintained under subsection (2).

(6) STATE LAND PLANNING AGENCY REVIEW.--

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

Section 7. Paragraphs (c) and (l) of subsection (1) of section 163.3187, Florida Statutes, are amended, and paragraph (o) is added to said subsection, to read:

163.3187 Amendment of adopted comprehensive plan.--

(1) Amendments to comprehensive plans adopted pursuant to this part may be made not more than two times during any calendar year, except:

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

1. The proposed amendment involves a use of 10 acres or fewer and:

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

(I) A maximum of 120 acres in a local government that contains areas specifically designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e); however, amendments under this paragraph may be applied to no more than 60 acres annually of property outside the designated areas listed in this sub-sub-subparagraph. Amendments adopted pursuant to paragraph (k) shall not be counted toward the acreage limitations for small scale amendments under this paragraph.

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

(III) A maximum of 120 acres in a county established pursuant to s. 9, Art. VIII of the State Constitution.

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

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

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

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

f. If the proposed amendment involves a residential land use, the residential land use has a density of 10 units or less per acre, except that this limitation does not apply to small scale amendments involving the construction of affordable housing units meeting the criteria of s. 420.0004(3) on property which will be the subject of a land use restriction agreement or extended use agreement recorded in conjunction with the issuance of tax exempt bond financing or an allocation of federal tax credits issued through the Florida Housing Finance Corporation or a local housing finance authority authorized by the Division of Bond Finance of the State Board of Administration, or small scale amendments described in sub-sub-subparagraph a.(I) that are designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e).

2.a. A local government that proposes to consider a plan amendment pursuant to this paragraph is not required to comply with the procedures and public notice requirements of s. 163.3184(15)(c) for such plan

amendments if the local government complies with the provisions in s. 125.66(4)(a) for a county or in s. 166.041(3)(c) for a municipality. If a request for a plan amendment under this paragraph is initiated by other than the local government, public notice is required.

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

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

(l) A comprehensive plan amendment to adopt a public educational facilities element pursuant to s. 163.3177 ~~163.31776~~ and future land-use-map amendments for school siting may be approved notwithstanding statutory limits on the frequency of adopting plan amendments.

(o)1. For municipalities that are more than 90 percent built-out, any municipality's comprehensive plan amendments may be approved without regard to statutory limits on the frequency of consideration of amendments to the local comprehensive plan only if the proposed amendment involves a use of 100 acres or fewer and:

a. The cumulative annual effect of the acreage for all amendments adopted pursuant to this paragraph does not exceed 500 acres.

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

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

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

e. The property that is the subject of the proposed amendment is not located within an area of critical state concern.

2. For purposes of this paragraph, the term "built-out" means 90 percent of the property within the municipality's boundaries, excluding lands that are designated as conservation, preservation, recreation, or public facilities categories, have been developed, or are the subject of an approved development order that has received a building permit, and the municipality has an average density of 5 units per acre for residential development.

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

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

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

5. This paragraph shall not apply if a municipality annexes unincorporated property that decreases the percentage of build-out to an amount below 90 percent.

5. A municipality shall notify the state land planning agency in writing of its built-out percentage prior to the submission of any comprehensive plan amendments under this subsection.

Section 8. Subsections (2) and (10) of section 163.3191, Florida Statutes, are amended to read:

163.3191 Evaluation and appraisal of comprehensive plan.--

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

(a) Population growth and changes in land area, including annexation, since the adoption of the original plan or the most recent update amendments.

(b) The extent of vacant and developable land.

(c) The financial feasibility of implementing the comprehensive plan and of providing needed infrastructure to achieve and maintain adopted level-of-service standards and sustain concurrency management systems through the capital improvements element, as well as the ability to address infrastructure backlogs and meet the demands of growth on public services and facilities.

(d) The location of existing development in relation to the location of development as anticipated in the original plan, or in the plan as amended by the most recent evaluation and appraisal report update amendments, such as within areas designated for urban growth.

(e) An identification of the major issues for the jurisdiction and, where pertinent, the potential social, economic, and environmental impacts.

(f) Relevant changes to the state comprehensive plan, the requirements of this part, the minimum criteria contained in chapter 9J-5, Florida Administrative Code, and the appropriate strategic regional policy plan since the adoption of the original plan or the most recent evaluation and appraisal report update amendments.

(g) An assessment of whether the plan objectives within each element, as they relate to major issues, have been achieved. The report shall include, as appropriate, an identification as to whether unforeseen or unanticipated changes in circumstances have resulted in problems or opportunities with respect to major issues identified in each element and the social, economic, and environmental impacts of the issue.

(h) A brief assessment of successes and shortcomings related to each element of the plan.

(i) The identification of any actions or corrective measures, including whether plan amendments are anticipated to address the major issues identified and analyzed in the report. Such identification shall include, as appropriate, new population projections, new revised planning timeframes, a revised future conditions map or map series, an updated capital improvements element, and any new and revised goals, objectives, and policies for major issues identified within each element. This paragraph shall not require the submittal of the plan amendments with the evaluation and appraisal report.

(j) A summary of the public participation program and activities undertaken by the local government in preparing the report.

(k) The coordination of the comprehensive plan with existing public schools and those identified in the applicable educational facilities plan adopted pursuant to s. 1013.35. The assessment shall address, where relevant, the success or failure of the coordination of the future land use map and associated planned residential development with public schools and their capacities, as well as the joint decisionmaking processes engaged in by the local government and the school board in regard to establishing appropriate population projections and the planning and siting of public school facilities. For those counties or municipalities that do not have a public schools interlocal agreement or public school facility element, the assessment shall determine whether the local government continues to meet the criteria of s. 163.3177(12). If the county or municipality determines that it no longer meets the criteria, it must adopt appropriate school concurrency goals, objectives, and policies in its plan amendments pursuant to the requirements of the public school facility element, and enter into the existing interlocal agreement required by ss. 163.3177(6)(h)2. and 163.31777 in order to fully participate in the school

concurrency system. ~~If the issues are not relevant, the local government shall demonstrate that they are not relevant.~~

(l) The extent to which the local government has been successful in identifying alternative water supply projects and traditional water supply projects, including conservation and reuse, necessary to meet the water needs identified in s. 373.0361(2)(a) within the local government's jurisdiction. The report must evaluate the degree to which the local government has implemented the work plan for building public, private, and regional water supply facilities, including development of alternative water supplies. ~~The evaluation must consider the appropriate water management district's regional water supply plan approved pursuant to s. 373.0361. The potable water element must be revised to include a work plan, covering at least a 10-year planning period, for building any water supply facilities that are~~ identified in the element as necessary to serve existing and new development ~~and for which the local government is responsible~~.

(m) If any of the jurisdiction of the local government is located within the coastal high-hazard area, an evaluation of whether any past reduction in land use density impairs the property rights of current residents when redevelopment occurs, including, but not limited to, redevelopment following a natural disaster. The property rights of current residents shall be balanced with public safety considerations. The local government must identify strategies to address redevelopment feasibility and the property rights of affected residents. These strategies may include the authorization of redevelopment up to the actual built density in existence on the property prior to the natural disaster or redevelopment.

(n) An assessment of whether the criteria adopted pursuant to s. 163.3177(6)(a) were successful in achieving compatibility with military installations.

(o) The extent to which a concurrency exception area designated pursuant to s. 163.3180(5), a concurrency management area designated pursuant to s. 163.3180(7), or a multimodal transportation district designated pursuant to s. 163.3180(15) has achieved the purpose for which it was created and otherwise complies with the provisions of s. 163.3180.

(p) An assessment of the extent to which changes are needed to develop a common methodology for measuring impacts on transportation facilities for the purpose of implementing its concurrency management system in coordination with the municipalities and counties, as appropriate pursuant to s. 163.3180(10).

(10) The governing body shall amend its comprehensive plan based on the recommendations in the report and shall update the comprehensive plan based on the components of subsection (2), pursuant to the provisions of ss. 163.3184, 163.3187, and 163.3189. Amendments to update a comprehensive plan based on the evaluation and appraisal report shall be adopted within 18 months after the report is determined to be sufficient by the state land planning agency, except the state land planning agency may grant an extension for adoption of a portion of such amendments. The state land planning agency may grant a 6-month extension for the adoption of such amendments if the request is justified by good and sufficient cause as determined by the agency. An additional extension may also be granted if the request will result in greater coordination between transportation and land use, for the purposes of improving Florida's transportation system, as determined by the agency in coordination with the Metropolitan Planning Organization program. Beginning July 1, 2006, failure to timely transmit update amendments to the comprehensive plan based on the evaluation and appraisal report shall result in a local government being prohibited from adopting amendments to the comprehensive plan until the evaluation and appraisal report update amendments have been transmitted to the state land planning agency. The prohibition on plan amendments shall commence when the update amendments to the comprehensive plan are past due. The comprehensive plan as amended shall be in compliance as defined in s. 163.3184(1)(b). Within 6 months after the effective date of the update amendments to the comprehensive plan, the local government shall provide to the state land planning agency and to all agencies designated by rule a complete copy of the updated comprehensive plan.

Section 9. Paragraph (b) of subsection (4) of section 339.135, Florida Statutes, is amended to read:

339.135 Work program; legislative budget request; definitions; preparation, adoption, execution, and amendment.--

(4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.--

(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 and concurrency purposes and in the development and amendment of the capital improvements elements of their local government comprehensive plans.

4. The tentative work program must include a balanced 36-month forecast of cash and expenditures and a 5-year finance plan supporting the tentative work program.

Section 10. The Office of Program Policy Analysis and Government Accountability shall perform a study on adjustments to the boundaries of Florida Regional Planning Councils, Florida Water Management Districts, and Department of Transportation Districts. The purpose of this study is to organize these regional boundaries, without eliminating any regional agency, to be more coterminous with one another, creating a more unified system of regional boundaries. This study must be completed by December 31, 2005, and submitted to the President of the Senate, the Speaker of the House of Representatives, and the Governor by January 15, 2006.

Section 11. Section 163.3247, Florida Statutes, is created to read:

163.3247 Century Commission for a Sustainable Florida.--

(1) POPULAR NAME.--This section may be cited as the "Century Commission for a Sustainable Florida Act."

(2) FINDINGS AND INTENT.--The Legislature finds and declares that the population of this state is expected to more than double over the next 100 years, with commensurate impacts to the state's natural resources and public infrastructure. Consequently, it is in the best interests of the people of the state to ensure sound planning for the proper placement of this growth and protection of the state's land, water, and other natural resources since such resources are essential to our collective quality of life and a strong economy. The state's growth management

system should foster economic stability through regional solutions and strategies, urban renewal and infill, and the continued viability of agricultural economies, while allowing for rural economic development and protecting the unique characteristics of rural areas, and should reduce the complexity of the regulatory process while carrying out the intent of the laws and encouraging greater citizen participation.

(3) CENTURY COMMISSION FOR A SUSTAINABLE FLORIDA; CREATION; ORGANIZATION.--The Century Commission for a Sustainable Florida is created as a standing body to help the citizens of this state envision and plan their collective future with an eye towards both 20-year and 50-year horizons.

(a) The commission shall consist of fifteen members, five appointed by the Governor, five appointed by the President of the Senate, and five appointed by the Speaker of the House of Representatives. Appointments shall be made no later than October 1, 2005. The membership must represent local governments, school boards, developers and homebuilders, the business community, the agriculture community, the environmental community, and other appropriate stakeholders. One member shall be designated by the Governor as chair of the commission. Any vacancy that occurs on the commission must be filled in the same manner as the original appointment and shall be for the unexpired term of that commission seat. Members shall serve 4-year terms, except that, initially, to provide for staggered terms, three of the appointees, one each by the Governor, the President of the Senate, and the Speaker of the House of Representatives, shall serve 2-year terms, three shall serve 3-year terms, and three shall serve 4-year terms. All subsequent appointments shall be for 4-year terms. An appointee may not serve more than 6 years.

(b) The first meeting of the commission shall be held no later than December 1, 2005, and shall meet at the call of the chair but not less frequently than three times per year in different regions of the state to solicit input from the public or any other individuals offering testimony relevant to the issues to be considered.

(c) Each member of the commission is entitled to one vote and actions of the commission are not binding unless taken by a three-fifths vote of the members present. A majority of the members is required to constitute a quorum, and the affirmative vote of a quorum is required for a binding vote.

(d) Members of the commission shall serve without compensation but shall be entitled to receive per diem and travel expenses in accordance with s. 112.061 while in performance of their duties.

(4) POWERS AND DUTIES.--The commission shall:

(a) Annually conduct a process through which the commission envisions the future for the state and then develops and recommends policies, plans, action steps, or strategies to assist in achieving the vision.

(b) Continuously review and consider statutory and regulatory provisions, governmental processes, and societal and economic trends in its inquiry of how state, regional, and local governments and entities and citizens of this state can best accommodate projected increased populations while maintaining the natural, historical, cultural, and manmade life qualities that best represent the state.

(c) Bring together people representing varied interests to develop a shared image of the state and its developed and natural areas. The process should involve exploring the impact of the estimated population increase and other emerging trends and issues; creating a vision for the future; and developing a strategic action plan to achieve that vision using 20-year and 50-year intermediate planning timeframes.

(d) Focus on essential state interests, defined as those interests that transcend local or regional boundaries and are most appropriately conserved, protected, and promoted at the state level.

(e) Serve as an objective, nonpartisan repository of exemplary community-building ideas and as a source to recommend strategies and practices to assist others in working collaboratively to problem solve on issues relating to growth management.

(f) Annually, beginning January 16, 2007, and every year thereafter on the same date, provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives a written report containing specific recommendations for addressing growth management in the state, including executive and legislative recommendations. Further, the report shall contain discussions regarding the need for intergovernmental cooperation and the balancing of environmental protection and future development and recommendations on issues, including, but not limited to, recommendations regarding dedicated sources of funding for sewer facilities, water supply and quality, transportation facilities that are not adequately addressed by the Strategic Intermodal System, and educational infrastructure to support existing development and projected population growth.

(g) Beginning with the 2007 Regular Session of the Legislature, the President of the Senate and Speaker of the House of Representatives shall create a joint select committee, the task of which shall be to review the findings and recommendations of the Century Commission for a Sustainable Florida for potential action.

(5) EXECUTIVE DIRECTOR; STAFF AND OTHER ASSISTANCE.--

(a) The Secretary of Community Affairs shall select an executive director of the commission, and the executive director shall serve at the pleasure of the secretary under the supervision and control of the commission.

(b) The Department of Community Affairs shall provide staff and other resources necessary to accomplish the goals of the commission based upon recommendations of the Governor.

(c) All agencies under the control of the Governor are directed, and all other agencies are requested, to render assistance to, and cooperate with, the commission.

Section 12. Subsection (3) of section 215.211, Florida Statutes, is amended to read:

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

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

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

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

The increased revenues derived from this subsection shall be deposited in the State Transportation Trust Fund and used to fund the Transportation Incentive Program for a Sustainable Florida ~~County Incentive Grant Program~~ and the Small County Outreach Program. Up to 20 percent of such funds shall be used for the purpose of implementing the Small County Outreach Program created pursuant to s. 339.2818 ~~as provided in this act. Notwithstanding any other laws to the contrary, the requirements of ss. 339.135, 339.155, and 339.175 shall not apply to these funds and programs.~~

Section 13. Section 339.28171, Florida Statutes, is created to read:

339.28171 Transportation Incentive Program for a Sustainable Florida.--

(1) There is created within the Department of Transportation a Transportation Incentive Program for a Sustainable Florida, which may be cited as TRIP for a Sustainable Florida, for the purpose of providing grants to local governments to improve a transportation facility or system which addresses an identified concurrency management system backlog or relieve traffic congestion in urban infill and redevelopment areas. Bridge projects off of the State Highway System are eligible to receive funding from this program.

(2) To be eligible for consideration, projects must be consistent with local government comprehensive plans, the transportation improvement program of the applicable metropolitan organization, and the Strategic Intermodal System plan developed in accordance with s. 339.64.

(3) The funds shall be distributed by the department to each district in

accordance with the statutory formula pursuant to s. 339.135(4). The district secretary shall use the following criteria to evaluate the project applications:

(a) The level of local government funding efforts.

(b) The level of local, regional, or private financial matching funds as a percentage of the overall project cost.

(c) The ability of local government to rapidly address project construction.

(d) The level of municipal and county agreement on the scope of the proposed project.

(e) Whether the project is located within and supports the objectives of an urban infill area, a community redevelopment area, an urban redevelopment area, or a concurrency management area.

(f) The extent to which the project would foster public-private partnerships and investment.

(g) The extent to which the project protects environmentally sensitive areas.

(h) The extent to which the project would support urban mobility, including public transit systems, the use of new technologies, and the provision of bicycle facilities or pedestrian pathways.

(i) The extent to which the project implements a regional transportation plan developed in accordance with s. 339.155(2)(c), (d), and (e).

(j) Whether the project is subject to a local ordinance that establishes corridor management techniques, including access management strategies, right-of-way acquisition and protection measures, appropriate land use strategies, zoning, and setback requirements for adjacent land uses.

(k) Whether or not the local government has adopted a vision pursuant to s. 163.3167(11) either prior to or after the effective date of this act.

(4) As part of the project application, the local government shall demonstrate how the proposed project implements a capital improvement element and a long-term transportation concurrency system, if applicable, to address the existing capital improvement element backlogs.

(5) The percentage of matching funds available to applicants shall be based on the following:

(a) For projects that provide capacity on the Strategic Intermodal System, the percentage shall be 35 percent.

(b) For projects that provide capacity on regionally significant transportation facilities identified in s. 339.155(2)(c), (d), and (e), the percentage shall be 50 percent or up to 50 percent of the nonfederal share of the eligible project costs for a public transportation facility project. For off-system bridges, the percentage match shall be 50 percent. Projects to be funded pursuant to this paragraph shall, at a minimum meet the following additional criteria:

1. Support those transportation facilities that serve national, statewide, or regional functions and function as an integrated regional transportation system.

2. Be identified in the capital improvements element of a comprehensive plan that has been determined to be in compliance with part II of chapter 163, after the effective date of this act, or to implement a long-term concurrency management system adopted a local government in accordance with s. 163.3177(9).

3. Provide connectivity to the Strategic Intermodal System designated pursuant to s. 339.64.

4. Support economic development and the movement of goods in areas of critical economic concern designated pursuant to s. 288.0656(7).

5. Improve connectivity between military installations and the Strategic Highway Network or the Strategic Rail Corridor Network.

6. For off-system bridge projects to replace, rehabilitate, paint, or install scour countermeasures to highway bridges located on public roads, other than those on a federal-aid highway, such projects shall, at a minimum:

a. Be classified as a structurally deficient bridge with a poor condition rating for either the deck, superstructure, or substructure component, or culvert.

b. Have a sufficiency rating of 35 or below.

c. Have average daily traffic of at least 500 vehicles.

Special consideration shall be given to bridges that are closed to all traffic or that have a load restriction of less than 10 tons.

(c) For local projects that demonstrate capacity improvements in the urban service boundary, urban infill, or urban redevelopment area or provide such capacity replacement to the Strategic Intermodal System or regionally significant facilities, the percentage shall be 65 percent.

(6) The department may administer contracts at the request of a local government selected to receive funding for a project under this section. All projects funded under this section shall be included in the department's work program developed pursuant to s. 339.135.

Section 14. 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 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 under s. 337.11. Right-of-way services include negotiation and acquisition services, appraisal services, demolition and removal of improvements, and asbestos-abatement services.

Section 15. Effective July 1, 2007, section 337.107, Florida Statutes, as amended by this act is amended to read:

337.107 Contracts for right-of-way services.--The department may enter into contracts pursuant to s. 287.055 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 under s. 337.11~~. Right-of-way services include negotiation and acquisition services, appraisal services, demolition and removal of improvements, and asbestos-abatement services.

Section 16. Paragraph (a) of subsection (7) 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.--

(7)(a) If the head of the department determines that it is in the best interests of the public, the department may combine the right-of-way services and design and construction phases of any ~~a building, a major bridge, a limited access facility, or a rail corridor~~ project into a single contract, except for a resurfacing or minor bridge project, the right-of-way services and design and construction phases of which may be combined under s. 337.025. Such contract is referred to as a design-build contract. Design-build contracts may be advertised and awarded notwithstanding the requirements of paragraph (3)(c). 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 that 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 17. Effective July 1, 2007, paragraph (a) of subsection (7) of section 337.11, Florida Statutes, as amended by this act, 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.--

(7)(a) If the head of the department determines that it is in the best interests of the public, the department may combine the ~~right-of-way services and~~ design and construction phases of a building, a major bridge, a limited access facility, or a rail corridor ~~any~~ project into a single contract~~, except for a resurfacing or minor bridge project, the right-of-way services and design and construction phase of which may be combined under s. 337.025~~. Such contract is referred to as a design-build

contract. Design-build contracts may be advertised and awarded notwithstanding the requirements of paragraph (3)(c). However, construction activities may not begin on any portion of such projects for which the department has not yet obtained title to the necessary rights-of-way and easements for the construction of that 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 shall be deemed to have vested in the state when the title has been dedicated to the public or acquired by prescription.

Section 18. Section 373.19615, Florida Statutes, is created to read:

373.19615 Florida's Sustainable Water Supplies Program.--

(1) There is hereby created "Florida's Sustainable Water Supplies Program." The Legislature recognizes that alternative water supply projects are more expensive to develop compared to traditional water supply projects. As Florida's population continues to grow, the need for alternative water supplies is also growing as our groundwater supplies in portions of the state are decreasing. Beginning in fiscal year 2005-2006, the state shall annually appropriate $100 million for the purpose of providing funding assistance to local governments for the development of alternative water supply projects. At the beginning of each fiscal year, beginning with fiscal year 2005-2006, such revenues shall be distributed to the Department of Environmental Protection. The department shall then distribute the revenues into alternative water supply accounts created by the department for each district for the purpose of alternative water supply development under the following funding formula:

1. Forty percent to the South Florida Water Management District.

2. Twenty-five percent to the Southwest Florida Water Management District.

3. Twenty-five percent to the St. Johns River Water Management District.

4. Five percent to the Suwannee River Water Management District.

5. Five percent to the Northwest Florida Water Management District.

(2) For the purposes of this section, the following definitions shall apply:

(a) "Alternative water supplies" includes saltwater; brackish surface and groundwater; surface water captured predominantly during wet-weather flows; sources made available through the addition of new storage capacity for surface or groundwater; water that has been reclaimed after one or more public supply, municipal, industrial, commercial, or agricultural uses; stormwater; and any other water supply source that is designated as non-traditional for a water supply planning region in the applicable regional water supply plan developed under s. 373.0361.

(b) "Capital costs" means planning, design, engineering, and project construction costs.

(c) "Local government" means any municipality, county, special district, regional water supply authority, or multijurisdictional entity, or an agency thereof, or a combination of two or more of the foregoing acting jointly with an alternative water supply project.

(3) To be eligible for assistance in funding capital costs of alternative water supply projects under this program, the water management district governing board must select those alternative water supply projects that will receive financial assistance. The water management district governing board shall establish factors to determine project funding.

(a) Significant weight shall be given to the following factors:

1. Whether the project provides substantial environmental benefits by preventing or limiting adverse water resource impacts.

2. Whether the project reduces competition for water supplies.

3. Whether the project brings about replacement of traditional sources in order to help implement a minimum flow or level or a reservation.

4. Whether the project will be implemented by a consumptive use permittee that has achieved the targets contained in a goal-based water conservation program approved pursuant to s. 373.227.

5. The quantity of water supplied by the project as compared to its cost.

6. Projects in which the construction and delivery to end users of reuse water are major components.

7. Whether the project will be implemented by a multijurisdictional water supply entity or regional water supply authority.

(b) Additional factors to be considered in determining project funding shall include:

1. Whether the project is part of a plan to implement two or more alternative water supply projects, all of which will be operated to produce water at a uniform rate for the participants in a multijurisdictional water supply entity or regional water supply authority.

2. The percentage of project costs to be funded by the water supplier or water user.

3. Whether the project proposal includes sufficient preliminary planning and engineering to demonstrate that the project can reasonably be implemented within the timeframes provided in the regional water supply plan.

4. Whether the project is a subsequent phase of an alternative water supply project underway.

5. Whether and in what percentage a local government or local government utility is transferring water supply system revenues to the local government general fund in excess of reimbursements for services received from the general fund including direct and indirect costs and legitimate payments in lieu of taxes.

(4)(a) All projects submitted to the governing board for consideration shall reflect the total cost for implementation. The costs shall be segregated pursuant to the categories described in the definition of capital costs.

(b) Applicants for projects that receive funding assistance pursuant to this section shall be required to pay 33 1/3 percent of the project's total capital costs.

(c) The water management district shall be required to pay 33 1/3 percent of the project's total capital costs.

(5) After conducting one or more meetings to solicit public input on eligible projects for implementation of alternative water supply projects, the governing board of each water management district shall select projects for funding assistance based upon the above criteria. The governing board may select a project identified or listed as an alternative water supply development project in the regional water supply plan, or may select an alternative water supply projects not identified or listed in the regional water supply plan but which are consistent with the goals of the plans.

(6) Once an alternative water supply project is selected by the governing board, the applicant and the water management district must, in writing, each commit to a financial contribution of 33 1/3 percent of the project's total capital costs. The water management district shall then submit a request for distribution of revenues held by the department in the district's alternative water supply account. The request must include the amount of current and projected water demands within the water management district, the additional water made available by the project, the date the water will be made available, and the applicant's and water management district's financial commitment for the alternative water supply project. Upon receipt of a request from a water management district, the department shall determine whether the alternative water supply project meets the department's criteria for financial assistance. The department shall establish factors to determine whether state financial assistance for an alternative water supply project shall be granted.

(a) Significant weight shall be given to the following factors:

1. Whether the project provides substantial environmental benefits by preventing or limiting adverse water resource impacts.

2. Whether the project reduces competition for water supplies.

3. Whether the project brings about replacement of traditional sources in order to help implement a minimum flow or level or a reservation.

4. Whether the project will be implemented by a consumptive use permittee that has achieved the targets contained in a goal-based water conservation program approved pursuant to s. 373.227.

5. The quantity of water supplied by the project as compared to its cost.

6. Projects in which the construction and delivery to end users of reuse water are major components.

7. Whether the project will be implemented by a multijurisdictional water supply entity or regional water supply authority.

(b) Additional factors to be considered in determining project funding shall include:

1. Whether the project is part of a plan to implement two or more alternative water supply projects, all of which will be operated to produce water at a uniform rate for the participants in a multijurisdictional water supply entity or regional water supply authority.

2. The percentage of project costs to be funded by the water supplier or water user.

3. Whether the project proposal includes sufficient preliminary planning and engineering to demonstrate that the project can reasonably be implemented within the timeframes provided in the regional water supply plan.

4. Whether the project is a subsequent phase of an alternative water supply project underway.

5. Whether and in what percentage a local government or local government utility is transferring water supply system revenues to the local government general fund in excess of reimbursements for services received from the general fund including direct and indirect costs and legitimate payments in lieu of taxes.

If the department determines that the project should receive financial assistance, the department shall distribute to the water management district 33 1/3 percent of the total capital costs from the district's alternative water supply account.

Section 19. Section 373.19616, Florida Statutes, is created to read:

373.19616 Water Transition Assistance Program.--

(1) The Legislature recognizes that as a result of Florida's increasing population, there are limited ground water resources in some portions of the state to serve increased water quantities demands. As a result, a transition from ground water supply to more expensive alternative water supply is necessary. The purpose of this section is to assist local governments by establishing a low-interest revolving loan program for infrastructure financing for alternative water supplies.

(2) For purposes of this section, the term:

(a) "Alternative water supplies" has the same meaning as provided in s. 373.19615(2).

(b) "Local government" has the same meaning as provided in s. 373.19615(2).

(3) The Department of Environmental Protection is authorized to make loans to local governments to assist them in planning, designing, and constructing alternative water supply projects. The department may provide loan guarantees, purchase loan insurance, and refinance local debt through issue of new loans for alternative water supply projects approved by the department. Local governments may borrow funds made available pursuant to this section and may pledge any revenues or other adequate security available to them to repay any funds borrowed.

(4) The term of loans made pursuant to this section shall not exceed 30 years. The interest rate on such loans shall be no greater than that paid on the last bonds sold pursuant to s. 14, Art. VII of the State Constitution.

(5) In order to ensure that public moneys are managed in an equitable and prudent manner, the total amount of money loaned to any local government during a fiscal year shall be no more than 25 percent of the total funds available for making loans during that year. The minimum amount of a loan shall be $75,000.

(6) The department may adopt rules that:

(a) Set forth a priority system for loans based on factors provided for in s. 373.19615(6)(a) and (b).

(b) Establish the requirements for the award and repayment of financial assistance.

(c) Require adequate security to ensure that each loan recipient can meet its loan payment requirements.

(d) Establish, at the department's discretion, a specific percentage of funding, not to exceed 20 percent, for financially disadvantaged communities for the development of alternative water supply projects. The department shall include within the rule a definition of the term "financially disadvantaged community," and the criteria for determining whether the project serves a financially disadvantaged community. Such criteria shall be based on the median household income of the service population or other reliably documented measures of disadvantaged status.

(e) Require each project receiving financial assistance to be cost-effective, environmentally sound, implementable, and self-supporting.

(7) The department shall prepare a report at the end of each fiscal year detailing the financial assistance provided under this section and outstanding loans.

(8) Prior to approval of a loan, the local government shall, at a minimum:

(a) Provide a repayment schedule.

(b) Submit evidence of the ability of the project proposed for financial assistance to be permitted and implemented.

(c) Submit plans and specifications, biddable contract documents, or other documentation of appropriate procurement of goods and services.

(d) Provide assurance that records will be kept using generally accepted accounting principles and that the department or its agent and the Auditor General will have access to all records pertaining to the loan.

(9) The department may conduct an audit of the loan project upon completion or may require that a separate project audit, prepared by an independent certified public accountant, be submitted.

(10) The department may require reasonable service fees on loans made to local governments to ensure that the program will be operated in perpetuity and to implement the purposes authorized under this section. Service fees shall not be more than 4 percent of the loan amount exclusive of the service fee. The fee revenues, and interest earnings thereon, shall be used exclusively to carry out the purposes of this section.

(11) All moneys available for financial assistance under this section shall be appropriated to the department exclusively to carry out this program. The principal and interest of all loans repaid and interest shall be used exclusively to carry out this section.

(12)(a) If a local government agency defaults under the terms of its loan agreement, the department shall certify the default to the Chief Financial Officer, shall forward the delinquent amount to the department from any unobligated funds due to the local government agency under any revenue-sharing or tax-sharing fund established by the state, except as otherwise provided by the State Constitution. Certification of delinquency shall not limit the department from pursuing other remedies available for default on a loan, including accelerating loan repayments, eliminating all or part of the interest rate subsidy on the loan, and court appointment of a receiver to manage alternative water supply project.

(b) The department may impose penalty for delinquent local payments in the amount of 6 percent of the amount due, in addition to charging the cost to handle and process the debt. Penalty interest shall accrue on any amount due and payable beginning on the 30th day following the date upon which payment is due.

(13) The department may terminate or rescind a financial assistance agreement when the local government fails to comply with the terms and conditions of the agreement.

Section 20. Paragraphs (l) and (m) are added to subsection (24) of section 380.06, Florida Statutes, to read:

380.06 Developments of regional impact.--

(24) STATUTORY EXEMPTIONS.--

(l) Any proposed development or redevelopment within an area designated for:

1. Urban infill development as designated in the comprehensive plan;

2. Urban redevelopment as designated in the comprehensive plan;

3. Downtown revitalization as designated in the comprehensive plan; or

4. Urban infill and redevelopment under s. 163.2517 as designated in

the comprehensive plan,

is exempt from the provisions of this section. However, a municipality with a population of 7,500 or fewer may adopt an ordinance imposing a fee upon an applicant for purposes of reimbursing the municipality for the reasonable costs that the municipality may incur in reviewing any project which is exempt under this subparagraph. The municipality may use all or part of this fee to employ professional expertise to ensure that the impacts of such projects are properly evaluated. Municipalities adopting such ordinances may not impose a fee on a project in excess of its actual out-of-pocket reasonable review costs. A copy of such ordinance shall be transmitted to the state land planning agency and the applicable regional planning council.

(m) Any proposed development within a rural land stewardship area created pursuant to s. 163.3177(11)(d) is exempt from the provisions of this section if the local government that has adopted the rural land stewardship area has entered into a binding agreement with jurisdictions that would be impacted and the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities and has adopted a proportionate-share methodology pursuant to s. 163.3180(16) and (17).

Section 21. Subsections (3), (7), and (8) of section 1013.33, Florida Statutes, are amended to read:

1013.33 Coordination of planning with local governing bodies.--

(3) At a minimum, the interlocal agreement must address interlocal-agreement requirements in s. 163.3180(13)(g), except for exempt local governments as provided in s. 163.3177(12), and must address the following issues:

(a) A process by which each local government and the district school board agree and base their plans on consistent projections of the amount, type, and distribution of population growth and student enrollment. The geographic distribution of jurisdiction-wide growth forecasts is a major objective of the process.

(b) A process to coordinate and share information relating to existing and planned public school facilities, including school renovations and closures, and local government plans for development and redevelopment.

(c) Participation by affected local governments with the district school board in the process of evaluating potential school closures, significant renovations to existing schools, and new school site selection before land acquisition. Local governments shall advise the district school board as to the consistency of the proposed closure, renovation, or new site with the local comprehensive plan, including appropriate circumstances and criteria under which a district school board may request an amendment to the comprehensive plan for school siting.

(d) A process for determining the need for and timing of onsite and offsite improvements to support new construction, proposed expansion, or redevelopment of existing schools. The process shall address identification of the party or parties responsible for the improvements.

(e) A process for the school board to inform the local government regarding the effect of comprehensive plan amendments on school capacity. The capacity reporting must be consistent with laws and rules regarding measurement of school facility capacity and must also identify how the district school board will meet the public school demand based on the facilities work program adopted pursuant to s. 1013.35.

(f) Participation of the local governments in the preparation of the annual update to the school board's 5-year district facilities work program and educational plant survey prepared pursuant to s. 1013.35.

(g) A process for determining where and how joint use of either school board or local government facilities can be shared for mutual benefit and efficiency.

(h) A procedure for the resolution of disputes between the district school board and local governments, which may include the dispute resolution processes contained in chapters 164 and 186.

(i) An oversight process, including an opportunity for public participation, for the implementation of the interlocal agreement.

~~A signatory to the interlocal agreement may elect not to include a provision meeting the requirements of paragraph (e); however, such a decision may be made only after a public hearing on such election, which may include the public hearing in which a district school board or a local government adopts the interlocal agreement. An interlocal agreement entered into pursuant to this section must be consistent with the adopted comprehensive plan and land development regulations of any local government that is a signatory.~~

(7) Except as provided in subsection (8), municipalities meeting the exemption criteria in s. 163.3177(12) ~~having no established need for a new facility and meeting the following criteria~~ are exempt from the requirements of subsections (2), (3), and (4). ~~:~~

~~(a) The municipality has no public schools located within its boundaries.~~

~~(b) The district school board's 5-year facilities work program and the long-term 10-year and 20-year work programs, as provided in s. 1013.35, demonstrate that no new school facility is needed in the municipality. In addition, the district school board must verify in writing that no new school facility will be needed in the municipality within the 5-year and 10-year timeframes.~~

(8) At the time of the evaluation and appraisal report, each exempt municipality shall assess the extent to which it continues to meet the criteria for exemption under s. 163.3177(12) ~~subsection (7)~~. If the municipality continues to meet these criteria ~~and the district school board verifies in writing that no new school facilities will be needed within the 5-year and 10-year timeframes~~, the municipality shall continue to be exempt from the interlocal-agreement requirement. Each municipality exempt under s. 163.3177(12) ~~subsection (7)~~ must comply with the provisions of subsections (2)-(8) within 1 year after the district school board proposes, in its 5-year district facilities work program, a new school within the municipality's jurisdiction.

Section 22. Section 380.115, Florida Statutes, is amended to read:

380.115 Vested rights and duties; effect of size reduction; changes in guidelines and standards ~~chs. 2002-20 and 2002-296~~. --

(1) A change in a development of regional impact guideline or standard does not abridge or modify ~~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 that is applicable to a development of regional impact ~~on the effective date of this act~~. A development that has received a development-of-regional-impact development order pursuant to s. 380.06, but would ~~is~~ no longer be required to undergo development-of-regional-impact review by operation of a change in the guidelines and standards or has reduced its size below the thresholds in s. 380.0651 ~~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 unless the developer or landowner has followed the procedures for rescission in paragraph (b). The development-of-regional-impact development order may be enforced by the local government as provided by ss. 380.06(17) and 380.11.

(b) If requested by the developer or landowner, the development-of-regional-impact development order shall ~~may~~ be rescinded by the local government with jurisdiction upon a showing by clear and convincing evidence that all required mitigation relating to the amount of development existing on the date of rescission has been completed ~~abandoned pursuant to the process in s. 380.06(26)~~.

(2) A development with an application for development approval pending, and determined sufficient pursuant to s. 380.06(10), on the effective date of a change to the guidelines and standards ~~this act~~, or a notification of proposed change pending on the effective date of a change to the guidelines and standards ~~this act~~, may elect to continue such review pursuant to s. 380.06. At the conclusion of the pending review, including any appeals pursuant to s. 380.07, the resulting development order shall be governed by the provisions of subsection (1).

(3) A landowner that has filed an application for a development of regional impact review prior to the adoption of an optional sector plan pursuant to s. 163.3245 may elect to have the application reviewed pursuant to s. 380.06, comprehensive plan provisions in force prior to adoption of the sector plan and any requested comprehensive plan amendments that accompany the application.

Section 23. Subsection (1) of section 339.08, Florida Statutes, is amended to read:

339.08 Use of moneys in State Transportation Trust Fund.--

(1) The department shall expend moneys in the State Transportation Trust Fund accruing to the department, in accordance with its annual budget. 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 pay the cost of projects on the Florida Strategic Intermodal System created in s. 339.61.

(m) To pay the cost of transportation projects selected in accordance with the Transportation Incentive Program for a Sustainable Florida created in s. 339.28171.

(n)~~(m)~~ To pay other lawful expenditures of the department.

Section 24. Paragraphs (c), (d), and (e) are added to subsection (5) of section 339.155, Florida Statutes, to read:

339.155 Transportation planning.--

(5) ADDITIONAL TRANSPORTATION PLANS.--

(c) Regional transportation plans may be developed in regional transportation areas in accordance with an interlocal agreement entered into pursuant to s. 163.01 by the department and two or more contiguous metropolitan planning organizations; one or more metropolitan planning organizations and one or more contiguous counties, none of which is a member of a metropolitan planning organization; a multicounty regional transportation authority created by or pursuant to law; two or more contiguous counties that are not members of a metropolitan planning organization; or metropolitan planning organizations comprised of three or more counties.

(d) The department shall develop a model draft interlocal agreement that must, at a minimum, identify the entity that will coordinate the development of the regional transportation plan; delineate the boundaries of the regional transportation area; provide the duration of the agreement and specify how the agreement may be terminated, modified, or rescinded; describe the process by which the regional transportation plan will be developed; and provide how members of the entity will resolve disagreements regarding interpretation of the interlocal agreement or disputes relating to the development or content of the regional transportation plan. The designated entity shall coordinate the adoption of the interlocal agreement using as its framework the department model. The designated entity shall record the executed interlocal agreement in the official public records of each county in the regional transportation area once a supermajority of the affected local governments within the delineated regional transportation area approve the interlocal agreement. Such interlocal agreement shall become effective upon its recordation in the official public records of each county in the regional transportation area.

(e) The regional transportation plan developed pursuant to this section must, at a minimum, identify regionally significant transportation facilities located within a regional transportation area, and recommend a list of regionally significant projects to the department for prioritization. A project that is funded for construction within the Department of Transportation's 5-year work plan shall be adopted into the capital improvements schedule of the local government comprehensive plan pursuant to s. 163.3177(3).

Section 25. 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. To ensure that the process is integrated with the statewide planning process, M.P.O.'s shall develop plans and programs that identify transportation facilities that should function as an integrated metropolitan transportation system, giving emphasis to facilities that serve important national, state, and regional transportation functions. For the purposes of this section, those facilities include the facilities on the Strategic Intermodal System designated under s. 339.63 and facilities for which projects have been identified pursuant to s. 339.28171.

(1) DESIGNATION.--

(a)1. An M.P.O. shall be designated for each urbanized area of the state; however, this does not require that an individual M.P.O. be designated for each such area. Such designation shall be accomplished by agreement between the Governor and units of general-purpose local government representing at least 75 percent of the population of the urbanized area; however, the unit of general-purpose local government that represents the central city or cities within the M.P.O. jurisdiction, as defined by the United States Bureau of the Census, must be a party to such agreement.

2. More than one M.P.O. may be designated within an existing metropolitan planning area only if the Governor and the existing M.P.O. determine that the size and complexity of the existing metropolitan planning area makes the designation of more than one M.P.O. for the area appropriate.

(b) Each M.P.O. shall be created and operated under the provisions of this section pursuant to an interlocal agreement entered into pursuant to s. 163.01. The signatories to the interlocal agreement shall be the

department and the governmental entities designated by the Governor for membership on the M.P.O. If there is a conflict between this section and s. 163.01, this section prevails.

(c) The jurisdictional boundaries of an M.P.O. shall be determined by agreement between the Governor and the applicable M.P.O. The boundaries must include at least the metropolitan planning area, which is the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period, and may encompass the entire metropolitan statistical area or the consolidated metropolitan statistical area.

(d) In the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, 42 U.S.C. ss. 7401 et seq., the boundaries of the metropolitan planning area in existence as of the date of enactment of this paragraph shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in this section. If more than one M.P.O. has authority within a metropolitan area or an area that is designated as a nonattainment area, each M.P.O. shall consult with other M.P.O.'s designated for such area and with the state in the coordination of plans and programs required by this section.

Each M.P.O. required under this section must be fully operative no later than 6 months following its designation.

(2) VOTING MEMBERSHIP.--

(a) The voting membership of an M.P.O. shall consist of not fewer than 5 or more than 19 apportioned members, the exact number to be determined on an equitable geographic-population ratio basis by the Governor, based on an agreement among the affected units of general-purpose local government as required by federal rules and regulations. The Governor, in accordance with 23 U.S.C. s. 134, may also provide for M.P.O. members who represent municipalities to alternate with representatives from other municipalities within the metropolitan planning area that do not have members on the M.P.O. County commission members shall compose not less than one-third of the M.P.O. membership, except for an M.P.O. with more than 15 members located in a county with a five-member county commission or an M.P.O. with 19 members located in a county with no more than 6 county commissioners, in which case county commission members may compose less than one-third percent of the M.P.O. membership, but all county commissioners must be members. All voting members shall be elected officials of general-purpose governments, except that an M.P.O. may include, as part of its apportioned voting members, a member of a statutorily authorized planning board, an official of an agency that operates or administers a major mode of transportation, or an official of the Florida Space Authority. The county commission shall compose not less than 20 percent of the M.P.O. membership if an official of an agency that operates or administers a major mode of transportation has been appointed to an M.P.O.

(b) In metropolitan areas in which authorities or other agencies have been or may be created by law to perform transportation functions and are performing transportation functions that are not under the jurisdiction of a general purpose local government represented on the M.P.O., they shall be provided voting membership on the M.P.O. In all other M.P.O.'s where transportation authorities or agencies are to be represented by elected officials from general purpose local governments, the M.P.O. shall establish a process by which the collective interests of such authorities or other agencies are expressed and conveyed.

(c) Any other provision of this section to the contrary notwithstanding, a chartered county with over 1 million population may elect to reapportion the membership of an M.P.O. whose jurisdiction is wholly within the county. The charter county may exercise the provisions of this paragraph if:

1. The M.P.O. approves the reapportionment plan by a three-fourths vote of its membership;

2. The M.P.O. and the charter county determine that the reapportionment plan is needed to fulfill specific goals and policies applicable to that metropolitan planning area; and

3. The charter county determines the reapportionment plan otherwise complies with all federal requirements pertaining to M.P.O. membership.

Any charter county that elects to exercise the provisions of this paragraph shall notify the Governor in writing.

(d) Any other provision of this section to the contrary notwithstanding, any county chartered under s. 6(e), Art. VIII of the State Constitution may elect to have its county commission serve as the M.P.O., if the M.P.O. jurisdiction is wholly contained within the county. Any charter county that elects to exercise the provisions of this paragraph shall so notify the Governor in writing. Upon receipt of such notification, the Governor must designate the county commission as the M.P.O. The Governor must appoint four additional voting members to the M.P.O., one of whom must be an elected official representing a municipality within the county, one of whom must be an expressway authority member, one of whom must be a person who does not hold elected public office and who resides in the unincorporated portion of the county, and one of whom must be a school board member.

(3) APPORTIONMENT.--

(a) The Governor shall, with the agreement of the affected units of general-purpose local government as required by federal rules and regulations, apportion the membership on the applicable M.P.O. among the various governmental entities within the area and shall prescribe a method for appointing alternate members who may vote at any M.P.O. meeting that an alternate member attends in place of a regular member. An appointed alternate member must be an elected official serving the same governmental entity or a general-purpose local government with jurisdiction within all or part of the area that the regular member serves. The governmental entity so designated shall appoint the appropriate number of members to the M.P.O. from eligible officials. Representatives of the department shall serve as nonvoting members of the M.P.O. Nonvoting advisers may be appointed by the M.P.O. as deemed necessary. The Governor shall review the composition of the M.P.O. membership in conjunction with the decennial census as prepared by the United States Department of Commerce, Bureau of the Census, and reapportion it as necessary to comply with subsection (2).

(b) Except for members who represent municipalities on the basis of alternating with representatives from other municipalities that do not have members on the M.P.O. as provided in paragraph (2)(a), the members of an M.P.O. shall serve 4-year terms. Members who represent municipalities on the basis of alternating with representatives from other municipalities that do not have members on the M.P.O. as provided in paragraph (2)(a) may serve terms of up to 4 years as further provided in the interlocal agreement described in paragraph (1)(b). The membership of a member who is a public official automatically terminates upon the member's leaving his or her elective or appointive office for any reason, or may be terminated by a majority vote of the total membership of a county or city governing entity represented by the member. A vacancy shall be filled by the original appointing entity. A member may be reappointed for one or more additional 4-year terms.

(c) If a governmental entity fails to fill an assigned appointment to an M.P.O. within 60 days after notification by the Governor of its duty to appoint, that appointment shall be made by the Governor from the eligible representatives of that governmental entity.

(4) AUTHORITY AND RESPONSIBILITY.--The authority and responsibility of an M.P.O. is to manage a continuing, cooperative, and comprehensive transportation planning process that, based upon the prevailing principles provided in s. 334.046(1), results in the development of plans and programs which are consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government the boundaries of which are within the metropolitan area of the M.P.O. An M.P.O. shall be the forum for cooperative decisionmaking by officials of the affected governmental entities in the development of the plans and programs

required by subsections (5), (6), (7), and (8).

(5) POWERS, DUTIES, AND RESPONSIBILITIES.--The powers, privileges, and authority of an M.P.O. are those specified in this section or incorporated in an interlocal agreement authorized under s. 163.01. Each M.P.O. shall perform all acts required by federal or state laws or rules, now and subsequently applicable, which are necessary to qualify for federal aid. It is the intent of this section that each M.P.O. shall be involved in the planning and programming of transportation facilities, including, but not limited to, airports, intercity and high-speed rail lines, seaports, and intermodal facilities, to the extent permitted by state or federal law.

(a) Each M.P.O. shall, in cooperation with the department, develop:

1. A long-range transportation plan pursuant to the requirements of subsection (6);

2. An annually updated transportation improvement program pursuant to the requirements of subsection (7); and

3. An annual unified planning work program pursuant to the requirements of subsection (8).

(b) In developing the long-range transportation plan and the transportation improvement program required under paragraph (a), each M.P.O. shall provide for consideration of projects and strategies that will:

1. Support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

2. Increase the safety and security of the transportation system for motorized and nonmotorized users;

3. Increase the accessibility and mobility options available to people and for freight;

4. Protect and enhance the environment, promote energy conservation, and improve quality of life;

5. Enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

6. Promote efficient system management and operation; and

7. Emphasize the preservation of the existing transportation system.

(c) In order to provide recommendations to the department and local governmental entities regarding transportation plans and programs, each M.P.O. shall:

1. Prepare a congestion management system for the metropolitan area and cooperate with the department in the development of all other transportation management systems required by state or federal law;

2. Assist the department in mapping transportation planning boundaries required by state or federal law;

3. Assist the department in performing its duties relating to access management, functional classification of roads, and data collection;

4. Execute all agreements or certifications necessary to comply with applicable state or federal law;

5. Represent all the jurisdictional areas within the metropolitan area in the formulation of transportation plans and programs required by this section; and

6. Perform all other duties required by state or federal law.

(d) Each M.P.O. shall appoint a technical advisory committee that includes planners; engineers; representatives of local aviation authorities, port authorities, and public transit authorities or representatives of aviation departments, seaport departments, and public transit departments of municipal or county governments, as applicable; the school superintendent of each county within the jurisdiction of the M.P.O. or the superintendent's designee; and other appropriate representatives of affected local governments. In addition to any other duties assigned to it by the M.P.O. or by state or federal law, the technical advisory committee is responsible for considering safe access to schools in its review of transportation project priorities, long-range transportation plans, and transportation improvement programs, and shall advise the M.P.O. on such matters. In addition, the technical advisory committee shall coordinate its actions with local school boards and other local programs and organizations within the metropolitan area which participate in school safety activities, such as locally established community traffic safety teams. Local school boards must provide the appropriate M.P.O. with information concerning future school sites and in the coordination of transportation service.

(e)1. Each M.P.O. shall appoint a citizens' advisory committee, the members of which serve at the pleasure of the M.P.O. The membership on the citizens' advisory committee must reflect a broad cross section of local residents with an interest in the development of an efficient, safe, and cost-effective transportation system. Minorities, the elderly, and the handicapped must be adequately represented.

2. Notwithstanding the provisions of subparagraph 1., an M.P.O. may, with the approval of the department and the applicable federal governmental agency, adopt an alternative program or mechanism to ensure citizen involvement in the transportation planning process.

(f) The department shall allocate to each M.P.O., for the purpose of accomplishing its transportation planning and programming duties, an appropriate amount of federal transportation planning funds.

(g) Each M.P.O. may employ personnel or may enter into contracts with local or state agencies, private planning firms, or private engineering firms to accomplish its transportation planning and programming duties required by state or federal law.

(h) A chair's coordinating committee is created, composed of the M.P.O.'s serving Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota Counties. The committee must, at a minimum:

1. Coordinate transportation projects deemed to be regionally significant by the committee.

2. Review the impact of regionally significant land use decisions on the region.

3. Review all proposed regionally significant transportation projects in the respective transportation improvement programs which affect more than one of the M.P.O.'s represented on the committee.

4. Institute a conflict resolution process to address any conflict that may arise in the planning and programming of such regionally significant projects.

(i)1. The Legislature finds that the state's rapid growth in recent decades has caused many urbanized areas subject to M.P.O. jurisdiction to become contiguous to each other. As a result, various transportation projects may cross from the jurisdiction of one M.P.O. into the jurisdiction of another M.P.O. To more fully accomplish the purposes for which M.P.O.'s have been mandated, M.P.O.'s shall develop coordination mechanisms with one another to expand and improve transportation within the state. The appropriate method of coordination between M.P.O.'s shall vary depending upon the project involved and given local and regional needs. Consequently, it is appropriate to set forth a flexible methodology that can be used by M.P.O.'s to coordinate with other M.P.O.'s and appropriate political subdivisions as circumstances demand.

2. Any M.P.O. may join with any other M.P.O. or any individual political subdivision to coordinate activities or to achieve any federal or state transportation planning or development goals or purposes consistent with federal or state law. When an M.P.O. determines that it is appropriate to join with another M.P.O. or any political subdivision to coordinate activities, the M.P.O. or political subdivision shall enter into an interlocal agreement pursuant to s. 163.01, which, at a minimum, creates a separate legal or administrative entity to coordinate the transportation planning or development activities required to achieve the goal or purpose; provide the purpose for which the entity is created; provide the duration of the agreement and the entity, and specify how the agreement may be terminated, modified, or rescinded; describe the precise organization of the entity, including who has voting rights on the governing board, whether alternative voting members are provided for, how voting members are appointed, and what the relative voting strength is for each constituent M.P.O. or political subdivision; provide the manner in which the parties to the agreement will provide for the financial support of the entity and payment of costs and expenses of the entity; provide the manner in which funds may be paid to and disbursed from the entity; and provide how members of the entity will resolve disagreements regarding interpretation of the interlocal agreement or disputes relating to the operation of the entity. Such interlocal agreement

shall become effective upon its recordation in the official public records of each county in which a member of the entity created by the interlocal agreement has a voting member. This paragraph does not require any M.P.O.'s to merge, combine, or otherwise join together as a single M.P.O.

(6) LONG-RANGE TRANSPORTATION PLAN.--Each M.P.O. must develop a long-range transportation plan that addresses at least a 20-year planning horizon. The plan must include both long-range and short-range strategies and must comply with all other state and federal requirements. The prevailing principles to be considered in the long-range transportation plan are: preserving the existing transportation infrastructure; enhancing Florida's economic competitiveness; and improving travel choices to ensure mobility. The long-range transportation plan must be consistent, to the maximum extent feasible, with future land use elements and the goals, objectives, and policies of the approved local government comprehensive plans of the units of local government located within the jurisdiction of the M.P.O. The approved long-range transportation plan must be considered by local governments in the development of the transportation elements in local government comprehensive plans and any amendments thereto. The long-range transportation plan must, at a minimum:

(a) Identify transportation facilities, including, but not limited to, major roadways, airports, seaports, spaceports, commuter rail systems, transit systems, and intermodal or multimodal terminals that will function as an integrated metropolitan transportation system. The long-range transportation plan must give emphasis to those transportation facilities that serve national, statewide, or regional functions, and must consider the goals and objectives identified in the Florida Transportation Plan as provided in s. 339.155. If a project is located within the boundaries of more than one M.P.O., the M.P.O.'s must coordinate plans regarding the project in the long-range transportation plan.

(b) Include a financial plan that demonstrates how the plan can be implemented, indicating resources from public and private sources which are reasonably expected to be available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted long-range transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the long-range transportation plan, the M.P.O. and the department shall cooperatively develop estimates of funds that will be available to support the plan implementation. Innovative financing techniques may be used to fund needed projects and programs. Such techniques may include the assessment of tolls, the use of value capture financing, or the use of value pricing.

(c) Assess capital investment and other measures necessary to:

1. Ensure the preservation of the existing metropolitan transportation system including requirements for the operation, resurfacing, restoration, and rehabilitation of major roadways and requirements for the operation, maintenance, modernization, and rehabilitation of public transportation facilities; and

2. Make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods.

(d) Indicate, as appropriate, proposed transportation enhancement activities, including, but not limited to, pedestrian and bicycle facilities, scenic easements, landscaping, historic preservation, mitigation of water pollution due to highway runoff, and control of outdoor advertising.

(e) In addition to the requirements of paragraphs (a)-(d), in metropolitan areas that are classified as nonattainment areas for ozone or carbon monoxide, the M.P.O. must coordinate the development of the long-range transportation plan with the State Implementation Plan developed pursuant to the requirements of the federal Clean Air Act.

In the development of its long-range transportation plan, each M.P.O. must provide the public, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the long-range transportation plan. The long-range transportation plan must be approved by the M.P.O.

(7) TRANSPORTATION IMPROVEMENT PROGRAM.--Each M.P.O. shall, in cooperation with the state and affected public transportation operators, develop a transportation improvement program for the area within the jurisdiction of the M.P.O. In the development of the transportation improvement program, each M.P.O. must provide the public, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the proposed transportation improvement program.

(a) Each M.P.O. is responsible for developing, annually, a list of project priorities and a transportation improvement program. The prevailing principles to be considered by each M.P.O. when developing a list of project priorities and a transportation improvement program are: preserving the existing transportation infrastructure; enhancing Florida's economic competitiveness; and improving travel choices to ensure mobility. The transportation improvement program will be used to initiate federally aided transportation facilities and improvements as well as other transportation facilities and improvements including transit, rail, aviation, spaceport, and port facilities to be funded from the State Transportation Trust Fund within its metropolitan area in accordance with existing and subsequent federal and state laws and rules and regulations related thereto. The transportation improvement program shall be consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government whose boundaries are within the metropolitan area of the M.P.O. and include those projects programmed pursuant to s. 339.28171.

(b) Each M.P.O. annually shall prepare a list of project priorities and shall submit the list to the appropriate district of the department by October 1 of each year; however, the department and a metropolitan planning organization may, in writing, agree to vary this submittal date. The list of project priorities must be formally reviewed by the technical and citizens' advisory committees, and approved by the M.P.O., before it is transmitted to the district. The approved list of project priorities must be used by the district in developing the district work program and must be used by the M.P.O. in developing its transportation improvement program. The annual list of project priorities must be based upon project selection criteria that, at a minimum, consider the following:

1. The approved M.P.O. long-range transportation plan;

2. The Strategic Intermodal System Plan developed under s. 339.64.

3. The priorities developed pursuant to s. 339.28171.

4.~~3.~~ The results of the transportation management systems; and

5.~~4.~~ The M.P.O.'s public-involvement procedures.

(c) The transportation improvement program must, at a minimum:

1. Include projects and project phases to be funded with state or federal funds within the time period of the transportation improvement program and which are recommended for advancement during the next fiscal year and 4 subsequent fiscal years. Such projects and project phases must be consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government located within the jurisdiction of the M.P.O. For informational purposes, the transportation improvement program shall also include a list of projects to be funded from local or private revenues.

2. Include projects within the metropolitan area which are proposed for funding under 23 U.S.C. s. 134 of the Federal Transit Act and which are consistent with the long-range transportation plan developed under subsection (6).

3. Provide a financial plan that demonstrates how the transportation improvement program can be implemented; indicates the resources, both public and private, that are reasonably expected to be available to accomplish the program; identifies any innovative financing techniques that may be used to fund needed projects and programs; and may include,

for illustrative purposes, additional projects that would be included in the approved transportation improvement program if reasonable additional resources beyond those identified in the financial plan were available. Innovative financing techniques may include the assessment of tolls, the use of value capture financing, or the use of value pricing. The transportation improvement program may include a project or project phase only if full funding can reasonably be anticipated to be available for the project or project phase within the time period contemplated for completion of the project or project phase.

4. Group projects and project phases of similar urgency and anticipated staging into appropriate staging periods.

5. Indicate how the transportation improvement program relates to the long-range transportation plan developed under subsection (6), including providing examples of specific projects or project phases that further the goals and policies of the long-range transportation plan.

6. Indicate whether any project or project phase is inconsistent with an approved comprehensive plan of a unit of local government located within the jurisdiction of the M.P.O. If a project is inconsistent with an affected comprehensive plan, the M.P.O. must provide justification for including the project in the transportation improvement program.

7. Indicate how the improvements are consistent, to the maximum extent feasible, with affected seaport, airport, and spaceport master plans and with public transit development plans of the units of local government located within the jurisdiction of the M.P.O. If a project is located within the boundaries of more than one M.P.O., the M.P.O.'s must coordinate plans regarding the project in the transportation improvement program.

(d) Projects included in the transportation improvement program and that have advanced to the design stage of preliminary engineering may be removed from or rescheduled in a subsequent transportation improvement program only by the joint action of the M.P.O. and the department. Except when recommended in writing by the district secretary for good cause, any project removed from or rescheduled in a subsequent transportation improvement program shall not be rescheduled by the M.P.O. in that subsequent program earlier than the 5th year of such program.

(e) During the development of the transportation improvement program, the M.P.O. shall, in cooperation with the department and any affected public transit operation, provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

(f) The adopted annual transportation improvement program for M.P.O.'s in nonattainment or maintenance areas must be submitted to the district secretary and the Department of Community Affairs at least 90 days before the submission of the state transportation improvement program by the department to the appropriate federal agencies. The annual transportation improvement program for M.P.O.'s in attainment areas must be submitted to the district secretary and the Department of Community Affairs at least 45 days before the department submits the state transportation improvement program to the appropriate federal agencies; however, the department, the Department of Community Affairs, and a metropolitan planning organization may, in writing, agree to vary this submittal date. The Governor or the Governor's designee shall review and approve each transportation improvement program and any amendments thereto.

(g) The Department of Community Affairs shall review the annual transportation improvement program of each M.P.O. for consistency with the approved local government comprehensive plans of the units of local government whose boundaries are within the metropolitan area of each M.P.O. and shall identify those projects that are inconsistent with such comprehensive plans. The Department of Community Affairs shall notify an M.P.O. of any transportation projects contained in its transportation improvement program which are inconsistent with the approved local government comprehensive plans of the units of local government whose boundaries are within the metropolitan area of the M.P.O.

(h) The M.P.O. shall annually publish or otherwise make available for public review the annual listing of projects for which federal funds have been obligated in the preceding year. Project monitoring systems must be maintained by those agencies responsible for obligating federal funds and made accessible to the M.P.O.'s.

(8) UNIFIED PLANNING WORK PROGRAM.--Each M.P.O. shall develop, in cooperation with the department and public transportation providers, a unified planning work program that lists all planning tasks to be undertaken during the program year. The unified planning work program must provide a complete description of each planning task and an estimated budget therefor and must comply with applicable state and federal law.

(9) AGREEMENTS.--

(a) Each M.P.O. shall execute the following written agreements, which shall be reviewed, and updated as necessary, every 5 years:

1. An agreement with the department clearly establishing the cooperative relationship essential to accomplish the transportation planning requirements of state and federal law.

2. An agreement with the metropolitan and regional intergovernmental coordination and review agencies serving the metropolitan areas, specifying the means by which activities will be coordinated and how transportation planning and programming will be part of the comprehensive planned development of the area.

3. An agreement with operators of public transportation systems, including transit systems, commuter rail systems, airports, seaports, and spaceports, describing the means by which activities will be coordinated and specifying how public transit, commuter rail, aviation, seaport, and aerospace planning and programming will be part of the comprehensive planned development of the metropolitan area.

(b) An M.P.O. may execute other agreements required by state or federal law or as necessary to properly accomplish its functions.

(10) METROPOLITAN PLANNING ORGANIZATION ADVISORY COUNCIL.--

(a) A Metropolitan Planning Organization Advisory Council is created to augment, and not supplant, the role of the individual M.P.O.'s in the cooperative transportation planning process described in this section.

(b) The council shall consist of one representative from each M.P.O. and shall elect a chairperson annually from its number. Each M.P.O. shall also elect an alternate representative from each M.P.O. to vote in the absence of the representative. Members of the council do not receive any compensation for their services, but may be reimbursed from funds made available to council members for travel and per diem expenses incurred in the performance of their council duties as provided in s. 112.061.

(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 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.

(11) APPLICATION OF FEDERAL LAW.--Upon notification by an agency of the Federal Government that any provision of this section conflicts with federal laws or regulations, such federal laws or regulations will take precedence to the extent of the conflict until such conflict is resolved. The department or an M.P.O. may take any necessary action to comply with such federal laws and regulations or to continue to remain eligible to receive federal funds.

Section 26. Section 339.55, Florida Statutes, is amended to read:

339.55 State-funded infrastructure bank.--

(1) There is created within the Department of Transportation a state-funded infrastructure bank for the purpose of providing loans and credit enhancements to government units and private entities for use in constructing and improving transportation facilities.

(2) The bank may lend capital costs or provide credit enhancements for:

(a) A transportation facility project that is on the State Highway System or that provides for increased mobility on the state's transportation system or provides intermodal connectivity with airports, seaports, rail facilities, and other transportation terminals, pursuant to s. 341.053, for the movement of people and goods.

(b) Projects of the Transportation Incentive Program for a Sustainable Florida which are identified pursuant to s. 339.28171.

(3) Loans from the bank may be subordinated to senior project debt that has an investment grade rating of "BBB" or higher.

(4)~~(3)~~ Loans from the bank may bear interest at or below market interest rates, as determined by the department. Repayment of any loan from the bank shall commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later, and shall be repaid in no more than 30 years.

(5)~~(4)~~ ~~Except as provided in s. 339.137,~~ To be eligible for consideration, projects must be consistent, to the maximum extent feasible, with local metropolitan planning organization plans and local government comprehensive plans and must provide a dedicated repayment source to ensure the loan is repaid to the bank.

(6) Funding awarded for projects under paragraph (2)(b) must be matched by a minimum of 25 percent from funds other than the state-funded infrastructure bank loan.

(7)~~(5)~~ The department may consider, but is not limited to, the following criteria for evaluation of projects for assistance from the bank:

(a) The credit worthiness of the project.

(b) A demonstration that the project will encourage, enhance, or create economic benefits.

(c) The likelihood that assistance would enable the project to proceed at an earlier date than would otherwise be possible.

(d) The extent to which assistance would foster innovative public-private partnerships and attract private debt or equity investment.

(e) The extent to which the project would use new technologies, including intelligent transportation systems, that would enhance the efficient operation of the project.

(f) The extent to which the project would maintain or protect the environment.

(g) A demonstration that the project includes transportation benefits for improving intermodalism, cargo and freight movement, and safety.

(h) The amount of the proposed assistance as a percentage of the overall project costs with emphasis on local and private participation.

(i) The extent to which the project will provide for connectivity between the State Highway System and airports, seaports, rail facilities, and other transportation terminals and intermodal options pursuant to s. 341.053 for the increased accessibility and movement of people and goods.

(8)~~(6)~~ Loan assistance provided by the bank shall be included in the department's work program developed in accordance with s. 339.135.

(9)~~(7)~~ The department is authorized to adopt rules to implement the state-funded infrastructure bank.

Section 27. Subsection (2) of section 1013.64, Florida Statutes, is amended, and subsection (7) is added to said section, to read:

1013.64 Funds for comprehensive educational plant needs; construction cost maximums for school district capital projects.--Allocations from the Public Education Capital Outlay and Debt Service Trust Fund to the various boards for capital outlay projects shall be determined as follows:

(2)(a) The department shall establish, as a part of the Public Education Capital Outlay and Debt Service Trust Fund, a separate account, in an amount determined by the Legislature, to be known as the "Special Facility Construction Account." The Special Facility Construction Account shall be used to provide necessary construction funds to school districts which have urgent construction needs but which lack sufficient resources at present, and cannot reasonably anticipate sufficient resources within the period of the next 3 years, for these purposes from currently authorized sources of capital outlay revenue. A school district requesting funding from the Special Facility Construction Account shall submit one specific construction project, not to exceed one complete educational plant, to the Special Facility Construction Committee. No district shall receive funding for more than one approved project in any 3-year period. The first year of the 3-year period shall be the first year a district receives an appropriation. The department shall encourage a construction program that reduces the average size of schools in the district. The request must meet the following criteria to be considered by the committee:

1. The project must be deemed a critical need and must be recommended for funding by the Special Facility Construction Committee. Prior to developing plans for the proposed facility, the district school board must request a preapplication review by the Special Facility Construction Committee or a project review subcommittee convened by the committee to include two representatives of the department and two staff from school districts not eligible to participate in the program. Within 60 days after receiving the preapplication review request, the committee or subcommittee must meet in the school district to review the project proposal and existing facilities. To determine whether the proposed project is a critical need, the committee or subcommittee shall consider, at a minimum, the capacity of all existing facilities within the district as determined by the Florida Inventory of School Houses; the district's pattern of student growth; the district's existing and projected capital outlay full-time equivalent student enrollment as determined by the department; the district's existing satisfactory student stations; the use of all existing district property and facilities; grade level configurations; and any other information that may affect the need for the proposed project.

2. The construction project must be recommended in the most recent survey or surveys by the district under the rules of the State Board of Education.

3. The construction project must appear on the district's approved project priority list under the rules of the State Board of Education.

4. The district must have selected and had approved a site for the construction project in compliance with s. 1013.36 and the rules of the State Board of Education.

5. The district shall have developed a district school board adopted list of facilities that do not exceed the norm for net square feet occupancy requirements under the State Requirements for Educational Facilities, using all possible programmatic combinations for multiple use of space to obtain maximum daily use of all spaces within the facility under

consideration.

6. Upon construction, the total cost per student station, including change orders, must not exceed the cost per student station as provided in subsection (6).

7. There shall be an agreement signed by the district school board stating that it will advertise for bids within 30 days of receipt of its encumbrance authorization from the department.

8. The district shall, at the time of the request and for a continuing period of 3 years, levy the maximum millage against their nonexempt assessed property value as allowed in s. 1011.71(2) or shall raise an equivalent amount of revenue from the school capital outlay surtax authorized under s. 212.055(6). Any district with a new or active project, funded under the provisions of this subsection, shall be required to budget no more than the value of 1.5 mills per year to the project to satisfy the annual participation requirement in the Special Facility Construction Account.

9. If a contract has not been signed 90 days after the advertising of bids, the funding for the specific project shall revert to the Special Facility New Construction Account to be reallocated to other projects on the list. However, an additional 90 days may be granted by the commissioner.

10. The department shall certify the inability of the district to fund the survey-recommended project over a continuous 3-year period using projected capital outlay revenue derived from s. 9(d), Art. XII of the State Constitution, as amended, paragraph (3)(a) of this section, and s. 1011.71(2).

11. The district shall have on file with the department an adopted resolution acknowledging its 3-year commitment of all unencumbered and future revenue acquired from s. 9(d), Art. XII of the State Constitution, as amended, paragraph (3)(a) of this section, and s. 1011.71(2).

12. Final phase III plans must be certified by the board as complete and in compliance with the building and life safety codes prior to August 1.

(b) The department shall establish, as a part of the Public Education Capital Outlay and Debt Service Trust Fund, a separate account, in an amount determined by the Legislature, to be known as the "High Growth County Facility Construction Account." The account shall be used to provide necessary construction funds to high growth school districts which have urgent construction needs, but which lack sufficient resources at present and cannot reasonably anticipate sufficient resources within the period of the next 3 years, for these purposes from currently authorized sources of capital outlay revenue and local sources. A school district requesting funding from the account shall submit one specific construction project, not to exceed one complete educational plant, to the Special Facility Construction Committee. No district shall receive funding for more than one approved project in any 2-year period, provided that any grants received under this paragraph must be fully expended in order for a district to apply for additional funding under this paragraph and all Classrooms First funds have been allocated and expended by the district. The first year of the 2-year period shall be the first year a district receives an appropriation. The request must meet the following criteria to be considered by the committee:

1. The project must be deemed a critical need and must be recommended for funding by the Special Facility Construction Committee. Prior to developing plans for the proposed facility, the district school board must request a preapplication review by the Special Facility Construction Committee or a project review subcommittee convened by the committee to include two representatives of the department and two staff from school districts not eligible to participate in the program. Within 60 days after receiving the preapplication review request, the committee or subcommittee must meet in the school district to review the project proposal and existing facilities. To determine whether the proposed project is a critical need, the committee or subcommittee shall consider, at a minimum, the capacity of all existing facilities within the district as determined by the Florida Inventory of School Houses; the district's pattern of student growth with priority given to those districts that have equaled or exceeded twice the statewide average in growth in capital outlay full-time equivalent students over the previous 4 fiscal years; the district's existing and projected capital outlay full-time equivalent student enrollment as determined by the department with priority given to these districts with 20,000 or more capital outlay full-time equivalent students; the district's existing satisfactory student stations; the use of all existing district property and facilities; grade level configurations; and any other information that may affect the need for the proposed project.

2. The construction project must be recommended in the most recent survey or surveys by the district under the rules of the State Board of Education.

3. The construction project includes either a recreational facility or media center that will be jointly used with a local government.

4. The construction project must appear on the district's approved project priority list under the rules of the State Board of Education.

5. The district must have selected and had approved a site for the construction project in compliance with the interlocal agreement with the appropriate local government, s. 1013.36, and the rules of the State Board of Education.

6. The district shall have developed a district school board adopted list of facilities that do not exceed the norm for net square feet occupancy requirements under the state requirements for educational facilities, using all possible programmatic combinations for multiple use of space to obtain maximum daily use of all spaces within the facility under consideration.

7. Upon construction, the total cost per student station, including change orders, must not exceed the cost per student station as provided in subsection (6).

8. There shall be an agreement signed by the district school board stating that it will advertise for bids within 30 days after receipt of its encumbrance authorization from the department.

9. If a contract has not been signed 90 days after the advertising of bids, the funding for the specific project shall revert to the Special Facility Construction Account to be reallocated to other projects on the list. However, an additional 90 days may be granted by the commissioner.

10. Final phase III plans must be certified by the board as complete and in compliance with the building and life safety codes prior to August 1.

(c)~~(b)~~ The Special Facility Construction Committee shall be composed of the following: two representatives of the Department of Education, a representative from the Governor's office, a representative selected annually by the district school boards, and a representative selected annually by the superintendents.

(d)~~(c)~~ The committee shall review the requests submitted from the districts, evaluate the ability of the project to relieve critical needs, and rank the requests in priority order. This statewide priority list for special facilities construction shall be submitted to the Legislature in the commissioner's annual capital outlay legislative budget request at least 45 days prior to the legislative session. For the initial year of the funding of the program outlined in paragraph (b), the Special Facility Construction Committee shall authorize the disbursement of funds appropriated by the Legislature for the purposes of the program funded by the High Growth County Facility Construction Account created in paragraph (b).

(7) Moneys distributed to the Public Education Capital Outlay and Debt Service Trust Fund pursuant to s. 201.15(1)(d) shall be expended to fund the Classrooms for Kids Program created in s. 1013.735 and shall be distributed as provided by that section.

Section 28. Paragraph (a) of subsection (2) of section 1013.65, Florida Statutes, is amended to read:

1013.65 Educational and ancillary plant construction funds; Public Education Capital Outlay and Debt Service Trust Fund; allocation of funds.--

(2)(a) The Public Education Capital Outlay and Debt Service Trust

Fund shall be comprised of the following sources, which are hereby appropriated to the trust fund:

1. Proceeds, premiums, and accrued interest from the sale of public education bonds and that portion of the revenues accruing from the gross receipts tax as provided by s. 9(a)(2), Art. XII of the State Constitution, as amended, interest on investments, and federal interest subsidies.

2. General revenue funds appropriated to the fund for educational capital outlay purposes.

3. All capital outlay funds previously appropriated and certified forward pursuant to s. 216.301.

4. Funds paid pursuant to s. 201.15(1)(d). Such funds shall be appropriated annually for expenditure to fund the Classrooms for Kids Program created in s. 1013.735 and shall be distributed as provided by that section.

Section 29. Subsection (1) of section 201.15, Florida Statutes, 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. No moneys transferred to the Land Acquisition Trust Fund pursuant to this paragraph, or earnings thereon, shall be used or made available to pay debt service on the Save Our Coast revenue bonds.

(b) The remainder of the moneys distributed under this subsection, after the required payment under paragraph (a), shall be paid into the State Treasury to the credit of the Save Our Everglades Trust Fund in amounts necessary to pay debt service, provide reserves, and pay rebate obligations and other amounts due with respect to bonds issued under s. 215.619.

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

(d) The remainder of the moneys distributed under this subsection, after the required payments under paragraphs (a), (b), and (c), shall be paid into the State Treasury to the credit of:

1. The State Transportation Trust Fund in the Department of Transportation in the amount of $541.75 million in each fiscal year, to be paid in quarterly installments and allocated for the following specified purposes notwithstanding any other law to the contrary:

a. For the purposes of capital funding for the New Starts Transit Program, authorized by Title 49, U.S.C. 5309 and specified in s. 341.051, $50 million for fiscal year 2005-2006, $70 million for fiscal years 2006-2007 through 2008-2009, $75 million for fiscal year 2009-2010 and each fiscal year thereafter;

b. For the purposes of the Small County Outreach Program specified in s. 339.2818, $30 million for fiscal years 2005-2006 through 2006-2007 and $35 million for fiscal year 2007-2008 and each fiscal year thereafter;

c. For the purposes of the Strategic Intermodal System specified in ss. 339.61, 339.62, 339.63, and 339.64, all remaining funds after allocations pursuant to sub-subparagraphs a., b., and d.; and

d. For the purposes of the Transportation Incentive Program for a Sustainable Florida specified in s. 339.28171, $122 million for fiscal year 2005-2006, $85 million for fiscal year 2006-2007, $120 million for fiscal years 2007-2008 through 2010-2011, and $115 million for fiscal year 2011-2012 and each fiscal year thereafter.

2. The Water Protection and Sustainability Program Trust Fund in the Department of Environmental Protection in the amount of $100 million in each fiscal year, to be paid in quarterly installments and used as required by s. 403.890.

3. The Public Education Capital Outlay and Debt Service Trust Fund in the Department of Education in the amount of $75 million in each fiscal year, to be paid in monthly installments and used to fund the Classrooms for Kids Program created in s. 1013.735. If required, new facilities constructed under the Classroom for Kids Program must meet the requirements of s. 1013.372.

Moneys distributed pursuant to this paragraph may not be pledged for debt service unless such pledge is approved by referendum of the voters.

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

Section 30. School Concurrency Task Force.—

(1) The School Concurrency Task Force is created to review the requirements for school concurrency in law and make recommendations regarding streamlining the process and procedures for establishing school concurrency. The task force shall also examine the methodology and processes used for the funding of construction of public schools and make recommendations on revisions to provisions of law and rules which will help ensure that schools are built and available when the expected demands of growth produce the need for new school facilities.

(2) The task force shall be composed of 11 members. The membership must represent local governments, school boards, developers and homebuilders, the business community, the agriculture community,

the environmental community, and other appropriate stakeholders. The task force shall include two members appointed by the Governor, two members appointed by the President of the Senate, two members appointed by the Speaker of the House of Representatives, one member appointed by the Florida School Boards Association, one member appointed by the Florida Association of Counties, and one member appointed by the Florida League of Cities. The Secretary of the Department of Community Affairs, or a senior management designee, and the Commissioner of Education, or a senior management designee, shall also be ex officio nonvoting members on the task force.

(3) The task force shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than December 1, 2005, with specific recommendations for revisions to provisions of law and rules.

Section 31. Florida Impact Fee Review Task Force.--

(1) The Legislature recognizes that impact fees have been an important source of revenues to local governments to fund new growth. Local governments have assumed this responsibility under their constitutional home rule authority. With the increased use of impact fees, questions have arisen about whether their use should be regulated by law.

(2) Effective upon this act becoming law, the Florida Impact Fee Review Task Force is created.

(3)(a) The task force is to be composed of 15 members, who shall be appointed within 30 days after the effective date of this section.

1. Five voting members selected by the President of the Senate and five voting members selected by the Speaker of the House of Representative, none of whom may be a member of the Legislature at the time of the appointment, as follows: one member of a county commission, one member of a city commission or council, one member of a local school board, one member of the development community, and one member of the homebuilding community. The Governor shall appoint two members, one of whom shall be an affordable housing advocate who shall have no current or past direct relationship to local government, school boards, or the development or homebuilding industries. The Governor shall designate one of his or her appointees as the chair.

2. One member of the Senate appointed by the President of the Senate, and one member of the House of Representatives appointed by the Speaker of the House of Representatives, who shall be ex officio, nonvoting members.

3. The Secretary of the Department of Community Affairs or his designee is to serve as an ex officio, nonvoting member.

(4)(a) The task force shall act as an advisory body to the Governor and the Legislature.

(b) The task force shall convene its initial meeting within 60 days after the effective date of this section and thereafter at the call of its chair.

(c) Task Force members shall not receive remuneration for their services, but are entitled to reimbursement by the Legislative Committee on Intergovernmental Relations for travel and per diem expenses in accordance with s. 112.061, Florida Statutes.

(5) The Task Force shall survey and review current use of impact fees as a method of financing local infrastructure to accommodate new growth and current case law controlling the use of impact fees. To the extent feasible, the review is to include consideration of the following:

(a) Local government criteria and methodology used for the determination of the amount of impact fees.

(b) Application and relative burden of impact fees in different areas of the state in relation to other methods of financing new infrastructure.

(c) The range of use of impact fees as a percentage of the total capital costs for infrastructure needs created by new development.

(d) The methods used by local governments for the accounting and reporting of the collection and expenditure of all impact fees.

(e) Notice provisions prior to adoption and the effective date of local ordinances creating a new impact fee or increasing an existing impact fee.

(f) Interlocal agreements between counties and cities to allocate impact fee proceeds between them.

(g) Requirements and options related to timing of impact fees payments.

(h) The importance of impact fees to the ability of local government to fund infrastructure needed to mitigate the impacts of development and meet statutory requirements for concurrency.

(i) Methods used by local governments to ameliorate the effect of impact fee costs on affordable housing.

(6) The task force shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2006. The report shall include the task force's recommendations regarding:

(a) Whether there is a need for statutory direction on the methodology and data used to calculate impact fees.

(b) Whether there should be statutory direction on payment, exemption, or waiver of impact fees for affordable housing.

(c) Whether there should be statutory direction on the accounting and reporting of the collection and expenditure of all impact fees.

(d) Whether there is a need for statutory direction on the notice given in advance of the effective date of a new or amended impact fee ordinance.

(e) Whether there is a need for statutory direction on the sharing of impact fees between counties and cities.

(f) Whether there is a need for statutory direction on the timing of payment of impact fees.

(g) Any other recommendation the Task Force deems appropriate.

If the task force makes a recommendation for statutory direction, the report shall also contain the task force's recommendation for statutory changes.

(7) The Legislative Committee on Intergovernmental Relations shall serve as staff to the task force and is authorized to employ technical support and expend funds appropriated to the committee for carrying out the official duties of the task force. All state agencies are directed to cooperate with and assist the task force to the fullest extent possible. All local governments are encouraged to assist and cooperate with the commission as necessary.

(8) Effective July 1, 2005, the sum of $50,000 is appropriated, for fiscal year 2005-2006 only, from the Department of Community Affairs' Grants and Donations Trust Fund to the Legislative Committee on Intergovernmental Relations to fund the per diem and travel expenses of the task force pursuant to s. 112.061, Florida Statutes.

Section 32. Funding for Sustainable Schools.--In order to provide for innovative approaches to meet school capacity demands, effective July 1, 2005, the sum of $30 million from recurring funds in the Public Education Capital Outlay and Debt Service Trust Fund shall be transferred annually from the Public Education Capital Outlay and Debt Service Trust Fund to the High Growth County Facility Construction Account.

Section 33. (1) The following appropriations are made for the 2005-2006 fiscal year only from the General Revenue Fund, from revenues deposited into the fund pursuant to section 201.15(1)(e), Florida Statutes, on a nonrecurring basis and in quarterly installments:

(a) To the State Transportation Trust Fund in the Department of Transportation, $576.25 million.

(b) To the Water Protection and Sustainability Program Trust Fund in the Department of Environmental Protection, $100 million.

(c) To the Public Education Capital Outlay and Debt Service Trust Fund in the Department of Education, $73.75 million.

(2) The following appropriations are made for the 2005-2006 fiscal year only on a nonrecurring basis:

(a) From the State Transportation Trust Fund in the Department of Transportation:

1. The sum of $201.25 million for the purposes specified in sections 339.61, 339.62, 339.63, and 339.64, Florida Statutes.

2. The sum of $275 million for the purposes specified in section 339.28171, Florida Statutes.

3. The sum of $100 million for the purposes specified in section 339.55, Florida Statutes.

(b) From the Water Protection and Sustainability Program Trust Fund in the Department of Environmental Protection, $100 million for the purposes specified in section 403.890, Florida Statutes.

(c) From the Public Education Capital Outlay and Debt Service Trust Fund in the Department of Education, the sum of $73.75 million for the purpose of funding the Classrooms for Kids Program created in section 1013.735, Florida Statutes. Notwithstanding the requirements of sections 1013.64 and 1013.65, Florida Statutes, these moneys may not be distributed as part of the comprehensive plan for the Public Education Capital Outlay and Debt Service Trust Fund. If required, new facilities constructed under the Classroom for Kids Program must meet the requirements of s. 1013.372.

Section 34. Statewide Technical Assistance for a Sustainable Florida.--In order to assist local governments and school boards to implement the provisions of this act, effective July 1, 2005, the sum of $2.95 million for fiscal year 2005-2006 only, and $3 million is appropriated for each fiscal year therafter, from recurring general revenue to the Department of Community Affairs' Grants and Donations Trust Fund. The department shall provide a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2006, on the progress made toward implementing this act and a recommendation of whether additional funds should be appropriated to provide additional technical assistance to implement this act.

Section 35. Effective July 1, 2005, the sum of $250,000 is appropriated from recurring general revenue to the Department of Community Affairs to provide the necessary staff and other assistance to the Century Commission for a Sustainable Florida required by section 11.

Section 36. Beginning in fiscal year 2005-2006, the Department of Transportation shall allocate sufficient funds to implement the provisions relating to transportation in this act. The department shall amend the tentative work program for 2005-2006. Before amending the tentative work program, the department shall submit a budget amendment pursuant to section 339.135(7), Florida Statutes. The department shall provide a report to the President of the Senate and the Speaker of the House of Representative by February 1, 2006, identifying the program adjustments the department has made consistent with the provisions of the Sustainable Florida Transportation Program. Notwithstanding the provisions of section 216.301(1), Florida Statutes, the funds appropriated from general revenue to the State Transportation Trust Fund in this act shall not revert at the end of fiscal year 2005-2006.

Section 37. The Legislature finds that planning for and adequately funding infrastructure is critically important for the safety and welfare of the residents of Florida. Therefore, the Legislature finds that the provisions of this act fulfill an important state interest.

Section 38. Unless the developer elects otherwise in writing, the provisions of this act amending chapters 163 and 380, Florida Statutes, shall not apply to any developments of regional impact for which a development order has been issued prior to the effective date of this act or for which a development of regional impact application has been submitted prior to May 1, 2005.

Section 39. The Department of Community Affairs shall conduct a study to determine:

(1) Which counties have off-site environmental mitigation programs or ordinances and which counties do not.

(2) What types of off-site environmental mitigation programs have been adopted.

(3) How much in additional environmental preservation funds are generated through county off-site environmental mitigation ordinances or programs.

(4) Whether the acquisition of environmentally sensitive lands is slowed or impeded in counties that do not have off-site mitigation ordinances or plans.

The department shall prepare a report containing the results of the study and shall provide a copy of the report to President of the Senate and the Speaker of the House of Representatives on or before November 1, 2005.

Section 40. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 41. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2005.

Remove the entire title and insert:

A bill to be entitled

An act relating to infrastructure planning and funding; amending s. 163.3164, F.S.; defining the term "financial feasibility"; amending s. 163.3177, F.S.; revising requirements for the capital improvements element of a comprehensive plan; requiring a schedule of capital improvements; providing a deadline for certain amendments; providing an exception; providing for sanctions; requiring incorporation of selected water supply projects in the comprehensive plan; authorizing planning for multijurisdictional water supply facilities; providing requirements for counties and municipalities with respect to the public school facilities element; revising requirements for rural land stewardship areas; exempting rural land stewardship areas from developments of regional impact provisions; requiring an interlocal agreement; providing for a waiver under certain circumstances; exempting certain municipalities from such requirements; requiring that the state land planning agency establish a schedule for adopting and updating the public school facilities element; encouraging local governments to include a community vision and an urban service boundary as a component of their comprehensive plans; providing requirements; repealing s. 163.31776, F.S., relating to the public educational facilities element; repealing s. 339.2817, F.S., relating to the County Incentive Grant Program; amending s. 163.31777, F.S.; revising the requirements for the public schools interlocal agreement to conform to changes made by the act; requiring the school board to provide certain information to the local government; amending s. 163.3180, F.S.; revising requirements for concurrency; providing for schools to be subject to concurrency requirements; requiring that an adequate water supply be available for new development; revising requirements for transportation facilities; requiring that the Department of Transportation be consulted regarding certain level-of-service standards; revising criteria and providing guidelines for transportation concurrency exception areas; requiring a local government to consider the transportation level-of-service standards of adjacent jurisdictions for certain roads; providing criteria for urban infill and redevelopment; providing for waiver of certain transportation facilities concurrency requirements under certain circumstances; revising the requirements for a long-term transportation concurrency management system; providing for a long-term school concurrency management system; requiring that school concurrency be established on less than a districtwide basis within 5 years; providing certain exceptions; authorizing a local government to approve a development order if the developer executes a commitment to mitigate the impacts on public school facilities; providing for the adoption of a transportation concurrency management system by ordinance; providing requirements for proportionate-share mitigation; amending s. 163.3184, F.S.; correcting cross references; authorizing instead of requiring the state land planning agency to review plan amendments; amending s. 163.3187, F.S.; providing additional criteria for small scale amendments to adopted comprehensive plans; providing an additional exception to a limitation on amending an adopted comprehensive plan by certain municipalities; providing procedures and requirements; providing for notice and public hearings; correcting a cross reference; providing for nonapplication; amending s. 163.3191, F.S.; providing additional requirements for the evaluation and assessment of the comprehensive plan for counties and municipalities that do not have a public schools interlocal agreement; revising requirements for the

evaluation and appraisal report; providing time limit for amendments relating to the report; amending s. 339.135, F.S., relating to tentative work programs of the Department of Transportation; conforming provisions to changes made by the act; requiring the Office of Program Policy Analysis and Government Accountability to perform a study of the boundaries of specified state entities; requiring a report to the Legislature; creating s. 163.3247, F.S.; providing a popular name; providing legislative findings and intent; creating the Century Commission for a Sustainable Florida for certain purposes; providing for appointment of commission members; providing for terms; providing for meetings and votes of members; requiring members to serve without compensation; providing for per diem and travel expenses; providing powers and duties of the commission; requiring the creation of a joint select committee of the Legislature; providing purposes; requiring the Secretary of Community Affairs to select an executive director of the commission; requiring the Department of Community Affairs to provide staff for the commission; providing for other agency staff support for the commission; amending s. 215.211, F.S.; providing for deposit of certain service charge revenues into the State Transportation Trust Fund to be used for certain purposes; creating s. 339.28171, F.S.; creating the Transportation Incentive Program for a Sustainable Florida; providing program requirements; requiring the Department of Transportation to develop criteria to assist local governments in evaluating concurrency management system backlogs; specifying criteria requirements; providing requirements for local governments; specifying percentages and requirements for apportioning matching funds among grant applicants; authorizing the department to administer contracts as requested by local governments; amending s. 337.107, F.S.; allowing the inclusion of right-of-way services in certain design-build contracts; amending s. 337.107, F.S., effective July 1, 2007; eliminating the inclusion of right-of-way services and as part of design-build contracts under certain circumstances; amending s. 337.11, F.S.; allowing the Department of Transportation to include right-of-way services and design and construction into a single contract; providing an exception; delaying construction activities in certain circumstances; amending s. 337.11, F.S., effective July 1, 2007; deleting language allowing right-of-way services and design and construction phases to be combined for certain projects; deleting an exception; creating s. 373.19615, F.S.; creating the Florida's Sustainable Water Supplies Program; providing funding requirements for local government development of alternative water supply projects; providing for allocation of funds to water management districts; providing definitions; specifying factors to consider in funding certain projects; providing funding requirements; requiring the Department of Environmental Protection to establish factors for granting financial assistance to eligible projects; creating s. 373.19616, F.S.; creating the Water Transition Assistance Program to establish a low-interest revolving loan program for infrastructure financing for alternative water supplies; providing legislative declarations; providing definitions; authorizing the Department of Environmental Protection to make loans to local governments for certain purposes; authorizing local governments to borrow funds and pledge revenues for repayment; providing loan limitations; authorizing the department to adopt certain rules; requiring the department to prepare an annual report on such financial assistance; providing loan approval requirements for local governments; authorizing the department to conduct or require audits; authorizing the department to require reasonable loan service fees; providing limitations; providing requirements for financial assistance funding; providing for enforcement of loan defaults; authorizing the department to impose penalties for delinquent loan payments; authorizing the department to terminate financial assistance agreements under certain circumstances; amending s. 380.06, F.S.; providing additional exemptions from development of regional impact provisions for certain projects in proposed developments or redevelopments within an area designated in a comprehensive plan and for proposed developments within certain rural land stewardship areas; authorizing certain municipalities to adopt an ordinance imposing a fee on certain applicants for certain purposes; specifying fee uses; providing a limitation; amending s. 1013.33, F.S.; conforming provisions to changes made by the act; amending s. 339.08, F.S.; providing for expenditure of moneys in the State Transportation Trust Fund; amending s. 339.155, F.S.; providing for the development of regional transportation plans in Regional Transportation Areas; amending s. 339.175, F.S.; making conforming changes to provisions of the act; amending s. 339.55, F.S.; providing for loans for certain projects from the state-funded infrastructure bank within the Department of Transportation; amending s. 1013.64, F.S.; requiring the Department of Education to establish the High Growth County Facility Construction Account as a separate account within the Public Education Capital Outlay and Debt Service Trust Fund for certain purposes; specifying requirements for funding from the account; providing for the expenditure of funds in the Public Education Capital Outlay and Debt Service Trust Fund; amending s. 1013.65, F.S.; providing funding for the Classrooms for Kids Program; amending s. 201.15, F.S.; providing for the expenditure of certain funds in the Land Acquisition Trust Fund; creating the School Concurrency Task Force; providing purposes; providing for membership; requiring a report to the Governor and Legislature; creating the Florida Impact Fee Review Task Force; providing legislative findings; providing for membership; providing for meetings; providing duties and responsibilities of the task force; prohibiting compensation of the task force; providing for per diem and travel expenses; requiring a report to the Governor and Legislature; specifying report contents; requiring the Legislative Committee on Intergovernmental Relations to serve as staff; providing an appropriation; providing an appropriation to fund the High Growth County Facility Construction Account; providing for appropriations for the 2005-2006 fiscal year on a nonrecurring basis for certain purposes; requiring the Department of Transportation to amend the tentative work program and budget for 2005-2006; prohibits reversion of certain funds; providing a declaration of important state interest; providing for nonapplication of certain provisions of law to certain developments of regional impact under certain circumstances; requiring the Department of Community Affairs to conduct a study; specifying study criteria; requiring a report to the Legislature; providing severability; providing effective dates.

Rep. Johnson moved the adoption of the amendment.

Representative(s) Arza offered the following:

(Amendment Bar Code: 958711)

Amendment 1 to Amendment 1 (with title amendment)—Between lines 1981 and 1982,

insert:

Section 9. Subsection (7) is added to section 163.3194, Florida Statutes, to read:

163.3194 Legal status of comprehensive plan.--

(7) Growth management and annexation being connected state concerns, nothing in chapter 163 or chapter 171 shall authorize charter counties that experienced a population increase in excess of 30 percent between 1990 and 2000 and had a population in excess of 1,000,000 by the year 2000 according to the United States Decennial Census of 2000 to adopt an exclusive method of municipal annexation unless such method is set forth verbatim and its entirety in such county charter.

Remove line 4341 and insert:

amendments relating to the report; providing that nothing in ch. 163 or ch. 171, F.S., shall authorize certain charter counties that experienced specified population increases to adopt an exclusive method of municipal annexation; providing an exception; amending s. 339.135,

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

Representative A. Gibson offered the following:

(Amendment Bar Code: 372277)

Amendment 2 to Amendment 1—Remove line 2074 and insert:
community, and other appropriate stakeholders. The membership shall also be representative of all geographical regions of the state. One member shall

Rep. A. Gibson moved the adoption of the amendment to the amendment. Subsequently, **Amendment 2 to Amendment 1** was withdrawn.

Representative Arza offered the following:

(Amendment Bar Code: 846979)

Amendment 3 to Amendment 1 (with title amendment)—Between lines 20 and 21, insert:
Section 2. Section 163.3172, Florida Statutes, is created to read:
163.3172 Urban infill and redevelopment.--In recognizing that urban infill and redevelopment is a high state priority, the Legislature determines that local governments should not adopt charter provisions, ordinances, or land development regulations that discourage this state priority unless the charter provisions, ordinances, or land development regulations are to limit impacts to coastal high-hazard areas, historic districts, or aviation operations. Higher-density development is appropriate in urban areas and should be encouraged in such locations. Conversely, it is appropriate to discourage greater height and density as a development form in areas outside of urban areas where such development forms are incompatible with existing land uses. Notwithstanding chapters 125 and 163, any existing or future charter county charter provision, ordinance, land development regulation, or countywide special act that governs the use, development, or redevelopment of land shall not be effective within or applicable to any municipality of the county unless the charter provision, ordinance, land development regulation, or countywide special act is approved by a majority vote of the electors within the county and a majority vote of the electors within the municipality or is approved by a majority vote of the municipality's governing board. Existing charter provisions and countywide special acts that have been approved by referendum prior to the effective date of this act must be readopted in accordance with this section. However, in the event of a conflict between a countywide ordinance and a municipal ordinance within a charter county that regulates expressive conduct, the more restrictive ordinance shall govern. In addition, the requirements of this section restricting charter county provisions, ordinances, or land development regulations concerning building height restrictions shall not apply within any areas of critical state concern designated pursuant to ss. 380.05-380.0555. This section shall not apply to any county as defined in s. 125.011.

Remove line 4274 and insert:
feasibility"; creating s. 163.3172, F.S.; providing legislative determinations; limiting the effect of certain charter county charter provisions, ordinances, or land development regulations relating to urban infill and redevelopment under certain circumstances; requiring a referendum or approval by the municipality's governing board; providing referendum requirements; amending s. 163.3177, F.S.; revising

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

Representative(s) Ambler offered the following:

(Amendment Bar Code: 182897)

Amendment 4 to Amendment 1—Remove line(s) 10 and 11 and insert:
funding sources for financing capital improvements that have been committed or will be committed for at least any given 3-year period during the life of the project, such as ad valorem taxes, bonds, state and

Rep. Ambler moved the adoption of the amendment to the amendment. Subsequently, **Amendment 4 to Amendment 1** was withdrawn.

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

On motion by Rep. Johnson, the rules were waived and CS for CS for CS for SB 360 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 560

Speaker Bense in the Chair.

Yeas—98

Adams	Culp	Holloway	Planas
Allen	Cusack	Homan	Poppell
Altman	Davis, D.	Hukill	Proctor
Ambler	Davis, M.	Johnson	Quinones
Anderson	Dean	Jordan	Reagan
Antone	Detert	Kendrick	Rice
Arza	Domino	Kottkamp	Richardson
Attkisson	Evers	Kreegel	Rivera
Barreiro	Farkas	Kyle	Robaina
Baxley	Fields	Legg	Ross
Bean	Flores	Littlefield	Rubio
Bendross-Mindingall	Galvano	Llorente	Russell
Bense	Garcia	Lopez-Cantera	Sansom
Benson	Gardiner	Machek	Simmons
Berfield	Gibson, H.	Mahon	Sobel
Bilirakis	Glorioso	Mayfield	Sorensen
Bogdanoff	Goldstein	McInvale	Stansel
Bowen	Goodlette	Meadows	Stargel
Brown	Grant	Mealor	Traviesa
Brummer	Greenstein	Murzin	Troutman
Bullard	Grimsley	Needelman	Waters
Cannon	Harrell	Negron	Williams
Carroll	Hasner	Patterson	Zapata
Clarke	Hays	Peterman	
Cretul	Henriquez	Pickens	

Nays—20

Ausley	Gelber	Justice	Seiler
Brandenburg	Gibson, A.	Porth	Slosberg
Brutus	Gottlieb	Roberson	Smith
Bucher	Jennings	Ryan	Taylor
Gannon	Joyner	Sands	Vana

Votes after roll call:
Yeas to Nays—Bendross-Mindingall

So the bill passed, as amended.

Subsequently, on motion by Rep. Johnson, the House acceded to the request of the Senate to appoint a conference committee.

The Speaker appointed the following to serve as managers on the part of the House on CS for CS for CS for SB 360 to serve with Rep. Johnson, Chair: Reps. Goodlette, Henriquez, and Russell.

The action, together with the bill and amendment thereto, was immediately certified to the Senate.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for CS for SB 1964, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committees on Criminal Justice, Judiciary and Senators Webster, Haridopolos and Lynn—

CS for CS for SB 1964—A bill to be entitled An act relating to compensation for wrongfully incarcerated persons; creating s. 961.01, F.S.; providing a short title; creating s. 961.02, F.S.; defining the term "wrongfully incarcerated person"; requiring courts to determine whether certain persons are wrongfully incarcerated persons; authorizing petitions to the court for a determination of wrongful conviction; creating s. 961.03, F.S.; authorizing compensation for certain wrongfully incarcerated persons; providing exceptions and limitations; creating s. 961.04, F.S.; providing procedures to apply to the Attorney General for compensation; providing for presuit negotiation of compensation; authorizing lawsuits against the state for determination of compensation; requiring a settlement offer and providing for recovery of certain fees and costs; providing for determination of such fees and costs; limiting total compensation; providing for the manner of payment of compensation; providing restrictions on use of compensation; providing timeframes for applying for compensation; creating s. 961.05, F.S.; providing rulemaking authority; providing an effective date.

—was read the first time by title. On motion by Rep. Quinones, the rules were waived and the bill was read the second time by title.

Representative Brutus offered the following:

(Amendment Bar Code: 060161)

Amendment 1 (with title amendment)—On page 2, between lines 15 and 16,

insert:

Section 1. A person convicted of a crime may at any time petition the court for postsentencing DNA testing on physical evidence collected in connection with the case. The court shall order postsentencing DNA testing only if the convicted person asserts under oath that he or she is innocent of the offense and establishes that exculpatory results of the requested DNA testing would create a reasonable probability that, if the test results had been admitted at trial, the person would have been acquitted or received a lesser sentence. If a petitioner was convicted pursuant to a plea of guilty, to obtain an order for DNA testing under this section, the petitioner must first demonstrate to the court that there is a likelihood that the plea was entered under circumstances that render it suspect or the court finds that the interests of justice warrant the requested testing. All government entities shall continue to preserve physical evidence that may be subjected to postsentencing DNA testing until the person convicted of the crime is no longer incarcerated, on probation or parole, or subject to registration as a sex offender. A motion to vacate a conviction or sentence filed under Rule 3.850, Florida Rules of Criminal Procedure, or a motion for postconviction or collateral relief filed under Rule 3.851, Florida Rules of Criminal Procedure, which is based on the results of DNA testing obtained under this section shall be treated as raising a claim of newly discovered evidence, and the time periods set forth in Rules 3.850 and 3.851, Florida Rules of Criminal Procedure, shall commence on the date that the written test results are provided to the parties.

On page 1, lines 2 and 3,
remove: all of said lines

and insert:
An act relating to wrongfully incarcerated persons; providing conditions for postsentencing DNA testing; requiring government entities to preserve certain evidence; providing for a motion to vacate; creating s. 961.01, F.S.;

Rep. Brutus moved the adoption of the amendment. Subsequently, **Amendment 1** was withdrawn.

Representative(s) Pickens, Ausley, and Richardson offered the following:

(Amendment Bar Code: 711947)

Amendment 2 (with title amendment)—On page 8, between lines 17 and 18,

insert:

Section 6. The facts stated in the preamble to this act are found and declared to be true.

Section 7. The City of Tallahassee is authorized and directed to appropriate from funds of the city not otherwise appropriated and to draw a warrant in the sum of $775,000 payable to Sheryl D. Allen and George F. Allen as compensation for injuries and damages sustained due to the negligence of an employee of the city.

On page 1, line 26, through page 2, line 12,

remove: all of said lines

and insert:

providing rulemaking authority; providing for the relief of Sheryl D. Allen and George F. Allen by the City of Tallahassee; providing for an appropriation to compensate Sheryl D. Allen and George F. Allen for injuries and damages sustained as a result of an accident involving Sheryl D. Allen and an employee of the City of Tallahassee; providing an effective date.

WHEREAS, the Legislature finds that wrongfully incarcerated persons have been deprived of their liberty, and

WHEREAS, the Legislature finds that innocent persons who have been wrongfully incarcerated should have the opportunity to lead normal lives, and

WHEREAS, wrongfully incarcerated persons or their families may have expended large sums of money and encumbered real property to defend against wrongful incarceration, and

WHEREAS, the Legislature finds that the incarceration of an innocent person is a taking of a person's liberty for which compensation is due, and

WHEREAS, the Legislature has a responsibility to manage state resources for the benefit of all residents of the state, and

WHEREAS, on December 8, 2001, Sheryl D. Allen was in Tallahassee chaperoning her daughter's Keystone Heights High School Band as they participated in the city's 2001 Winter Festival parade, and

WHEREAS, Sheryl D. Allen was hit by a large trailer/float owned by the City of Tallahassee and driven by a City of Tallahassee employee when the trailer swung wide, leaving the parade disembarkment area, and

WHEREAS, the contact with the trailer knocked Sheryl D. Allen to the ground, resulting in a skull fracture and significant closed-head injury, and

WHEREAS, the accident of December 8, 2001, formed the basis of a negligence action filed against the City of Tallahassee in 2002, and

WHEREAS, the city, after extensive discovery during the litigation, admitted liability, and

WHEREAS, on April 7, 2004, the City of Tallahassee and Sheryl D. Allen and George F. Allen, husband of Sheryl D. Allen, mediated the case prior to trial and reached an agreement whereby the city agreed to pay Sheryl D. Allen and George F. Allen $200,000, pursuant to the limits of liability set forth in s. 768.28, Florida Statutes, and to support the passage of a claims bill in the Legislature for an additional payment of $775,000, and

WHEREAS, the Tallahassee City Commission and the Circuit Court in and for the Second Judicial Circuit approved the settlement agreement reached at mediation, and the city has paid $200,000 to Sheryl D. Allen, George F. Allen, and their attorneys, and

WHEREAS, the City of Tallahassee has agreed to support the filing and passage of this bill and has agreed that, if this act becomes law, the City of Tallahassee, within 30 days after the effective date of this act, will pay an additional $775,000 to Sheryl D. Allen and George F. Allen, NOW, THEREFORE,

Rep. Pickens moved the adoption of the amendment. Subsequently, **Amendment 2** was withdrawn.

Representative(s) Quinones, Planas, and Kottkamp offered the following:

(Amendment Bar Code: 362603)

Amendment 3 (with title amendments)—Remove everything after the enacting clause

and insert:

Section 1. Section 961.01, Florida Statutes, is created to read:

961.01 Short title.--Sections 961.01-961.07 may be cited as the "Wrongful Incarceration Compensation Act."

Section 2. Section 961.02, Florida Statutes, is created to read:

961.02 Definition; finding of wrongful incarceration upon release from incarceration for felony offenses.—

(1) As used in ss. 961.01-961.07, a wrongfully incarcerated person means a person who is actually innocent and who has been ordered released from incarceration for a felony conviction. As used in this act, "actually innocent" means:

(a) The person was charged, by indictment or information, with the commission of an offense classified as a felony; and

(b) The person did not plead guilty or no contest to the offense charged or to any lesser included offense, unless the person was charged with a capital offense; and

(c) The person was convicted of the offense; and

(d) The person was sentenced to incarceration for a term of imprisonment as a result of the conviction; and

(e) The person was imprisoned solely on the basis of the conviction for the offense; and

(f) The person did not, by his or her misconduct or neglect, bring about the prosecution; and

(g) The person's acts did not constitute a crime; and

(h) A court of competent jurisdiction found by clear and convincing evidence that the offense for which the person was convicted, sentenced, and imprisoned, including any lesser included offenses, was not committed by the person and issued an order vacating, dismissing, or reversing the conviction and sentence and providing that no further proceedings can be or will be held against the person on any facts and circumstances alleged in the proceedings which had resulted in the conviction.

Section 3. Section 961.03, Florida Statutes, is created to read:

961.03 Compensation for wrongful incarceration.--

(1) Except as otherwise provided in this section, and subject to the limitations and procedures prescribed in s. 961.04, a person who is found to be a wrongfully incarcerated person may petition the Legislature for reasonable compensation. In determining reasonable compensation, the Legislature may consider the following options:

(a) Loss of wages, salary, or other earned income;

(b) The amount of any fine or court costs imposed and paid;

(c) The amount of any fees paid to the Department of Corrections for any required goods or services received during incarceration;

(d) Loss of assets due to foreclosure, repossession, or other methods of recovery by a creditor;

(e) Loss of savings and interest;

(f) Lost earnings capacity;

(g) The value of services performed for the state while incarcerated;

(h) The reasonable cost of future psychological counseling; and

(i) The reasonable amount of any other losses.

(2) Compensation to a wrongfully incarcerated person may not include punitive or exemplary damages or compensation for pain and suffering, humiliation, loss of consortium, emotional distress, or similar damages. It is the intent of the Legislature to limit compensation of a wrongfully incarcerated person to the compensation and reimbursement of expenses authorized in subsection (1) directly resulting from the wrongful incarceration.

(3) A claimant shall not be eligible for compensation if the claimant was also serving a concurrent felony sentence.

(4) Any person awarded compensation pursuant to this Act who is subsequently convicted of a felony shall, immediately upon such conviction, not be eligible to receive any unpaid amounts or benefits from any compensation awarded. Any amount from an annuity that is forfeited pursuant to this section shall revert to the state General Revenue Fund.

Section 4. Section 961.04, Florida Statutes, is created to read:

961.04 Petition for compensation for wrongful incarceration.--

(1) A wrongfully incarcerated person may petition the Legislature for compensation for losses caused by the incarceration. The petition, at a minimum, must include:

(a) A certified copy of the order finding the applicant to be a wrongfully incarcerated person;

(b) Documentation of the length of the sentence served;

(c) Available documentation of employment prior to incarceration;

(d) Documentation of education attained prior to and during incarceration;

(e) Available documentation of income earned prior to incarceration;

(f) Documentation of encumbrances placed on real property or loans used to pay attorney's fees to defend against or seek release from incarceration;

(g) Documentation of real property in which the applicant owned an interest which has been foreclosed upon due to the incarceration;

(h) Documentation of family status prior to incarceration;

(i) Documentation of criminal history;

(j) Other documentation that the applicant believes should be considered for determining compensation; and

(k) Other documentation, evidence, or information required or requested by the Special Master or the Legislature.

Section 5. Section 961.05, Florida Statutes, is created to read:

961.05 Holistic relief.—The Legislature may make an award of compensation that includes, but is not limited to, any of the following:

(1) HEALTH CARE PLAN.—The Legislature may direct the appropriate state agency to purchase a comprehensive health care plan, including dental and mental health coverage.

(2) EDUCATIONAL ASSISTANCE.—The Legislature may waive tuition and fees for up to a total of 4 years of instruction at any career center established pursuant to section 1001.44, Florida Statutes, at any

community college established under part III of chapter 1004, Florida Statutes, or any state university. The Legislature shall require that for any educational benefit made, the person shall be required to meet and maintain the regular admission requirements of, and be registered at, such career center, community college, or state university and make satisfactory academic progress as defined by the educational institution in which the person is enrolled.

(3) JOB PREFERENCE.—The Legislature may award first preference in employment by the state and its political subdivisions.

(a) If awarded, the Legislature must require that the person must be otherwise eligible for employment with the hiring agency or political subdivision.

(b) If awarded, the Legislature must require that the job preference benefits awarded do not apply to positions that are exempt from the State Career Service System under section 110.205(2), Florida Statutes, positions which are filled by officers elected by popular vote or persons appointed to fill vacancies in such offices, members of boards and commissions, persons employed on a temporary basis without benefits, heads of departments, and positions that require licensure as a physician, osteopathic physician, chiropractic physician, engineer, or membership in The Florida Bar.

(4) WAIVER OF FEES.—The Legislature may waive any statutory fees required to expunge any arrest or court records as otherwise subject to expunction by law or court rule and shall waive any fees for copying costs or other costs of obtaining public records in furtherance of such expunction.

(5) MONETARY COMPENSATION.--Reasonable compensation as provided in s. 961.03, may be provided in an amount to be determined by the Legislature.

(6) Any compensation computed pursuant to subsection (5) may be awarded in a lump sum or may be paid in an initial lump sum equal to 20 percent of the compensation award with the remaining 80 percent of the principal of the compensation award to be used by the Chief Financial Officer to purchase an annuity. If the Legislature directs that an annuity be purchased, the Legislature must provide for the following:

(a) That any annuity purchased shall be purchased from any A+ rated company, to provide equal monthly installments to the claimant for a period certain of a stated number of years commencing no later than 1 year after the effective date of the appropriation;

(b) That the annuity shall provide that it shall not be sold, discounted, or used as security for loans and mortgages by the claimant; and

(c) That the annuity shall contain beneficiary provisions providing for the annuity's continued disbursement in the event of the death of the claimant, subject to the provisions of s. 961.03(4).

(7) An applicant for compensation under this section must apply for compensation by July 1, 2007, or within 2 years after he or she is ordered released from incarceration, whichever occurs later.

Section 6. Section 961.06, Florida Statutes, is created to read:

961.06 Sovereign immunity; limits of liability; release and waiver; collateral sources.—

(1) Any award of relief pursuant to this Act shall not be deemed to have waived any defense of sovereign immunity or to have increased the limits of liability on behalf of the state or any person or entity subject to the provisions of s. 768.28, Florida Statutes.

(2) As a condition of receiving any compensation under this Act, a person shall execute a release and waiver on behalf of the person or his or her heirs, successors, and/or assigns forever releasing the State of Florida or any agency, instrumentality, officer, employee, or political subdivision thereof, or any other entity subject to the provisions of s. 768.28, Florida Statutes, from any and all present or future claims the person or his or her heirs, successors, and/or assigns may have against such enumerated entities and arising out of the factual situation in connection with the conviction for which the compensation is being sought under this Act.

(3) The person is not eligible for compensation if the person was awarded a final judgment in a court of law, or has received any funds pursuant to a settlement agreement for compensation or damages arising out of the factual situation in connection with the conviction for which compensation is sought under this Act.

Section 7. Section 961.07, Florida Statutes, is created to read:

961.07 Attorney's and Lobbyist's Fees.--

Attorney's and lobbyist's fees are subject to the provisions of section 768.28(8), Florida Statutes. No compensation shall be made for attorney's fees charged for legal services relating to a finding of actual innocence as defined by this Act.

Section 8. This act shall take effect July 1, 2005.

Remove the entire title

and insert:

A bill to be entitled

An act relating to compensation for wrongfully incarcerated persons; creating s. 961.01, F.S.; providing a short title; creating s. 961.02, F.S.; defining the term "actually innocent"; requiring court findings; creating s. 961.03, F.S.; authorizing petitions to the Legislature for reasonable compensation; authorizing compensation for certain wrongfully incarcerated persons; providing exceptions and limitations; creating s. 961.04, F.S.; providing procedures to petition the Legislature for compensation; creating s. 961.05, F.S.; providing for non-monetary and monetary relief; providing for the manner of payment of compensation; providing timeframes for applying for compensation; creating s. 961.06, F.S.; providing for the preservation of sovereign immunity; providing for release and waiver; providing for collateral sources; creating s. 961.07, F.S.; providing for attorney's and lobbyist's fees; providing an effective date.

Rep. Quinones moved the adoption of the amendment.

Representative Brutus offered the following:

(Amendment Bar Code: 923257)

Amendment 1 to Amendment 3 (with title amendment)—Between lines 208 and 209 insert:

Section 8.

(1) A person convicted of a crime may at any time petition the court for postsentencing DNA testing on physical evidence collected in connection with the case.

(2) The court shall order postsentencing testing only if the convicted person asserts under oath that he or she is innocent of the offense, and establishes that exculpatory results of the requested DNA testing would create a reasonable probability that, if the test results had been admitted at trial, the person would have been acquitted or received a lesser sentence.

(3) If a petitioner was convicted pursuant to a plea of guilty, in to obtain an order for DNA testing under this section, he or she must first demonstrate to the court that there is a likelihood that the plea was entered under circumstances that render it suspect, or the court finds that the interests of justice warrant the requested testing.

(4) All government entities shall continue to preserve physical evidence that may be subjected to postsentencing DNA testing until the person convicted of the crime is no longer incarcerated, on probation or parole, or subject to registration as a sexual offender or sexual predator.

(5) A motion to vacate a conviction or sentence filed under Rule 3.850, Florida Rules of Criminal Procedure, or a motion for postconviction or collateral relief filed under Rule 3.851, Florida Rules of Criminal Procedure, which is based on the results of DNA testing obtained under this section, shall be treated as raising a claim of newly-discovered evidence and the time periods set forth in rules 3.850 and 3.851, Florida Rules of Criminal Procedure, shall commence on the date that the written test results are provided to the parties.

Remove line 234 and insert:

lobbyist's fees; providing for a petition for postconviction DNA testing; providing requirements for orders for such testing; requiring preservation of physical evidence that may be subjected to postsentencing DNA testing; providing for application of specified rules of criminal procedure; providing an effective date.

Rep. Brutus moved the adoption of the amendment to the amendment. Subsequently, **Amendment 1 to Amendment 3** was withdrawn.

The question recurred on the adoption of **Amendment 3**, which was adopted.

On motion by Rep. Quinones, the rules were waived and CS for CS for SB 1964 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 561

Speaker Bense in the Chair.

Yeas—116

Adams	Cusack	Homan	Proctor
Allen	Davis, D.	Hukill	Quinones
Altman	Davis, M.	Jennings	Reagan
Ambler	Dean	Johnson	Rice
Anderson	Detert	Jordan	Richardson
Antone	Domino	Justice	Rivera
Arza	Evers	Kendrick	Robaina
Attkisson	Farkas	Kottkamp	Roberson
Ausley	Fields	Kreegel	Ross
Barreiro	Flores	Kyle	Rubio
Baxley	Galvano	Legg	Russell
Bean	Gannon	Littlefield	Ryan
Bendross-Mindingall	Garcia	Llorente	Sands
Bense	Gardiner	Lopez-Cantera	Sansom
Benson	Gelber	Machek	Seiler
Berfield	Gibson, A.	Mahon	Simmons
Bilirakis	Gibson, H.	Mayfield	Slosberg
Bogdanoff	Glorioso	McInvale	Smith
Bowen	Goldstein	Meadows	Sobel
Brandenburg	Goodlette	Mealor	Sorensen
Brown	Gottlieb	Murzin	Stansel
Brummer	Grant	Needelman	Stargel
Brutus	Greenstein	Negron	Taylor
Bullard	Grimsley	Patterson	Traviesa
Cannon	Harrell	Peterman	Troutman
Carroll	Hasner	Pickens	Vana
Clarke	Hays	Planas	Waters
Cretul	Henriquez	Poppell	Williams
Culp	Holloway	Porth	Zapata

Nays—2

Bucher Joyner

Votes after roll call:
Nays to Yeas—Joyner

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

On motion by Rep. Mayfield, consideration of **SB 670** was temporarily postponed.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 989, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 989—A bill to be entitled An act relating to public marinas and boat ramps; amending s. 373.118, F.S.; directing the Department of Environmental Protection to adopt rules to authorize local governments to construct and maintain all facilities, including public marinas and boat ramps; exempting certain facilities from development-of-regional-impact review; providing for regulatory criteria; providing for the use of submerged lands; amending s. 403.813, F.S.; revising permit exemption requirements for floating vessel platforms or floating boat lifts; providing an effective date.

(Amendment Bar Code: 634986)

Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause

and insert:
Section 1. Subsection (12) is added to section 403.814, Florida Statutes, to read:
403.814 General permits; delegation.--
(12) The department shall adopt by rule one or more general permits for local governments to construct, operate, and maintain public marina facilities, public mooring fields, public boat ramps, including associated courtesy docks, and associated parking facilities located in uplands. Such general permits adopted by rule shall include provisions to ensure compliance with part IV of this chapter, section 373.118(1), and the criteria necessary to include the general permits in a state programmatic general permit issued by the United States Army Corps of Engineers under s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq. A facility authorized under such general permits is exempt from review as a development of regional impact if the facility complies with the comprehensive plan of the applicable local government. Such facilities shall be consistent with the local government manatee protection plan required pursuant to ch. 370, F.S., and shall obtain Clean Marina Program status prior to opening for operation and maintain that status for the life of the facility. Marinas and mooring fields authorized under any such general permit shall not exceed an area of 50,000 square feet over wetlands and other surface waters. All facilities permitted under this section shall be constructed, maintained, and operated in perpetuity for the exclusive use of the general public. The department shall initiate the rulemaking process within 60 days after the effective date of this act.
Section 2. This act shall take effect July 1, 2005.

And the title is amended as follows:
Delete everything before the enacting clause

and insert:
A bill to be entitled
An act relating to public marina facilities and boat ramps; amending s. 403.814, F.S.; authorizing the Department of Environmental Protection to allow such facilities or ramps to be constructed and maintained by local governments; providing guidelines and limitations relating to such projects; providing for fees; providing an effective date.

Representatives Bowen, Mayfield, and Seiler offered the following:

(Amendment Bar Code: 924653)

House Amendment 1 to Senate Amendment 1 (with title

amendment)—On page 1, between lines 16 and 17, insert:

Section 1. Section 327.803, Florida Statutes, is amended to read:

327.803 Boating Advisory Council.--

(1) The Boating Advisory Council is created within the Fish and Wildlife Conservation Commission and shall be composed of 18 ~~17~~ members. The members include:

(a) One representative from the Fish and Wildlife Conservation Commission, who shall serve as the chair of the council.

(b) One representative each from the Department of Environmental Protection, the United States Coast Guard Auxiliary, the United States Power Squadron, and the inland navigation districts.

(c) One representative of manatee protection interests, one representative of the marine industries, one representative ~~two representatives~~ of water-related environmental groups, one representative of canoe or kayak enthusiasts, one representative of marine manufacturers, one representative of commercial vessel owners or operators, one representative of marine special events ~~sport boat racing~~, one representative actively involved and working full-time in the scuba diving industry who has experience in recreational boating, one representative of either the commercial fishing industry or the commercial shellfishing industry, and two representatives of the boating public, each of whom shall be nominated by the executive director of the Fish and Wildlife Conservation Commission and appointed by the Governor to serve staggered 3-year ~~2 year~~ terms. Members appointed by the Governor may serve no more than two full consecutive terms.

(d) One member of the House of Representatives, who shall be appointed by the Speaker of the House of Representatives.

(e) One member of the Senate, who shall be appointed by the President of the Senate.

(2) The council shall meet at the call of the chair, at the request of a majority of its membership, or at such times as may be prescribed by rule.

(3) The purpose of the council is to make recommendations to the Fish and Wildlife Conservation Commission and the Department of Community Affairs regarding issues affecting the boating community, including, but not limited to, issues related to:

(a) Boating and diving safety education.

(b) Boating-related facilities, including marinas and boat testing facilities.

(c) Boat usage.

(d) Boat access.

(e) Working waterfronts.

(4) Members of the council shall serve without compensation but are entitled to reimbursement of expenses as provided in s. 112.061.

(5) A vacancy on the council shall be filled for the remainder of the unexpired term in the same manner as the original appointment. Members whose terms have expired may continue to serve until replaced or reappointed.

(6) Members of the council may be removed for cause.

Section 2. Paragraphs (d) and (e) of subsection (2) of section 370.06, Florida Statutes, are amended to read:

370.06 Licenses.--

(2) SALTWATER PRODUCTS LICENSE.--

(d) A saltwater products license may be issued in the name of an individual or a valid commercial vessel ~~boat~~ registration number. However, a firm or corporation may only receive a license issued to a valid commercial vessel registration number. A saltwater products license may not be transferred by the licenseholder to another individual, firm, or corporation. ~~Such license is not transferable.~~ A decal shall be issued with each saltwater products license issued to a valid commercial vessel ~~boat~~ registration number. The saltwater products license decal shall be the same color as the vessel registration decal issued each year pursuant to s. 328.48(5) and shall indicate the period of time such license is valid. The saltwater products license decal shall be placed beside the vessel registration decal and, in the case of an undocumented vessel, shall be placed so that the vessel registration decal lies between the commercial vessel registration number and the saltwater products license decal. Any saltwater products license decal for a previous year shall be removed from a vessel operating on the waters of the state.

(e) The annual fee for a saltwater products license is:

1. For a license issued in the name of an individual which authorizes only that individual to engage in commercial fishing activities from the shore or a vessel: a resident must pay $50; a nonresident must pay $200; or an alien must pay $300.

2. For a license issued in the name of an individual which authorizes that named individual to engage in commercial fishing activities from the shore or a vessel and also authorizes each person who is fishing with the named individual aboard a vessel to engage in such activities: a resident must pay $150; a nonresident must pay $600; or an alien must pay $900.

3. For a license issued to a valid commercial vessel registration number which authorizes each person aboard such registered vessel to engage in commercial fishing activities: a resident, or a resident firm or corporation, must pay $100; a nonresident, or a nonresident firm or corporation, must pay $400; or an alien, or an alien firm or corporation, must pay $600. For purposes of this subparagraph, a resident firm or corporation means a firm or corporation formed under the laws of this state; a nonresident firm or corporation means a firm or corporation formed under the laws of any state other than Florida; and an alien firm or corporation means a firm or corporation organized under any laws other than laws of the United States, any United States territory or possession, or any state of the United States. ~~A resident shall pay an annual license fee of $50 for a saltwater products license issued in the name of an individual or $100 for a saltwater products license issued to a valid boat registration number. A nonresident shall pay an annual license fee of $200 for a saltwater products license issued in the name of an individual or $400 for a saltwater products license issued to a valid boat registration number. An alien shall pay an annual license fee of $300 for a saltwater products license issued in the name of an individual or $600 for a saltwater products license issued to a valid boat registration number.~~

Section 3. Paragraph (b) of subsection (1) of section 370.13, Florida Statutes, is amended to read:

370.13 Stone crab; regulation.--

(1) FEES AND EQUITABLE RENT.--

(b) Certificate fees.--

1. For each trap certificate issued by the commission under the requirements of the stone crab trap limitation program established by commission rule, there is an annual fee of $.50 per certificate. Replacement tags for lost or damaged tags cost $.50 each, except that tags lost in the event of a major natural disaster declared as an emergency disaster by the Governor shall be replaced for the cost of the tag as incurred by the commission.

2. The fee for transferring trap certificates is $1 per certificate transferred, except that the fee for eligible crew members is 50 cents per certificate transferred. ~~Except for transfers to~~ Eligible crew members shall be ~~as~~ determined according to criteria established by rule of the commission~~, the fee for transferring certificates is $2 per certificate transferred to be paid by the purchaser of the certificate or certificates. The transfer fee for eligible crew members is $1 per certificate.~~ Payment must be made by money order or cashier's check, submitted with the certificate transfer form developed by the commission.

3. In addition to the transfer fee, a surcharge of $1 ~~$2~~ per certificate transferred, or 25 percent of the actual value of the transferred certificate, whichever is greater, will be assessed the first time a certificate is transferred outside the original holder's immediate family.

4. Transfer fees and surcharges only apply to the actual number of certificates received by the purchaser. A transfer of a certificate is not effective until the commission receives a notarized copy of the bill of sale as proof of the actual value of the transferred certificate or certificates, which must also be submitted with the transfer form and payment.

5. A transfer fee will not be assessed or required when the transfer is within a family as a result of the death or disability of the certificate owner. A surcharge will not be assessed for any transfer within an individual's immediate family.

6. The fees and surcharge amounts in this paragraph apply in the 2005-2006 license year and subsequent years.

Section 4. Section 372.674, Florida Statutes, is repealed.

Section 5. Paragraph (d) of subsection (2) of section 372.672, Florida Statutes, is amended to read:

372.672 Florida Panther Research and Management Trust Fund.--

(2) Money from the fund shall be spent only for the following purposes:

~~(d) To fund and administer education programs authorized in s. 372.674.~~

On page 2, lines 24 and 25, remove said lines and insert:

An act relating to regulating natural resources; amending s. 327.803, F.S.; revising the membership of the Boating Advisory Council; increasing the terms of office of members appointed by the Governor and limiting the number of consecutive terms they may serve; adding issues upon which the council makes recommendations to the commission and the Department of Community Affairs; authorizing reimbursement of expenses for members of the council; providing for the filling of vacancies; providing for members of the council to be removed for cause; amending s. 370.06, F.S.; providing for receipt of a saltwater products license issued by the commission to a firm or corporation; revising a provision barring transfer of a saltwater products license; revising a provision regarding the annual fee that an individual, firm, or corporation must pay for a license; providing for an increase in annual saltwater products license fees; providing definitions; amending s. 370.13, F.S.; reducing stone crab trap certificate transfer fees; reducing surcharge fees; repealing s. 372.674, F.S., relating to environmental education and the Advisory Council on Environmental Education; amending s. 372.672, F.S., relating to the Florida Panther Research and Management Trust Fund, to conform; amending s. 373.118, F.S.;

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

Point of Order

Rep. Bucher raised a point of order, under Rule 12.8(a)(1), that the amendment to the amendment was not germane.

The Chair [Speaker Bense] referred the point to the Rules & Calendar Council for a recommendation. Pending a ruling, further consideration of the amendment to the amendment was temporarily postponed.

Representatives Bowen, Mayfield and Seiler offered the following:

(Amendment Bar Code: 913859)

House Amendment 2 to Senate Amendment 1 (with directory and title amendments)—On page 1, lines 17 through 20, remove said lines and insert:

Section 1. Subsection (5) is added to section 373.118, Florida Statutes, to read:

373.118 General permits; delegation.--

(5) The department shall adopt by rule one or more

On page 2, line 25, remove all of said line and insert:

boat ramps; amending s. 373.118, F.S.;

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

Point of Order

Subsequently, Rep. Bucher withdrew the point of order.

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

Further consideration of **HB 989** was temporarily postponed.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 291, with amendments, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 291—A bill to be entitled An act relating to condominiums; amending s. 718.301, F.S.; providing for the effect of actions taken by members of the board of administration of an association designated by the developer; requiring examination and certification of certain defects by certain licensed individuals or entities; providing an effective date.

(Amendment Bar Code: 502692)

Senate Amendment 2 (with title amendment)—On page 1, between lines 10 and 11,

insert:

Section 1. Section 718.117, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 718.117, F.S., for present text.)

718.117 Termination of condominium.--

(1) TERMINATION BECAUSE OF ECONOMIC WASTE OR IMPOSSIBILITY.--Notwithstanding any provision to the contrary in the declaration, the condominium form of ownership of a property in which fewer than 75 percent of the units are timeshare units may be terminated by a plan of termination approved by the lesser of a majority of the total voting interests or as otherwise provided in the declaration for approval of termination, in the following circumstances:

(a) When the total estimated cost of repairs necessary to restore the improvements to their former condition or bring them into compliance with applicable laws or regulations exceeds the combined fair market value of all units in the condominium after completion of the repairs; or

(b) When it becomes impossible to operate a condominium in its prior physical configuration because of land-use laws or regulations.

(2) OPTIONAL TERMINATION.--Except as provided in subsections (1) and (3) and unless otherwise provided in the declaration, the condominium form of ownership of the property may be terminated pursuant to a plan of termination approved by at least 80 percent of the total voting interests of the condominium. Unless the declaration of a condominium containing timeshare units provides for lower percentages, a condominium in which 75 percent or more of the units are timeshare units may only be terminated pursuant to a plan of termination approved by 80 percent of the total voting interests of the association and the holders of 80 percent of the original principal amount of outstanding recorded mortgage liens on timeshare estates in the condominium.

(3) If 80 percent of the total voting interests fail to approve the plan of termination but less than 20 percent of the total voting interests disapprove of the plan, the circuit court shall have jurisdiction to entertain a petition by the association or by one or more unit owners and approve the plan of termination, and the action may be a class action.

(a) All unit owners and the association must be joined as parties to the action. Service of process on unit owners may be by publication, but the plaintiff must furnish every unit owner not personally served with process with a copy of the petition and plan of termination and the final decree of the court by mail at the unit owner's last known residential address.

(b) Upon determining that the rights and interests of the unit owners are equitably set forth in the plan of termination as required by this section, the plan of termination may be approved by the court. Consistent with the provisions of this section, the court may modify the plan of termination to provide for an equitable distribution of the interest of unit owners before approving the plan of termination.

(c) This subsection does not apply to condominiums in which 75

percent or more of the units are timeshare units.

(4) EXEMPTION.--A plan of termination is not an amendment subject to s. 718.110(4).

(5) MORTGAGE LIENHOLDERS.--Notwithstanding any provision to the contrary in the declaration or this chapter, approval of a plan of termination by the holder of a recorded mortgage lien affecting a condominium parcel in a condominium property in which fewer than 75 percent of the units are timeshare units is not required unless the plan of termination will result in less than the full satisfaction of the mortgage lien affecting the parcel.

(6) POWERS IN CONNECTION WITH TERMINATION.--The association shall continue in existence following approval of the plan of termination, with all powers it had before approval of the plan. Notwithstanding any contrary provision in the declaration or bylaws, after approval of the plan, the board has the power and duty:

(a) To employ directors, agents, attorneys, and other professionals to liquidate or conclude its affairs.

(b) To conduct the affairs of the association as necessary for the liquidation or termination.

(c) To carry out contracts and collect, pay, and settle debts and claims for and against the association.

(d) To defend suits brought against the association.

(e) To sue in the name of the association for all sums due or owed to the association or to recover any of its property.

(f) To perform any act necessary to maintain, repair, or demolish unsafe or uninhabitable improvements or other condominium property in compliance with applicable codes.

(g) To sell at public or private sale or to exchange, convey, or otherwise dispose of assets of the association for an amount deemed to be in the best interest of the association, and to execute bills of sale and deeds of conveyance in the name of the association.

(h) To collect and receive rents, profits, accounts receivable, income, maintenance fees, special assessments, or insurance proceeds for the association.

(i) To contract and do anything in the name of the association which is proper or convenient to terminate the affairs of the association.

(7) NATURAL DISASTERS.--

(a) If, after a natural disaster, the identity of the directors or their right to hold office is in doubt, if they are deceased or unable to act, if they fail or refuse to act, or if they cannot be located, any interested person may petition the circuit court to determine the identity of the directors or, if found to be in the best interest of the unit owners, to appoint a receiver to conclude the affairs of the association after a hearing following notice to such persons as the court directs.

(b) The receiver shall have all powers given to the board pursuant to the declaration, bylaws, or subsection (6), and any other powers that are necessary to conclude the affairs of the association and are set forth in the order of appointment. The appointment of the receiver is subject to the bonding requirements of such order. The order shall also provide for the payment of a reasonable fee to the receiver from the sources identified in the order, which may include rents, profits, incomes, maintenance fees, or special assessments collected from the condominium property.

(8) PLAN OF TERMINATION.--The plan of termination must be a written document executed in the same manner as a deed by unit owners having the requisite percentage of voting interests to approve the plan and by the termination trustee. A unit owner may document assent to the plan of termination by executing the plan or consent to or joinder in the plan in the manner of a deed. A plan of termination and the consents or joinders of unit owners and, if required, consents or joinders of mortgagees must be recorded in the public records of each county in which any portion of the condominium is located. The plan of termination is effective only upon recordation or at a later date specified in the plan.

(9) PLAN OF TERMINATION; REQUIRED PROVISIONS.--The plan of termination must specify:

(a) The name, address, and powers of the termination trustee;

(b) A date after which the plan of termination is void if it has not been recorded;

(c) The interest of the respective unit owners in the association property, common surplus, and other assets of the association, which shall be the same as the respective interests of the unit owners in the common elements immediately before the termination;

(d) The interests of the respective unit owners in any proceeds from any sale of the condominium property. If, pursuant to the plan of termination, condominium property or real property owned by the association is to be sold following termination, the plan must provide for the sale and may establish any minimum sale terms; and

(e) Any interests of the respective unit owners in any insurance proceeds or condemnation proceeds that are not used for repair or reconstruction. Unless the declaration expressly addresses the distribution of insurance proceeds or condemnation proceeds, the plan of termination may apportion those proceeds pursuant to the methods prescribed in subsection (11).

(10) PLAN OF TERMINATION; OPTIONAL PROVISIONS.--The plan of termination may provide:

(a) That each unit owner retains the exclusive right of possession to the portion of the real estate that formerly constituted the unit, in which case the plan must specify the conditions of possession.

(b) In the case of a conditional termination, the plan must specify the conditions for termination. A conditional plan will not vest title in the termination trustee until the plan and a certificate executed by the association with the formalities of a deed, confirming that the conditions in the conditional plan have been satisfied or waived by the requisite percentage of the voting interests, has been recorded.

(11) ALLOCATION OF PROCEEDS OF SALE OF CONDOMINIUM PROPERTY.--

(a) Unless the declaration expressly provides for the allocation of the proceeds of sale of condominium property, the plan of termination must first apportion the proceeds between the aggregate value of all units and the value of the common elements, based on their respective fair-market values immediately before the termination, as determined by one or more independent appraisers selected by the association or termination trustee.

(b) The portion of proceeds allocated to the units shall be further apportioned among the individual units. The apportionment is deemed fair and reasonable if it is determined by any of the following methods:

1. The respective value of the units based on the fair-market values of the units immediately before the termination, as determined by one or more independent appraisers selected by the association or termination trustee;

2. The respective value of the units based on the most recent market value of the units before the termination, as provided in the county property appraiser's records; or

3. The respective interests of the units in the common elements specified in the declaration immediately before the termination.

(c) The methods of apportionment in paragraph (b) do not prohibit any other method of apportioning the proceeds of sale allocated to the units agreed upon in the plan of termination. The portion of the proceeds allocated to the common elements shall be apportioned among the units based upon their respective interests in the common elements as provided in the declaration.

(d) Liens that encumber a unit shall be transferred to the proceeds of sale of the condominium property attributable to such unit in their same priority. The proceeds of any sale of condominium property pursuant to a plan of termination may not be deemed to be common surplus or association property.

(12) TERMINATION TRUSTEE.--The association shall serve as termination trustee unless another person is appointed in the plan of termination. If the association is unable, unwilling, or fails to act as trustee, any unit owner may petition the court to appoint a trustee. Upon recording or at a later date specified in the plan, title to the condominium property vests in the trustee. Unless prohibited by the plan, the trustee shall be vested with the powers given to the board pursuant to the declaration, bylaws, and subsection (6). If the association is not the

termination trustee, the trustee's powers shall be co-extensive with those of the association to the extent not prohibited in the plan of termination or the order of appointment. If the association is not the trustee, the association shall transfer any association property to the trustee. If the association is dissolved, the trustee shall also have such other powers necessary to conclude the affairs of the association.

(13) TITLE VESTED IN TERMINATION TRUSTEE.--If termination is pursuant to a plan of termination under subsection (1) or subsection (2), the unit owners' rights as tenants in common in undivided interests in the condominium property vest in the termination trustee when the plan is recorded or at a later date specified in the plan. The unit owners thereafter become the beneficiaries of proceeds realized from any plan of termination. The termination trustee may deal with the condominium property or any interest therein if the plan confers to the trustee the authority to protect, conserve, manage, sell, or dispose of the condominium property. The trustee, on behalf of the unit owners, may contract for the sale of real property, but the contract is not binding on the unit owners until the plan is approved pursuant to subsection (1) or subsection (2).

(14) NOTICE.--

(a) Within 30 days after a plan of termination has been recorded, the termination trustee shall deliver by certified mail, return receipt requested, notice to all unit owners, lienors of the condominium property, and lienors of all units at their last known addresses that a plan of termination has been recorded. The notice shall include the book and page number of the public records where the plan is recorded, notice that a copy of the plan shall be furnished upon written request, and notice that the unit owner or lienor has the right to contest the fairness of the plan.

(b) The trustee, within 30 days after the effective date of the plan, shall provide to the division a certified copy of the recorded plan, the date the plan was recorded, and the county, book, and page number of the public records where it was recorded.

(15) RIGHT TO CONTEST.--A unit owner or lienor may contest a plan of termination by initiating a summary procedure pursuant to s. 51.011 within 90 days after the date the plan is recorded. A unit owner or lienor who does not contest the plan is barred from asserting or prosecuting a claim against the association, the termination trustee, any unit owner, or any successor in interest to the condominium property. In an action contesting a plan of termination, the person contesting the plan has the burden of pleading and proving that the apportionment of the proceeds from the sale among the unit owners was not fair and reasonable. The apportionment of sale proceeds is presumed fair and reasonable if it was determined pursuant to the methods prescribed in subsection (11). The court shall adjudge the rights and interests of the parties and order the plan of termination to be implemented if it is fair and reasonable. The court shall void a plan that is determined not to be fair and reasonable. In such action the prevailing party may recover reasonable attorney's fees and costs.

(16) DISTRIBUTION.--Following termination of the condominium, the condominium property, association property, common surplus, and other assets of the association shall be held by the termination trustee, as trustee for unit owners and holders of liens on the units, in their order of priority.

(a) Not less than 30 days prior to the first distribution, the termination trustee shall deliver by certified mail, return receipt requested, a notice of the estimated distribution to all unit owners, lienors of the condominium property, and lienors of each unit at their last known address stating a good-faith estimate of the amount of the distributions to each class and the procedures and deadline for notifying the termination trustee of any objections to the amount. The deadline must be at least 15 days after the date the notice was mailed. The notice may be sent with or after the notice required by subsection (14). If a unit owner or lienor files an objection with the termination trustee, the trustee does not have to distribute the funds and property allocated to the respective unit owner and lienor until the trustee has had a reasonable time to determine the validity of the adverse claims. In the alternative, the trustee may interplead the unit owner, lienor, and any other person claiming an interest in the unit and deposit the funds allocated to the unit in the court registry, at which time the condominium property, association property, common surplus, and other assets of the association are free of all claims and liens of the parties to the suit. In an interpleader action, the trustee and prevailing party may recover reasonable attorney's fees and costs and court costs.

(b) The proceeds of any sale of condominium or association property and any remaining condominium or association property, common surplus, and other assets shall be distributed in the following priority:

1. To pay the costs of implementing the plan of termination, including demolition, removal, and disposal fees, termination trustee's fees and costs, accounting fees and costs, and attorney's fees and costs.

2. To lienholders for liens recorded prior to the recording of the declaration.

3. To lienholders for liens of the association which have been consented to under s. 718.121.

4. To creditors of the association, as their interests appear.

5. To unit owners, the proceeds of any sale of condominium property subject to satisfaction of liens on each unit in their order of priority, in shares specified in the plan of termination, unless objected to by a unit owner or lienor.

6. To unit owners, the remaining condominium property, subject to satisfaction of liens on each unit in their order of priority, in shares specified in the plan of termination, unless objected to by a unit owner or a lienor.

7. To unit owners, the proceeds of any sale of association property, the remaining association property, common surplus, and other assets of the association, subject to satisfaction of liens on each unit in their order of priority, in shares specified in the plan of termination, unless objected to by a unit owner or a lienor.

(c) After determining that all known debts and liabilities of an association in the process of termination have been paid or adequately provided for, the termination trustee shall distribute the remaining assets pursuant to the plan of termination. If the termination is by court proceeding or subject to court supervision, the distribution may not be made until any period for the presentation of claims ordered by the court has passed.

(d) Assets held by an association upon a valid condition requiring return, transfer, or conveyance, which condition has occurred or will occur, shall be returned, transferred, or conveyed in accordance with the condition. The remaining association assets shall be distributed pursuant to paragraph (b).

(e) Distribution may be made in money, property, or securities and in installments or as a lump sum, if it can be done fairly and ratably and in conformity with the plan of termination. Distribution shall be made as soon as is reasonably consistent with the beneficial liquidation of the assets.

(17) ASSOCIATION STATUS.--The termination of a condominium does not change the corporate status of the association that operated the condominium property. The association continues to exist to conclude its affairs, prosecute and defend actions by or against it, collect and discharge obligations, dispose of and convey its property, and collect and divide its assets, but not to act except as necessary to conclude its affairs.

(18) CREATION OF ANOTHER CONDOMINIUM.--The termination of a condominium does not bar the creation, by the termination trustee, of another condominium affecting any portion of the same property.

(19) EXCLUSION.--This section does not apply to the termination of a condominium incident to a merger of that condominium with one or more other condominiums under s. 718.110(7).

(Redesignate subsequent sections.)

And the title is amended as follows:
On page 1, line 2, after the semicolon,

insert:

amending s. 718.117, F.S.; substantially revising provisions relating to the termination of the condominium form of ownership of a property; providing grounds; providing powers and duties of the board of administration of the association; waiving certain notice requirements following natural disasters; providing requirements for a plan of termination; providing for the allocation of proceeds from the sale of condominium property; providing powers and duties of a termination trustee; providing notice requirements; providing a procedure for contesting a plan of termination; providing rules for the distribution of property and sale proceeds; providing for the association's status following termination; allowing the creation of another condominium by the trustee; providing exceptions for certain condominiums containing a certain percentage of timeshare units;

On motion by Rep. Evers, the House refused to concur in Senate Amendment 2 and requested the Senate to recede therefrom. The action, together with the bill and amendment thereto, was immediately certified to the Senate.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for CS for SB 2502, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committees on Governmental Oversight and Productivity, Environmental Preservation and Senator Dockery—

CS for CS for SB 2502—A bill to be entitled An act relating to water management districts; creating s. 373.1135, F.S.; authorizing each water management district to establish a small business program to encourage small businesses, including those owned by women and minorities, to participate in district procurement and contract activities; amending s. 373.073, F.S.; allowing a water management district government board member to serve until a replacement has been appointed; amending s. 373.414, F.S.; allowing a petition for a jurisdictional declaratory statement to be submitted to the Department of Environmental Protection or a water management district on or before June 1, 1994; amending s. 373.0361, F.S.; extending a deadline for water management districts to update certain regional water supply plans; providing an effective date.

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

Session Vote Sequence: 562

Speaker Bense in the Chair.

Yeas—116

Adams	Bendross-Mindingall	Bullard	Fields
Allen	Bense	Cannon	Flores
Altman	Benson	Carroll	Galvano
Ambler	Berfield	Clarke	Gannon
Anderson	Bilirakis	Cretul	Garcia
Antone	Bogdanoff	Cusack	Gardiner
Arza	Bowen	Davis, D.	Gelber
Attkisson	Brandenburg	Davis, M.	Gibson, A.
Ausley	Brown	Dean	Gibson, H.
Barreiro	Brummer	Detert	Glorioso
Baxley	Brutus	Evers	Goldstein
Bean	Bucher	Farkas	Goodlette
Gottlieb	Kottkamp	Peterman	Sands
Grant	Kreegel	Pickens	Sansom
Greenstein	Kyle	Planas	Seiler
Grimsley	Legg	Poppell	Simmons
Harrell	Littlefield	Porth	Slosberg
Hasner	Llorente	Proctor	Smith
Hays	Lopez-Cantera	Quinones	Sobel
Henriquez	Machek	Reagan	Sorensen
Holloway	Mahon	Rice	Stansel
Homan	Mayfield	Richardson	Stargel
Hukill	McInvale	Rivera	Taylor
Jennings	Meadows	Robaina	Traviesa
Johnson	Mealor	Roberson	Troutman
Jordan	Murzin	Ross	Vana
Joyner	Needelman	Rubio	Waters
Justice	Negron	Russell	Williams
Kendrick	Patterson	Ryan	Zapata

Nays—None

Votes after roll call:
Yeas—Culp

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

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 113, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 113—A bill to be entitled An act relating to construction contracting; amending s. 255.05, F.S.; making certain restrictions in bonds issued for public works projects unenforceable; amending s. 489.118, F.S.; postponing a date for submitting an application for a certificate as a registered contractor; amending ss. 489.129 and 489.533, F.S.; increasing an administrative fine under certain disciplinary proceeding provisions; amending s. 713.015, F.S.; revising form criteria for a direct contract provision; preserving lien and bond rights of certain persons; specifying nonapplication to certain contractors or construction professionals; amending s. 713.02, F.S.; protecting the rights of certain persons to enforce certain contract, lien, or bond remedies or contractual obligations under certain circumstances; precluding certain defenses; amending s. 713.04, F.S.; revising certain final payment requirements; amending s. 713.08, F.S.; requiring a claim of lien to be served on an owner; amending s. 713.13, F.S.; revising provisions authorizing use of certain payment bonds to transfer certain recorded liens; specifying application of certain notice requirements to certain claims; revising time limits for serving certain required notices; amending s. 713.135, F.S.; revising certain notice of commencement and applicability of lien requirements for certain authorities issuing building permits; prohibiting private providers performing inspection services from performing or approving certain inspections under certain circumstances; increasing a threshold amount for certain nonapplication; prohibiting issuing authorities or building officials from requiring recordation of a notice of commencement for certain purposes; authorizing authorities issuing building permits to accept permit applications electronically; requiring an electronic submission statement on the application; requiring provision of Internet access; amending s. 713.23, F.S.; clarifying provisions relating to payment bonds; amending s. 713.24, F.S.; providing construction to preserve county court jurisdiction over certain transfer bond claims for nonpayment; preserving certain lien rights when filing a transfer bond after commencing certain lien enforcement proceedings; amending s. 713.345, F.S.; revising criteria for certain criminal penalties for

misapplication of construction funds; amending s. 713.3471, F.S.; revising a provision requiring a lender to provide notice to a property owner when making a disbursement on a construction loan secured by residential property; specifying nonapplication; providing an effective date.

(Amendment Bar Code: 602608)

Senate Amendment 1 (with title amendment)—On lines 375-573, delete section 10 and renumber subsequent sections.

And the title is amended as follows:

On lines 24-36, delete those lines

and insert:

required notices; amending s.

On motion by Rep. Dean, the House concurred in Senate Amendment 1. The question recurred on the passage of HB 113. The vote was:

Session Vote Sequence: 563

Speaker Bense in the Chair.

Yeas—115

Adams	Culp	Homan	Quinones
Allen	Cusack	Hukill	Reagan
Altman	Davis, D.	Jennings	Rice
Ambler	Davis, M.	Johnson	Richardson
Anderson	Dean	Jordan	Rivera
Antone	Detert	Joyner	Robaina
Arza	Evers	Justice	Roberson
Attkisson	Farkas	Kottkamp	Ross
Ausley	Fields	Kreegel	Rubio
Barreiro	Flores	Kyle	Russell
Baxley	Galvano	Legg	Ryan
Bean	Gannon	Littlefield	Sands
Bendross-Mindingall	Garcia	Llorente	Sansom
Bense	Gardiner	Lopez-Cantera	Seiler
Benson	Gelber	Mahon	Simmons
Berfield	Gibson, A.	Mayfield	Slosberg
Bilirakis	Gibson, H.	McInvale	Smith
Bogdanoff	Glorioso	Meadows	Sobel
Bowen	Goldstein	Mealor	Sorensen
Brandenburg	Goodlette	Murzin	Stansel
Brown	Gottlieb	Needelman	Stargel
Brummer	Grant	Negron	Taylor
Brutus	Greenstein	Patterson	Traviesa
Bucher	Grimsley	Peterman	Troutman
Bullard	Harrell	Pickens	Vana
Cannon	Hasner	Planas	Waters
Carroll	Hays	Poppell	Williams
Clarke	Henriquez	Porth	Zapata
Cretul	Holloway	Proctor	

Nays—None

Votes after roll call:

Yeas—Kendrick, Machek

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

HB 989—A bill to be entitled An act relating to public marinas and boat ramps; amending s. 373.118, F.S.; directing the Department of Environmental Protection to adopt rules to authorize local governments to construct and maintain all facilities, including public marinas and boat ramps; exempting certain facilities from development-of-regional-impact review; providing for regulatory criteria; providing for the use of submerged lands; amending s. 403.813, F.S.; revising permit exemption requirements for floating vessel platforms or floating boat lifts; providing an effective date.

—was taken up, having been considered earlier today.

Motion to Reconsider

Rep. Bucher moved that the House reconsider the vote by which **House Amendment 2 to Senate Amendment 1** to **HB 989** was adopted, which was not agreed to.

On motion by Rep. Mayfield, the House concurred in Senate Amendment 1, as amended. The question recurred on the passage of HB 989. The vote was:

Session Vote Sequence: 564

Speaker Bense in the Chair.

Yeas—116

Adams	Culp	Holloway	Porth
Allen	Cusack	Homan	Proctor
Altman	Davis, D.	Hukill	Quinones
Ambler	Davis, M.	Jennings	Reagan
Anderson	Dean	Johnson	Rice
Antone	Detert	Jordan	Richardson
Arza	Domino	Joyner	Rivera
Attkisson	Evers	Justice	Robaina
Ausley	Farkas	Kottkamp	Roberson
Barreiro	Fields	Kreegel	Ross
Baxley	Flores	Kyle	Rubio
Bean	Galvano	Legg	Russell
Bendross-Mindingall	Gannon	Littlefield	Ryan
Bense	Garcia	Llorente	Sands
Benson	Gardiner	Lopez-Cantera	Sansom
Berfield	Gelber	Machek	Seiler
Bilirakis	Gibson, A.	Mahon	Simmons
Bogdanoff	Gibson, H.	Mayfield	Slosberg
Bowen	Glorioso	McInvale	Smith
Brandenburg	Goldstein	Meadows	Sorensen
Brown	Goodlette	Mealor	Stansel
Brummer	Gottlieb	Murzin	Stargel
Brutus	Grant	Needelman	Taylor
Bucher	Greenstein	Negron	Traviesa
Bullard	Grimsley	Patterson	Troutman
Cannon	Harrell	Peterman	Vana
Carroll	Hasner	Pickens	Waters
Clarke	Hays	Planas	Williams
Cretul	Henriquez	Poppell	Zapata

Nays—1

Kendrick

So the bill passed, as amended. The action, together with the bill and amendments thereto, was immediately certified to the Senate.

Recessed

The House recessed at 3:59 p.m., to reconvene upon the call of the Chair.

Reconvened

The House was called to order by the Speaker at 4:51 p.m. A quorum was present [Session Vote Sequence: 565].

Messages from the Senate

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 517, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 517—A bill to be entitled An act relating to university campus planning; amending s. 1013.30, F.S.; defining terms; requiring each university board of trustees to maintain a copy of the campus master plan on the university's website and provide for electronic copies of its draft master plan; providing duties of the Board of Governors; requiring that the university hold an informal public information session before the required public hearings are held on the draft master plan; requiring that the public hearings be held at specified times; limiting the issues that an individual may raise challenging a campus master plan; authorizing the university to execute a campus development agreement during the pendency of a challenge; providing for an evidentiary hearing to be held by the Division of Administrative Hearings if a challenge to the master plan is not resolved; specifying the evidentiary procedures to be used in such hearing; providing for attorney's fees in any dispute submitted to the state land planning agency or the Administration Commission in which the pleading or motion was made for an improper purpose or for economic advantage; revising procedures to resolve disputes between the university board of trustees and the host local government; requiring that Board of Governors rather than the State Board of Education adopt rules to administer the procedures for preparing and adopting the campus master plan; providing an effective date.

(Amendment Bar Code: 235218)

Senate Amendment 1 (with title amendment)—Between lines 457 and 458,

insert:

Section 2. Florida Gulf Coast University School of Engineering authorized; bachelor's degrees authorized.--

(1) The Florida Gulf Coast University may establish a School of Engineering, subject to approval by the Board of Governors.

(2) The School of Engineering at the Florida Gulf Coast University may award bachelor of science degrees in bioengineering, environmental and civil engineering, and engineering management.

(Redesignate subsequent sections.)

And the title is amended as follows:
On page Line 27, after the semicolon,

insert:

authorizing Florida Gulf Coast University to establish a school of engineering, subject to approval by the Board of Governors; authorizing the university to grant bachelor's degrees in specified fields;

On motion by Rep. Cannon, the House concurred in Senate Amendment 1. The question recurred on the passage of HB 517. The vote was:

Session Vote Sequence: 566

Speaker Bense in the Chair.

Yeas—113

Adams	Cusack	Hukill	Proctor
Allen	Davis, D.	Jennings	Reagan
Altman	Davis, M.	Johnson	Rice
Ambler	Dean	Jordan	Richardson
Anderson	Detert	Joyner	Rivera
Antone	Domino	Justice	Robaina
Arza	Evers	Kendrick	Roberson
Attkisson	Farkas	Kottkamp	Ross
Ausley	Fields	Kreegel	Rubio
Barreiro	Flores	Kyle	Russell
Baxley	Galvano	Legg	Ryan
Bean	Gannon	Littlefield	Sands
Bendross-Mindingall	Garcia	Llorente	Sansom
Bense	Gardiner	Lopez-Cantera	Seiler
Benson	Gelber	Machek	Simmons
Berfield	Gibson, A.	Mahon	Slosberg
Bilirakis	Gibson, H.	Mayfield	Sobel
Bogdanoff	Glorioso	McInvale	Sorensen
Bowen	Goldstein	Meadows	Stansel
Brandenburg	Goodlette	Mealor	Stargel
Brummer	Gottlieb	Murzin	Taylor
Brutus	Greenstein	Needelman	Traviesa
Bucher	Grimsley	Negron	Troutman
Bullard	Harrell	Patterson	Waters
Cannon	Hasner	Peterman	Williams
Carroll	Hays	Pickens	Zapata
Clarke	Henriquez	Planas	
Cretul	Holloway	Poppell	
Culp	Homan	Porth	

Nays—1

Vana

Votes after roll call:
Yeas—Grant

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

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1813, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 1813—A bill to be entitled An act relating to tax administration; amending s. 95.091, F.S.; adding a cross reference; amending s. 198.32,

F.S.; allowing an estate that is not required to file a federal tax return to file with the clerk of the court an affidavit attesting that no Florida estate tax is due, regardless of the decedent's date of death; amending s. 199.135, F.S.; providing special provisions for the imposition of the nonrecurring intangibles tax imposed by this section on the sale of a timeshare interest in a timeshare plan; amending s. 201.02, F.S.; providing special provisions for the imposition of the tax on deeds or other instruments relating to real property or interests in real property imposed by this section on the sale of a timeshare interest in a timeshare plan; amending s. 201.08, F.S.; providing special provisions for the imposition of the tax on promissory or nonnegotiable notes or written obligations to pay money imposed by this section on the sale of a timeshare interest in a timeshare plan; amending s. 202.11, F.S.; providing an additional definition of the term "service address" for the purposes of the tax on communications services; amending ss. 206.09, 206.095, 206.14, and 206.485, F.S., relating to fuel taxes; providing for the distribution of penalties; amending s. 206.27, F.S.; allowing the Department of Revenue the option of posting the list of active and canceled fuel licenses on the departmental web site or mailing it to licensees; amending s. 212.05, F.S.; clarifying the tax treatment of nonresident purchasers of airplanes; amending s. 212.06, F.S.; clarifying that sales tax is not due on any vessel imported into this state for the sole purpose of being offered for retail sale by a registered yacht broker or dealer in this state under certain conditions; amending s. 212.11, F.S.; correcting a cross reference; amending s. 212.12, F.S.; including in the definition of tax fraud willful attempts to evade a tax, surcharge, or fee imposed by chapter 212, F.S.; providing penalties; amending s. 213.053, F.S.; authorizing expanded sharing of confidential information between the Department of Revenue and the Department of Agriculture and Consumer Services for the Bill of Lading Program; amending s. 213.21, F.S.; specifying which taxes qualify for the automatic penalty compromise or settlement of liability; providing for retroactivity; amending s. 213.27, F.S.; clarifying that the notification by the Department of Revenue to the taxpayer that the taxpayer's account is being referred to a debt collection agency must be at least 30 days before the referral; amending s. 215.26, F.S.; adding a cross reference; amending s. 252.372, F.S.; authorizing the Florida Surplus Lines Service Office to collect the Emergency Management, Preparedness, and Assistance Trust Fund surcharge and deposit the proceeds into the trust fund; providing applicability; amending s. 443.131, F.S.; requiring employers who transfer their business to a related entity to retain their unemployment experience history under certain circumstances; providing penalties; amending s. 443.141, F.S.; authorizing the Department of Revenue to send to employers by regular mail notices of unemployment tax assessments and notices of the filing of liens; amending s. 624.509, F.S.; revising a definition to clarify that adjusters, managing general agents, and service representatives are employees; creating s. 624.50921, F.S.; creating a statute of limitations for assessments of the insurance premium tax if the amount of corporate income tax or a workers' compensation administrative assessment paid by the insurer is adjusted through an amended return or refund; reviving and readopting s. 213.21, F.S., relating to informal conference procedures within the Department of Revenue; providing effective dates.

(Amendment Bar Code: 552744)

Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause and

insert:

Section 1. Paragraph (a) of subsection (3) of section 95.091, Florida Statutes, is amended to read:

95.091 Limitation on actions to collect taxes.--

(3)(a) With the exception of taxes levied under chapter 198 and tax adjustments made pursuant to ss. ~~s.~~ 220.23 and 624.50921, the Department of Revenue may determine and assess the amount of any tax, penalty, or interest due under any tax enumerated in s. 72.011 which it has authority to administer and the Department of Business and Professional Regulation may determine and assess the amount of any tax, penalty, or interest due under any tax enumerated in s. 72.011 which it has authority to administer:

1.a. For taxes due before July 1, 1999, within 5 years after the date the tax is due, any return with respect to the tax is due, or such return is filed, whichever occurs later; and for taxes due on or after July 1, 1999, within 3 years after the date the tax is due, any return with respect to the tax is due, or such return is filed, whichever occurs later;

b. Effective July 1, 2002, notwithstanding sub-subparagraph a., within 3 years after the date the tax is due, any return with respect to the tax is due, or such return is filed, whichever occurs later;

2. For taxes due before July 1, 1999, within 6 years after the date the taxpayer either makes a substantial underpayment of tax, or files a substantially incorrect return;

3. At any time while the right to a refund or credit of the tax is available to the taxpayer;

4. For taxes due before July 1, 1999, at any time after the taxpayer has filed a grossly false return;

5. At any time after the taxpayer has failed to make any required payment of the tax, has failed to file a required return, or has filed a fraudulent return, except that for taxes due on or after July 1, 1999, the limitation prescribed in subparagraph 1. applies if the taxpayer has disclosed in writing the tax liability to the department before the department has contacted the taxpayer; or

6. In any case in which there has been a refund of tax erroneously made for any reason:

a. For refunds made before July 1, 1999, within 5 years after making such refund; and

b. For refunds made on or after July 1, 1999, within 3 years after making such refund,

or at any time after making such refund if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact.

Section 2. Subsection (2) of section 198.32, Florida Statutes, is amended to read:

198.32 Prima facie liability for tax.--

(2) Whenever an estate is not subject to tax under this chapter and is not required to file a return, the personal representative may execute an affidavit attesting that the estate is not taxable. The form of the affidavit shall be prescribed by the department, and shall include, but not be limited to, statements regarding the decedent's domicile and whether a federal estate tax return will be filed, and acknowledgment of the personal representative's personal liability under s. 198.23. This affidavit shall be subject to record and admissible in evidence to show nonliability for tax. This subsection applies to all estates, regardless of the date of death of the decedent.

Section 3. Subsection (5) is added to section 199.135, Florida Statutes, to read:

199.135 Due date and payment of nonrecurring tax.--The nonrecurring tax imposed on notes, bonds, and other obligations for payment of money secured by a mortgage, deed of trust, or other lien evidenced by a written instrument presented for recordation shall be due and payable when the instrument is presented for recordation. If there is no written instrument or if it is not so presented within 30 days following creation of the obligation, then the tax shall be due and payable within 30 days following creation of the obligation.

(5)(a) In recognition of the special escrow requirements that apply to sales of timeshare interests in timeshare plans pursuant to s. 721.08, tax on notes or other obligations secured by a mortgage, deed of trust, or other lien upon real property situated in this state executed in conjunction with the sale by a developer of a timeshare interest in a timeshare plan is due and payable on the earlier of the date on which:

1. The mortgage, deed of trust, or other lien is recorded; or

2. All of the conditions precedent to the release of the purchaser's

escrowed funds or other property pursuant to s. 721.08(2)(c) have been met, regardless of whether the developer has posted an alternative assurance. Tax due under this subparagraph is due and payable on or before the 20th day of the month following the month in which these conditions were met.

(b)1. If tax has been paid to the department under subparagraph (a)2., and the note, other written obligation, mortgage, deed of trust, or other lien with respect to which the tax was paid is subsequently recorded, a notation reflecting the prior payment of the tax must be made upon the mortgage or other lien.

2. Notwithstanding paragraph (a), if funds are designated on a closing statement as tax collected from the purchaser, but the mortgage, deed of trust, or other lien with respect to which the tax was collected has not been recorded or filed in this state, the tax must be paid to the department on or before the 20th day of the month following the month in which the funds are available for release from escrow, unless the funds have been refunded to the purchaser.

(c) The department may adopt rules to administer the method for reporting tax due under this subsection.

Section 4. Subsection (10) is added to section 201.02, Florida Statutes, to read:

201.02 Tax on deeds and other instruments relating to real property or interests in real property.--

(10)(a) In recognition of the special escrow requirements that apply to sales of timeshare interests in timeshare plans pursuant to s. 721.08, tax on deeds or other instruments conveying any interest in Florida real property which are executed in conjunction with the sale by a developer of a timeshare interest in a timeshare plan is due and payable on the earlier of the date on which:

1. The deed or other instrument conveying the interest in Florida real property is recorded; or

2. All of the conditions precedent to the release of the purchaser's escrowed funds or other property pursuant to s. 721.08(2)(c) have been met, regardless of whether the developer has posted an alternative assurance. Tax due pursuant to this subparagraph is due and payable on or before the 20th day of the month following the month in which these conditions were met.

(b)1. If tax has been paid to the department pursuant to subparagraph (a)2., and the deed or other instrument conveying the interest in Florida real property with respect to which the tax was paid is subsequently recorded, a notation reflecting the prior payment of the tax must be made upon the deed or other instrument conveying the interest in Florida real property.

2. Notwithstanding paragraph (a), if funds are designated on a closing statement as tax collected from the purchaser, but a default or cancellation occurs pursuant to s. 721.08(2)(a) or s. 721.08(2)(b) and no deed or other instrument conveying interest in Florida real property has been recorded or delivered to the purchaser, the tax must be paid to the department on or before the 20th day of the month following the month in which the funds are available for release from escrow unless the funds have been refunded to the purchaser.

(c) The department may adopt rules to administer the method for reporting tax due under this subsection.

Section 5. Subsection (8) is added to section 201.08, Florida Statutes, to read:

201.08 Tax on promissory or nonnegotiable notes, written obligations to pay money, or assignments of wages or other compensation; exception.--

(8)(a) In recognition of the special escrow requirements that apply to sales of timeshare interests in timeshare plans pursuant to s. 721.08, tax on notes or other written obligations and mortgages or other evidences of indebtedness executed in conjunction with the sale by a developer of a timeshare interest in a timeshare plan is due and payable on the earlier of the date on which:

1. The note, other written obligation, mortgage or other evidence of indebtedness is recorded or filed in this state; or

2. All of the conditions precedent to the release of the purchaser's escrowed funds or other property pursuant to s. 721.08(2)(c) have been met, regardless of whether the developer has posted an alternative assurance. Tax due under this subparagraph is due and payable on or before the 20th day of the month following the month in which these conditions were met.

(b)1. If tax has been paid to the department pursuant to subparagraph (a)2., and the note, other written obligation, mortgage, or other evidence of indebtedness with respect to which the tax was paid is subsequently recorded or filed in this state, a notation reflecting the prior payment of the tax must be made upon the note, other written obligation, mortgage, or other evidence of indebtedness recorded or filed in this state.

2. Notwithstanding paragraph (a), if funds are designated on a closing statement as tax collected from the purchaser, but the note, other written obligation, mortgage, or other evidence of indebtedness with respect to which the tax was collected has not been recorded or filed in this state, the tax shall be paid to the department on or before the 20th day of the month following the month in which the funds are available for release from escrow, unless the funds have been refunded to the purchaser.

(c) The department may adopt rules to administer the method for reporting tax due under this subsection.

Section 6. Paragraph (a) of subsection (15) of section 202.11, Florida Statutes, is amended to read:

202.11 Definitions.--As used in this chapter:

(15) "Service address" means:

(a) Except as otherwise provided in this section:-

1. The location of the communications equipment from which communications services originate or at which communications services are received by the customer;-

2. In the case of a communications service paid through a credit or payment mechanism that does not relate to a service address, such as a bank, travel, debit, or credit card, and in the case of third-number and calling-card calls, the term "service address" means ~~is~~ the address of the central office, as determined by the area code and the first three digits of the seven-digit originating telephone number; or-

3. If the location of the equipment described in subparagraph 1. is not known and subparagraph 2. is inapplicable, the term "service address" means the location of the customer's primary use of the communications service. For the purposes of this subparagraph, the location of the customer's primary use of a communications service is the residential street address or the business street address of the customer.

Section 7. Subsection (6) is added to section 206.09, Florida Statutes, to read:

206.09 Reports from carriers transporting motor fuel or similar products.--

(6) All moneys derived from the penalties imposed by this section shall be deposited into the Fuel Tax Collection Trust Fund, and allocated in the same manner as provided by s. 206.875.

Section 8. Subsection (4) is added to section 206.095, Florida Statutes, to read:

206.095 Reports from terminal operators.--

(4) All moneys derived from the penalties imposed by this section shall be deposited into the Fuel Tax Collection Trust Fund, and allocated in the same manner as provided by s. 206.875.

Section 9. Subsection (6) is added to section 206.14, Florida Statutes, to read:

206.14 Inspection of records; audits; hearings; forms; rules and regulations.--

(6) All moneys derived from the penalties imposed by this section shall be deposited into the Fuel Tax Collection Trust Fund, and allocated in the same manner as provided by s. 206.875.

Section 10. Subsection (1) of section 206.27, Florida Statutes, is amended to read:

206.27 Records and files as public records.--

(1) The records and files in the office of the department appertaining to parts I and II of this chapter shall be available in Tallahassee to the

public at any time during business hours. The department shall prepare and make available a list each month of all current licensed terminal suppliers, importers, exporters, and wholesalers which also shall include all new licenses issued and all licenses canceled during the past 12 months~~, and mail a copy thereof to each licensee~~. Such list shall be used to verify license numbers of purchasers issuing exemption certificates or affidavits.

Section 11. Subsection (3) is added to section 206.485, Florida Statutes, to read:

206.485 Tracking system reporting requirements.--

(3) All moneys derived from the penalties imposed by this section shall be deposited into the Fuel Tax Collection Trust Fund, and allocated in the same manner as provided by s. 206.875.

Section 12. Paragraph (b) of subsection (4) of section 212.0305, Florida Statutes, is amended to read:

212.0305 Convention development taxes; intent; administration; authorization; use of proceeds.--

(4) AUTHORIZATION TO LEVY; USE OF PROCEEDS; OTHER REQUIREMENTS.--

(b) Charter county levy for convention development.--

1. Each county, as defined in s. 125.011(1), may impose, under ~~pursuant to~~ an ordinance enacted by the governing body of the county, a levy on the exercise within its boundaries of the taxable privilege of leasing or letting transient rental accommodations described in subsection (3) at the rate of 3 percent of the total consideration charged therefor. The proceeds of this levy shall be known as the charter county convention development tax.

2. All charter county convention development moneys, including any interest accrued thereon, received by a county imposing the levy shall be used as follows:

a. Two-thirds of the proceeds shall be used to extend, enlarge, and improve the largest existing publicly owned convention center in the county.

b. One-third of the proceeds shall be used to construct a new multipurpose convention/coliseum/exhibition center/stadium or the maximum components thereof as funds permit in the most populous municipality in the county.

c. After the completion of any project under sub-subparagraph a., the tax revenues and interest accrued under sub-subparagraph a. may be used to acquire, construct, extend, enlarge, remodel, repair, improve, plan for, operate, manage, or maintain one or more convention centers, stadiums, exhibition halls, arenas, coliseums, ~~or~~ auditoriums, or golf courses, and may be used to acquire and construct an intercity light rail transportation system as described in the Light Rail Transit System Status Report to the Legislature dated April 1988, which shall provide a means to transport persons to and from the largest existing publicly owned convention center in the county and the hotels north of the convention center and to and from the downtown area of the most populous municipality in the county as determined by the county.

d. After completion of any project under sub-subparagraph b., the tax revenues and interest accrued under sub-subparagraph b. may be used, as determined by the county, to operate an authority created pursuant to subparagraph 4. or to acquire, construct, extend, enlarge, remodel, repair, improve, operate, or maintain one or more convention centers, stadiums, exhibition halls, arenas, coliseums, auditoriums, golf courses, or related buildings and parking facilities in the most populous municipality in the county.

e. For the purposes of completion of any project pursuant to this paragraph, tax revenues and interest accrued may be used:

(I) As collateral, pledged, or hypothecated for projects authorized by this paragraph, including bonds issued in connection therewith; or

(II) As a pledge or capital contribution in conjunction with a partnership, joint venture, or other business arrangement between a municipality and one or more business entities for projects authorized by this paragraph.

3. The governing body of each municipality in which a municipal tourist tax is levied may adopt a resolution prohibiting imposition of the charter county convention development levy within such municipality. If the governing body adopts such a resolution, the convention development levy shall be imposed by the county in all other areas of the county except such municipality. No funds collected pursuant to this paragraph may be expended in a municipality which has adopted such a resolution.

4.a. Before the county enacts an ordinance imposing the levy, the county shall notify the governing body of each municipality in which projects are to be developed pursuant to sub-subparagraph 2.a., sub-subparagraph 2.b., sub-subparagraph 2.c., or sub-subparagraph 2.d. As a condition precedent to receiving funding, the governing bodies of such municipalities shall designate or appoint an authority that shall have the sole power to:

(I) Approve the concept, location, program, and design of the facilities or improvements to be built in accordance with this paragraph and to administer and disburse such proceeds and any other related source of revenue.

(II) Appoint and dismiss the authority's executive director, general counsel, and any other consultants retained by the authority. The governing body shall have the right to approve or disapprove the initial appointment of the authority's executive director and general counsel.

b. The members of each such authority shall serve for a term of not less than 1 year and shall be appointed by the governing body of such municipality. The annual budget of such authority shall be subject to approval of the governing body of the municipality. If the governing body does not approve the budget, the authority shall use as the authority's budget the previous fiscal year budget.

c. The authority, by resolution to be adopted from time to time, may invest and reinvest the proceeds from the convention development tax and any other revenues generated by the authority in the same manner that the municipality in which the authority is located may invest surplus funds.

5. The charter county convention development levy shall be in addition to any other levy imposed pursuant to this section.

6. A certified copy of the ordinance imposing the levy shall be furnished by the county to the department within 10 days after approval of such ordinance. The effective date of imposition of the levy shall be the first day of any month at least 60 days after enactment of the ordinance.

7. Revenues collected pursuant to this paragraph shall be deposited in a convention development trust fund, which shall be established by the county as a condition precedent to receipt of such funds.

Section 13. Paragraph (a) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.--It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

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

(a)1.

a. At the rate of 6 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall by rule adopt any nationally recognized publication for valuation of used motor vehicles as the reference price list for any used motor vehicle which is required to be licensed pursuant to s.

320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed pursuant to this subparagraph.

2. This paragraph does not apply to the sale of a boat or aircraft ~~airplane~~ by or through a registered dealer under this chapter to a purchaser who, at the time of taking delivery, is a nonresident of this state, does not make his or her permanent place of abode in this state, and is not engaged in carrying on in this state any employment, trade, business, or profession in which the boat or aircraft will be used in this state, or is a corporation none of the officers or directors of which is a resident of, or makes his or her permanent place of abode in, this state, or is a noncorporate entity that has no individual vested with authority to participate in the management, direction, or control of the entity's affairs who is a resident of, or makes his or her permanent abode in, this state. For purposes of this exemption, either a registered dealer acting on his or her own behalf as seller, a registered dealer acting as broker on behalf of a seller, or a registered dealer acting as broker on behalf of the purchaser may be deemed to be the selling dealer. This exemption shall not be allowed unless:

a. The purchaser removes a qualifying boat, as described in sub-subparagraph f., from the state within 90 days after the date of purchase or the purchaser removes a nonqualifying boat or an aircraft ~~airplane~~ from this state within 10 days after the date of purchase or, when the boat or aircraft ~~airplane~~ is repaired or altered, within 20 days after completion of the repairs or alterations;

b. The purchaser, within 30 days from the date of departure, shall provide the department with written proof that the purchaser licensed, registered, titled, or documented the boat or aircraft ~~airplane~~ outside the state. If such written proof is unavailable, within 30 days the purchaser shall provide proof that the purchaser applied for such license, title, registration, or documentation. The purchaser shall forward to the department proof of title, license, registration, or documentation upon receipt.

c. The purchaser, within 10 days of removing the boat or aircraft ~~airplane~~ from Florida, shall furnish the department with proof of removal in the form of receipts for fuel, dockage, slippage, tie-down, or hangaring from outside of Florida. The information so provided must clearly and specifically identify the boat or aircraft;

d. The selling dealer, within 5 days of the date of sale, shall provide to the department a copy of the sales invoice, closing statement, bills of sale, and the original affidavit signed by the purchaser attesting that he or she has read the provisions of this section;

e. The seller makes a copy of the affidavit a part of his or her record for as long as required by s. 213.35; and

f. Unless the nonresident purchaser of a boat of 5 net tons of admeasurement or larger intends to remove the boat from this state within 10 days after the date of purchase or when the boat is repaired or altered, within 20 days after completion of the repairs or alterations, the nonresident purchaser shall apply to the selling dealer for a decal which authorizes 90 days after the date of purchase for removal of the boat. The department is authorized to issue decals in advance to dealers. The number of decals issued in advance to a dealer shall be consistent with the volume of the dealer's past sales of boats which qualify under this sub-subparagraph. The selling dealer or his or her agent shall mark and affix the decals to qualifying boats in the manner prescribed by the department, prior to delivery of the boat.

(I) The department is hereby authorized to charge dealers a fee sufficient to recover the costs of decals issued.

(II) The proceeds from the sale of decals will be deposited into the administrative trust fund.

(III) Decals shall display information to identify the boat as a qualifying boat under this sub-subparagraph, including, but not limited to, the decal's date of expiration.

(IV) The department is authorized to require dealers who purchase decals to file reports with the department and may prescribe all necessary records by rule. All such records are subject to inspection by the department.

(V) Any dealer or his or her agent who issues a decal falsely, fails to affix a decal, mismarks the expiration date of a decal, or fails to properly account for decals will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(VI) Any nonresident purchaser of a boat who removes a decal prior to permanently removing the boat from the state, or defaces, changes, modifies, or alters a decal in a manner affecting its expiration date prior to its expiration, or who causes or allows the same to be done by another, will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(VII) The department is authorized to adopt rules necessary to administer and enforce this subparagraph and to publish the necessary forms and instructions.

(VIII) The department is hereby authorized to adopt emergency rules pursuant to s. 120.54(4) to administer and enforce the provisions of this subparagraph.

If the purchaser fails to remove the qualifying boat from this state within 90 days after purchase or a nonqualifying boat or an aircraft ~~airplane~~ from this state within 10 days after purchase or, when the boat or aircraft ~~airplane~~ is repaired or altered, within 20 days after completion of such repairs or alterations, or permits the boat or aircraft ~~airplane~~ to return to this state within 6 months from the date of departure, or if the purchaser fails to furnish the department with any of the documentation required by this subparagraph within the prescribed time period, the purchaser shall be liable for use tax on the cost price of the boat or aircraft ~~airplane~~ and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2) and is mandatory and shall not be waived by the department. The 90-day period following the sale of a qualifying boat tax exempt to a nonresident may not be tolled for any reason. Notwithstanding other provisions of this paragraph to the contrary, an aircraft purchased in this state under the provisions of this paragraph may be returned to this state for repairs within 6 months after the date of its departure without being in violation of the law and without incurring liability for the payment of tax or penalty on the purchase price of the aircraft if the aircraft is removed from this state within 20 days after the completion of the repairs and if such removal can be demonstrated by invoices for fuel, tie-down, hangar charges issued by out-of-state vendors or suppliers, or similar documentation.

Section 14. Paragraph (e) of subsection (1) of section 212.06, Florida Statutes, is amended to read:

212.06 Sales, storage, use tax; collectible from dealers; "dealer" defined; dealers to collect from purchasers; legislative intent as to scope of tax.--

(1)

(e)1. Notwithstanding any other provision of this chapter, tax shall not be imposed on any vessel registered under ~~pursuant to~~ s. 328.52 by a vessel dealer or vessel manufacturer with respect to a vessel used solely for demonstration, sales promotional, or testing purposes. The term "promotional purposes" shall include, but not be limited to, participation in fishing tournaments. For the purposes of this paragraph, "promotional purposes" means the entry of the vessel in a marine-related event where prospective purchasers would be in attendance, where the vessel is entered in the name of the dealer or manufacturer, and where the vessel is clearly marked as for sale, on which vessel the name of the dealer or manufacturer is clearly displayed, and which vessel has never been transferred into the dealer's or manufacturer's accounting books from an inventory item to a capital asset for depreciation purposes.

2. The provisions of this paragraph do not apply to any vessel when used for transporting persons or goods for compensation; when offered, let, or rented to another for consideration; when offered for rent or hire as a means of transportation for compensation; or when offered or used to provide transportation for persons solicited through personal contact or through advertisement on a "share expense" basis.

3. Notwithstanding any other provision of this chapter, tax may not be imposed on any vessel imported into this state for the sole purpose of being offered for sale at retail by a yacht broker or yacht dealer registered in this state if the vessel remains under the care, custody, and control of the registered broker or dealer and the owner of the vessel does not make personal use of the vessel during that time. The provisions of this chapter govern the taxability of any sale or use of the vessel subsequent to its importation under this provision.

Section 15. Paragraph (e) of subsection (4) of section 212.11, Florida Statutes, is amended to read:

212.11 Tax returns and regulations.--

(4)

(e) The penalty provisions of this chapter, except s. 212.12(2)(f) ~~s. 212.12(2)(e)~~, apply to the provisions of this subsection.

Section 16. Present paragraph (e) of subsection (2) of section 212.12, Florida Statutes, is redesignated as paragraph (f), present paragraph (f) of that subsection is redesignated as paragraph (g) and amended, and a new paragraph (e) is added to that subsection, to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.--

(2)

(e) A person who willfully attempts in any manner to evade any tax, surcharge, or fee imposed under this chapter or the payment thereof is, in addition to any other penalties provided by law, liable for a specific penalty in the amount of 100 percent of the tax, surcharge, or fee, and commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(g)~~(f)~~ A dealer who files ~~Dealers filing~~ a consolidated return pursuant to s. 212.11(1)(e) is ~~shall be~~ subject to the penalty established in paragraph (e) unless the dealer has paid the required estimated tax for his or her consolidated return as a whole without regard to each location. If the dealer fails to pay the required estimated tax for his or her consolidated return as a whole, each filing location shall stand on its own with respect to calculating penalties pursuant to paragraph (f) ~~(e)~~.

Section 17. Paragraph (l) 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:

(l) Information relative to chapter 212 and the Bill of Lading Program to the Office of Agriculture Law Enforcement of the Department of Agriculture and Consumer Services in the conduct of its official duties ~~the Bill of Lading Program~~. ~~This information is limited to the business name and whether the business is in compliance with chapter 212.~~

Section 18. Subsection (10) of section 213.21, Florida Statutes, is amended to read:

213.21 Informal conferences; compromises.--

(10)(a) ~~Effective July 1, 2003,~~ Notwithstanding any other provision of law and solely for the purpose of administering the taxes ~~tax~~ imposed by ss. 125.0104 and 125.0108, and chapter 212, except s. 212.0606, under the circumstances set forth in this subsection, the department shall settle or compromise a taxpayer's liability for penalty without requiring the taxpayer to submit a written request for compromise or settlement.

(b) For taxpayers who file returns and remit tax on a monthly basis:

1. Any penalty related to a noncompliant filing event shall be settled or compromised if the taxpayer has:

a. No noncompliant filing event in the immediately preceding 12-month period and no unresolved ~~chapter 212~~ liability under s. 125.0104, s. 125.0108, or chapter 212 resulting from a noncompliant filing event; or

b. One noncompliant filing event in the immediately preceding 12-month period, resolution of the current noncompliant filing event through payment of tax and interest and the filing of a return within 30 days after notification by the department, and no unresolved ~~chapter 212~~ liability under s. 125.0104, s. 125.0108, or chapter 212 resulting from a noncompliant filing event.

2. If a taxpayer has two or more noncompliant filing events in the immediately preceding 12-month period, the taxpayer shall be liable, absent a showing by the taxpayer that the noncompliant filing event was due to extraordinary circumstances, for the penalties provided in s. 125.0104 or s. 125.0108 and s. 212.12, including loss of collection allowance, and shall be reported to a credit bureau.

(c) For taxpayers who file returns and remit tax on a quarterly basis, any penalty related to a noncompliant filing event shall be settled or compromised if the taxpayer has no noncompliant filing event in the immediately preceding 12-month period and no unresolved ~~chapter 212~~ liability under s. 125.0104, s. 125.0108, or chapter 212 resulting from a noncompliant filing event.

(d) For purposes of this subsection:

1. "Noncompliant filing event" means a failure to timely file a complete and accurate return required under s. 125.0104, s. 125.0108, or chapter 212 or a failure to timely pay the amount of tax reported on a return required by s. 125.0104, s. 125.0108, or chapter 212.

2. "Extraordinary circumstances" means the occurrence of events beyond the control of the taxpayer, such as, but not limited to, the death of the taxpayer, acts of war or terrorism, natural disasters, fire, or other casualty, or the nonfeasance or misfeasance of the taxpayer's employees or representatives responsible for compliance with s. 125.0104, s. 125.0108, or ~~the provisions of~~ chapter 212. With respect to the acts of an employee or representative, the taxpayer must show that the principals of the business lacked actual knowledge of the noncompliance and that the noncompliance was resolved within 30 days after actual knowledge.

Section 19. The amendment to section 213.21(10), Florida Statutes, as made by this act, shall operate retroactively to July 1, 2003.

Section 20. Subsections (1) and (2) of section 213.27, Florida Statutes, are amended to read:

213.27 Contracts with debt collection agencies and certain vendors.--

(1) The Department of Revenue may, for the purpose of collecting any delinquent taxes due from a taxpayer, including taxes for which a bill or notice has been generated, contract with any debt collection agency or attorney doing business within or without this state for the collection of such delinquent taxes including penalties and interest thereon. The department may also share confidential information pursuant to the contract necessary for the collection of delinquent taxes and taxes for which a billing or notice has been generated. Contracts will be made pursuant to chapter 287. The taxpayer must be notified by mail by the department, its employees, or its authorized representative at least 30 days prior to commencing any litigation to recover any delinquent taxes. The taxpayer must be notified by mail by the department at least 30 days prior to the initial assignment by the department of the taxpayer's account for ~~assigning~~ the collection of any taxes by ~~to~~ the debt collection agency.

(2) The department may enter into contracts with any individual or business for the purpose of identifying intangible personal property tax

liability. Contracts may provide for the identification of assets subject to the tax on intangible personal property, the determination of value of such property, the requirement for filing a tax return and the collection of taxes due, including applicable penalties and interest thereon. The department may share confidential information pursuant to the contract necessary for the identification of taxable intangible personal property. Contracts shall be made pursuant to chapter 287. The taxpayer must be notified by mail by the department at least 30 days prior to the department assigning identification of intangible personal property to an individual or business.

Section 21. Subsection (2) of section 215.26, Florida Statutes, is amended to read:

215.26 Repayment of funds paid into State Treasury through error.--

(2) Application for refunds as provided by this section must be filed with the Chief Financial Officer, except as otherwise provided in this subsection, within 3 years after the right to the refund has accrued or else the right is barred. Except as provided in chapter 198, ~~and~~ s. 220.23, and s. 624.50921, an application for a refund of a tax enumerated in s. 72.011, which tax was paid after September 30, 1994, and before July 1, 1999, must be filed with the Chief Financial Officer within 5 years after the date the tax is paid, and within 3 years after the date the tax was paid for taxes paid on or after July 1, 1999. The Chief Financial Officer may delegate the authority to accept an application for refund to any state agency, or the judicial branch, vested by law with the responsibility for the collection of any tax, license, or account due. The application for refund must be on a form approved by the Chief Financial Officer and must be supplemented with additional proof the Chief Financial Officer deems necessary to establish the claim; provided, the claim is not otherwise barred under the laws of this state. Upon receipt of an application for refund, the judicial branch or the state agency to which the funds were paid shall make a determination of the amount due. If an application for refund is denied, in whole or in part, the judicial branch or such state agency shall notify the applicant stating the reasons therefor. Upon approval of an application for refund, the judicial branch or such state agency shall furnish the Chief Financial Officer with a properly executed voucher authorizing payment.

Section 22. Effective for policies issued or renewed on or after January 1, 2006, section 252.372, Florida Statutes, is amended to read:

252.372 Imposition and collection of surcharge.--In order to provide funds for emergency management, preparedness, and assistance, an annual surcharge of $2 per policy shall be imposed on every homeowner's, mobile home owner's, tenant homeowner's, and condominium unit owner's policy, and an annual $4 surcharge shall be imposed on every commercial fire, commercial multiple peril, and business owner's property insurance policy, issued or renewed on or after May 1, 1993. The surcharge shall be paid by the policyholder to the insurer. The insurer shall collect the surcharge and remit it to the Department of Revenue, which shall collect, administer, audit, and enforce the surcharge pursuant to s. 624.5092. The surcharge is not to be considered premiums of the insurer; however, nonpayment of the surcharge by the insured may be a valid reason for cancellation of the policy. For those policies in which the surplus lines tax and the service fee are collected and remitted to the Surplus Lines Service Office, as created under s. 626.921, the surcharge must be remitted to the service office at the same time as the surplus lines tax is remitted. All penalties for failure to remit the surplus lines tax and service fee are applicable for those surcharges required to be remitted to the service office. The service office shall deposit all surcharges that it collects into the Emergency Management, Preparedness, and Assistance Trust Fund at least monthly. All proceeds of the surcharge shall be deposited in the Emergency Management, Preparedness, and Assistance Trust Fund and may not be used to supplant existing funding.

Section 23. Effective January 1, 2006, paragraph (e) of subsection (3) of section 443.131, Florida Statutes, is amended, present paragraphs (g), (h), (i), and (j) of that subsection are redesignated as paragraphs (h), (i), (j), and (k), respectively, and a new paragraph (g) is added to that subsection to read:

443.131 Contributions.--

(3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT EXPERIENCE.--

(e) Assignment of variations from the standard rate.--

1. The tax collection service provider shall assign a variation from the standard rate of contributions for each calendar year to each eligible employer. In determining the contribution rate, varying from the standard rate to be assigned each employer, adjustment factors computed under sub-subparagraphs a.-c. shall be added to the benefit ratio. This addition shall be accomplished in two steps by adding a variable adjustment factor and a final adjustment factor. The sum of these adjustment factors computed under sub-subparagraphs a.-c. shall first be algebraically summed. The sum of these adjustment factors shall next be divided by a gross benefit ratio determined as follows: Total benefit payments for the 3-year period described in subparagraph (b)2. shall be charged to employers eligible for a variation from the standard rate, minus excess payments for the same period, divided by taxable payroll entering into the computation of individual benefit ratios for the calendar year for which the contribution rate is being computed. The ratio of the sum of the adjustment factors computed under sub-subparagraphs a.-c. to the gross benefit ratio shall be multiplied by each individual benefit ratio that is less than the maximum contribution rate to obtain variable adjustment factors; except that in any instance in which the sum of an employer's individual benefit ratio and variable adjustment factor exceeds the maximum contribution rate, the variable adjustment factor shall be reduced in order that the sum equals the maximum contribution rate. The variable adjustment factor for each of these employers is multiplied by his or her taxable payroll entering into the computation of his or her benefit ratio. The sum of these products shall be divided by the taxable payroll of the employers who entered into the computation of their benefit ratios. The resulting ratio shall be subtracted from the sum of the adjustment factors computed under sub-subparagraphs a.-c. to obtain the final adjustment factor. The variable adjustment factors and the final adjustment factor shall be computed to five decimal places and rounded to the fourth decimal place. This final adjustment factor shall be added to the variable adjustment factor and benefit ratio of each employer to obtain each employer's contribution rate. An employer's contribution rate may not, however, be rounded to less than 0.1 percent.

a. An adjustment factor for noncharge benefits shall be computed to the fifth decimal place and rounded to the fourth decimal place by dividing the amount of noncharge benefits during the 3-year period described in subparagraph (b)2. by the taxable payroll of employers eligible for a variation from the standard rate who have a benefit ratio for the current year which is less than the maximum contribution rate. For purposes of computing this adjustment factor, the taxable payroll of these employers is the taxable payrolls for the 3 years ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of the same calendar year. As used in this sub-subparagraph, the term "noncharge benefits" means benefits paid to an individual from the Unemployment Compensation Trust Fund, but which were not charged to the employment record of any employer.

b. An adjustment factor for excess payments shall be computed to the fifth decimal place, and rounded to the fourth decimal place by dividing the total excess payments during the 3-year period described in subparagraph (b)2. by the taxable payroll of employers eligible for a variation from the standard rate who have a benefit ratio for the current year which is less than the maximum contribution rate. For purposes of computing this adjustment factor, the taxable payroll of these employers is the same figure used to compute the adjustment factor for noncharge benefits under sub-subparagraph a. As used in this sub-subparagraph, the term "excess payments" means the amount of benefits charged to the employment record of an employer during the 3-year period described in subparagraph (b)2., less the product of the maximum contribution rate and the employer's taxable payroll for the 3 years ending June 30 of the current calendar year as reported to the tax collection service provider by

September 30 of the same calendar year. As used in this sub-subparagraph, the term "total excess payments" means the sum of the individual employer excess payments for those employers that were eligible to be considered for assignment of a contribution rate different ~~a variation~~ from the standard rate.

c. If the balance of the Unemployment Compensation Trust Fund on June 30 of the calendar year immediately preceding the calendar year for which the contribution rate is being computed is less than 3.7 percent of the taxable payrolls for the year ending June 30 as reported to the tax collection service provider by September 30 of that calendar year, a positive adjustment factor shall be computed. The positive adjustment factor shall be computed annually to the fifth decimal place and rounded to the fourth decimal place by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year into a sum equal to one-fourth of the difference between the balance of the fund as of June 30 of that calendar year and the sum of 4.7 percent of the total taxable payrolls for that year. The positive adjustment factor remains in effect for subsequent years until the balance of the Unemployment Compensation Trust Fund as of June 30 of the year immediately preceding the effective date of the contribution rate equals or exceeds 3.7 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year. If the balance of the Unemployment Compensation Trust Fund as of June 30 of the year immediately preceding the calendar year for which the contribution rate is being computed exceeds 4.7 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year, a negative adjustment factor shall be computed. The negative adjustment factor shall be computed annually to the fifth decimal place and rounded to the fourth decimal place by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of the calendar year into a sum equal to one-fourth of the difference between the balance of the fund as of June 30 of the current calendar year and 4.7 percent of the total taxable payrolls of that year. The negative adjustment factor remains in effect for subsequent years until the balance of the Unemployment Compensation Trust Fund as of June 30 of the year immediately preceding the effective date of the contribution rate is less than 4.7 percent, but more than 3.7 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year.

d. The maximum contribution rate that may be assigned to an employer is 5.4 percent, except employers participating in an approved short-time compensation plan may be assigned a maximum contribution rate that is 1 percent greater than the maximum contribution rate for other employers in any calendar year in which short-time compensation benefits are charged to the employer's employment record.

2. If the transfer of an employer's employment record to an employing unit under paragraph (f) which, before the transfer, was an employer, the tax collection service provider shall recompute a benefit ratio for the successor employer based on the combined employment records and reassign an appropriate contribution rate to the successor employer effective on the first day of the calendar quarter immediately after the effective date of the transfer.

(g) Notwithstanding any other provision of law, upon transfer or acquisition of a business, the following conditions apply to the assignment of rates and to transfers of unemployment experience:

1.a. If an employer transfers its trade or business, or a portion thereof, to another employer and, at the time of the transfer, there is any common ownership, management, or control of the two employers, the unemployment experience attributable to the transferred trade or business shall be transferred to the employer to whom the business is so transferred. The rates of both employers shall be recalculated and made effective as of the beginning of the calendar quarter immediately following the date of the transfer of the trade or business unless the transfer occurred on the first day of a calendar quarter, in which case the rate shall be recalculated as of that date.

b. If, following a transfer of experience under sub-subparagraph a., the Agency for Workforce Innovation or the tax collection service provider determines that a substantial purpose of the transfer of trade or business was to obtain a reduced liability for contributions, the experience rating account of the employers involved shall be combined into a single account and a single rate assigned to the account.

2. Whenever a person who is not at the time an employer under this chapter acquires the trade or business of an employer, the unemployment experience of the acquired business shall not be transferred to the person if the Agency for Workforce Innovation or the tax collection service provider finds that such person acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions. Instead, such person shall be assigned the new employer rate under paragraph (2)(a). In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower rate of contributions, the tax collection service provider shall consider:

a. Whether the person continued the business enterprise of the acquired business;

b. How long such business enterprise was continued; or

c. Whether a substantial number of new employees was hired for performance of duties unrelated to the business activity conducted before the acquisition.

3. If a person knowingly violates or attempts to violate subparagraph 1. or subparagraph 2. or any other provision of this chapter relating to determining the assignment of a contribution rate, or if a person knowingly advises another person to violate the law, the person shall be subject to the following penalties:

a. If the person is an employer, the employer shall be assigned the highest rate assignable under this chapter for the rate year during which such violation or attempted violation occurred and for the 3 rate years immediately following this rate year. However, if the person's business is already at the highest rate for any year, or if the amount of increase in the person's rate would be less than 2 percent for such year, then a penalty rate of contribution of 2 percent of taxable wages shall be imposed for such year.

b. If the person is not an employer, the person shall be subject to a civil penalty of not more than $5,000. The procedures for the assessment of a penalty shall be in accordance with the procedures set forth in s. 443.141(2), and the provisions of s. 443.141(3) shall apply to the collection of the penalty. Any such penalty shall be deposited in the penalty and interest account established under s. 443.211(2).

4. For the purposes of this paragraph, the term:

a. "Knowingly" means having actual knowledge of or acting with deliberate ignorance or reckless disregard for the prohibition involved.

b. "Violates or attempts to violate" includes, but is not limited to, intent to evade, misrepresent, or willfully nondisclose.

c. "Person" has the meaning given to the term by s. 7701(a)(1) of the Internal Revenue Code of 1986.

d. "Trade or business" includes the employer's workforce.

5. In addition to the penalty imposed by subparagraph 3., any person who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

6. The Agency for Workforce Innovation and the tax collection service provider shall establish procedures to identify the transfer or acquisition of a business for the purposes of this paragraph and shall adopt any rules necessary to administer this paragraph.

7. This paragraph shall be interpreted and applied in such a manner as to meet the minimum requirements contained in any guidance or regulations issued by the United States Department of Labor.

Section 24. Paragraph (a) of subsection (2) and paragraph (a) of subsection (3) of section 443.141, Florida Statutes, are amended to read:

443.141 Collection of contributions and reimbursements.--

(2) REPORTS, CONTRIBUTIONS, APPEALS.--

(a) Failure to make reports and pay contributions.--If an employing unit determined by the tax collection service provider to be an employer subject to this chapter fails to make and file any report as and when required by this chapter or by any rule of the Agency for Workforce Innovation or the state agency providing tax collection services, for the purpose of determining the amount of contributions due by the employer under this chapter, or if any filed report is found by the service provider to be incorrect or insufficient, and the employer, after being notified in writing by the service provider to file the report, or a corrected or sufficient report, as applicable, fails to file the report within 15 days after the date of the mailing of the notice, the tax collection service provider may:

1. Determine the amount of contributions due from the employer based on the information readily available to it, which determination is deemed to be prima facie correct;

2. Assess the employer the amount of contributions determined to be due; and

3. Immediately notify the employer by ~~registered or certified~~ mail of the determination and assessment including penalties as provided in this chapter, if any, added and assessed, and demand payment together with interest on the amount of contributions from the date that amount was due and payable.

(3) COLLECTION PROCEEDINGS.--

(a) Lien for payment of contributions or reimbursements.--

1. There is created a lien in favor of the tax collection service provider upon all the property, both real and personal, of any employer liable for payment of any contribution or reimbursement levied and imposed under this chapter for the amount of the contributions or reimbursements due, together with interest, costs, and penalties. If any contribution or reimbursement imposed under this chapter or any portion of that contribution, reimbursement, interest, or penalty is not paid within 60 days after becoming delinquent, the tax collection service provider may subsequently issue a notice of lien that may be filed in the office of the clerk of the circuit court of any county in which the delinquent employer owns property or has conducted business. The notice of lien must include the periods for which the contributions, reimbursements, interest, or penalties are demanded and the amounts due. A copy of the notice of lien must be mailed to the employer at her or his last known address ~~by registered mail~~. The notice of lien may not be issued and recorded until 15 days after the date the assessment becomes final under subsection (2). Upon presentation of the notice of lien, the clerk of the circuit court shall record it in a book maintained for that purpose, and the amount of the notice of lien, together with the cost of recording and interest accruing upon the amount of the contribution or reimbursement, becomes a lien upon the title to and interest, whether legal or equitable, in any real property, chattels real, or personal property of the employer against whom the notice of lien is issued, in the same manner as a judgment of the circuit court docketed in the office of the circuit court clerk, with execution issued to the sheriff for levy. This lien is prior, preferred, and superior to all mortgages or other liens filed, recorded, or acquired after the notice of lien is filed. Upon the payment of the amounts due, or upon determination by the tax collection service provider that the notice of lien was erroneously issued, the lien is satisfied when the service provider acknowledges in writing that the lien is fully satisfied. A lien's satisfaction does not need to be acknowledged before any notary or other public officer, and the signature of the director of the tax collection service provider or his or her designee is conclusive evidence of the satisfaction of the lien, which satisfaction shall be recorded by the clerk of the circuit court who receives the fees for those services.

2. The tax collection service provider may subsequently issue a warrant directed to any sheriff in this state, commanding him or her to levy upon and sell any real or personal property of the employer liable for any amount under this chapter within his or her jurisdiction, for payment, with the added penalties and interest and the costs of executing the warrant, together with the costs of the clerk of the circuit court in recording and docketing the notice of lien, and to return the warrant to the service provider with payment. The warrant may only be issued and enforced for all amounts due to the tax collection service provider on the date the warrant is issued, together with interest accruing on the contribution or reimbursement due from the employer to the date of payment at the rate provided in this section. In the event of sale of any assets of the employer, however, priorities under the warrant shall be determined in accordance with the priority established by any notices of lien filed by the tax collection service provider and recorded by the clerk of the circuit court. The sheriff shall execute the warrant in the same manner prescribed by law for executions issued by the clerk of the circuit court for judgments of the circuit court. The sheriff is entitled to the same fees for executing the warrant as for a writ of execution out of the circuit court, and these fees must be collected in the same manner.

Section 25. Section 624.50921, Florida Statutes, is created to read:

624.50921 Adjustments.--

(1) If a taxpayer is required to amend its corporate income tax liability under chapter 220, or the taxpayer receives a refund of its workers' compensation administrative assessment paid under chapter 440, the taxpayer shall file an amended insurance premium tax return not later than 60 days after such an occurrence.

(2) If an amended insurance premium tax return is required under subsection (1), notwithstanding any other provision of s. 95.091(3):

(a) A notice of deficiency may be issued at any time within 3 years after the date the amended insurance premium tax return is given; or

(b) If a taxpayer fails to file an amended insurance premium tax return, a notice of deficiency may be issued at any time.

The amount of any proposed assessment set forth in such a notice of deficiency shall be limited to the amount of any deficiency resulting under this code from recomputation of the taxpayer's insurance premium tax and retaliatory tax for the taxable year after giving effect only to the change in corporate income tax paid and the change in the amount of the workers' compensation administrative assessment paid. Interest in accordance with s. 624.5092 is due on the amount of any deficiency from the date fixed for filing the original insurance premium tax return for the taxable year until the date of payment of the deficiency.

(3) If an amended insurance premium tax return is required by subsection (1), a claim for refund may be filed within 2 years after the date on which the amended insurance premium tax return was due, regardless of whether such notice was given, notwithstanding any other provision of s. 215.26. However, the amount recoverable pursuant to such a claim shall be limited to the amount of any overpayment resulting under this code from recomputation of the taxpayer's insurance premium tax and retaliatory tax for the taxable year after giving effect only to the change in corporate income tax paid and the change in the amount of the workers' compensation administrative assessment paid.

Section 26. Subsection (5) of section 624.509, Florida Statutes, is amended to read:

624.509 Premium tax; rate and computation.--

(5)

(a)1. There shall be allowed a credit against the net tax imposed by this section equal to 15 percent of the amount paid by an ~~the~~ insurer in salaries to employees located or based within this state and who are covered by the provisions of chapter 443.

2. As an alternative to the credit allowed in subparagraph 1., an affiliated group of corporations which includes at least one insurance company writing premiums in Florida may elect to take a credit against the net tax imposed by this section in an amount that may not exceed 15 percent of the salary of the employees of the affiliated group of corporations who perform insurance-related activities, are located or based within this state, and are covered by chapter 443. For purposes of this subparagraph, the term "affiliated group of corporations" means two or more corporations that are entirely owned directly or indirectly by a single corporation and that constitute an affiliated group as defined in s. 1504(a) of the Internal Revenue Code. The amount of credit allowed under this subparagraph is limited to the combined Florida salary tax

credits allowed for all insurance companies that were members of the affiliated group of corporations for the tax year ending December 31, 2002, divided by the combined Florida taxable premiums written by all insurance companies that were members of the affiliated group of corporations for the tax year ending December 31, 2002, multiplied by the combined Florida taxable premiums of the affiliated group of corporations for the current year. An affiliated group of corporations electing this alternative calculation method must make such election on or before August 1, 2005. The election of this alternative calculation method is irrevocable and binding upon successors and assigns of the affiliated group of corporations electing this alternative. However, if a member of an affiliated group of corporations acquires or merges with another insurance company after the date of the irrevocable election, the acquired or merged company is not entitled to the affiliated group election and shall only be entitled to calculate the tax credit under subparagraph 1.

In no event shall the salary paid to an employee by an affiliated group of corporations be claimed as a credit by more than one insurer or be counted more than once in an insurer's calculation of the credit as described in subparagraph 1. or subparagraph 2. Only the portion of an employee's salary paid for the performance of insurance-related activities may be included in the calculation of the premium tax credit in this subsection.

(b) For purposes of this subsection:

1.~~(a)~~ The term "salaries" does not include amounts paid as commissions.

2.~~(b)~~ The term "employees" does not include independent contractors or any person whose duties require that the person hold a valid license under the Florida Insurance Code, except adjusters, managing general agents, and service representatives, as ~~persons~~ defined in s. 626.015 ~~s. 626.015(1), (14), and (16)~~.

3.~~(c)~~ The term "net tax" means the tax imposed by this section after applying the calculations and credits set forth in subsection (4).

4.~~(d)~~ An affiliated group of corporations that created a service company within its affiliated group on July 30, 2002, shall allocate the salary of each service company employee covered by contracts with affiliated group members to the companies for which the employees perform services. The salary allocation is based on the amount of time during the tax year that the individual employee spends performing services or otherwise working for each company over the total amount of time the employee spends performing services or otherwise working for all companies. The total amount of salary allocated to an insurance company within the affiliated group shall be included as that insurer's employee salaries for purposes of this section.

a.~~1.~~ Except as provided in subparagraph 2., the term "affiliated group of corporations" means two or more corporations that are entirely owned by a single corporation and that constitute an affiliated group of corporations as defined in s. 1504(a) of the Internal Revenue Code.

b.~~2.~~ The term "service company" means a separate corporation within the affiliated group of corporations whose employees provide services to affiliated group members and which are treated as service company employees for unemployment compensation and common law purposes. The holding company of an affiliated group may not qualify as a service company. An insurance company may not qualify as a service company.

c.~~3.~~ If an insurance company fails to substantiate, whether by means of adequate records or otherwise, its eligibility to claim the service company exception under this section, or its salary allocation under this section, no credit shall be allowed.

5. A service company that is a subsidiary of a mutual insurance holding company, which mutual insurance holding company was in existence on or before January 1, 2000, shall allocate the salary of each service company employee covered by contracts with members of the mutual insurance holding company system to the companies for which the employees perform services. The salary allocation is based on the ratio of the amount of time during the tax year which the individual employee spends performing services or otherwise working for each company to the total amount of time the employee spends performing services or otherwise working for all companies. The total amount of salary allocated to an insurance company within the mutual insurance holding company system shall be included as that insurer's employee salaries for purposes of this section. However, this subparagraph does not apply for any tax year unless funds sufficient to offset the anticipated salary credits have been appropriated to the General Revenue Fund prior to the due date of the final return for that year.

a. The term "mutual insurance holding company system" means two or more corporations that are subsidiaries of a mutual insurance holding company and in compliance with part IV of chapter 628.

b. The term "service company" means a separate corporation within the mutual insurance holding company system whose employees provide services to other members of the mutual insurance holding company system and are treated as service company employees for unemployment compensation and common-law purposes. The mutual insurance holding company may not qualify as a service company.

c. If an insurance company fails to substantiate, whether by means of adequate records or otherwise, its eligibility to claim the service company exception under this section, or its salary allocation under this section, no credit shall be allowed.

(c) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this subsection.

Section 27. Subsection (1) of section 624.5091, Florida Statutes, is amended to read:

624.5091 Retaliatory provision, insurers.--

(1)(a) When by or pursuant to the laws of any other state or foreign country any taxes, licenses, and other fees, in the aggregate, and any fines, penalties, deposit requirements, or other material obligations, prohibitions, or restrictions are or would be imposed upon Florida insurers or upon the agents or representatives of such insurers, which are in excess of such taxes, licenses, and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements, or other obligations, prohibitions, or restrictions directly imposed upon similar insurers, or upon the agents or representatives of such insurers, of such other state or country under the statutes of this state, so long as such laws of such other state or country continue in force or are so applied, the same taxes, licenses, and other fees, in the aggregate, or fines, penalties, deposit requirements, or other material obligations, prohibitions, or restrictions of whatever kind shall be imposed by the Department of Revenue upon the insurers, or upon the agents or representatives of such insurers, of such other state or country doing business or seeking to do business in this state. In determining the taxes to be imposed under this section, 80 percent and a portion of the remaining 20 percent as provided in paragraph (b) of the credit provided by s. 624.509(5), as limited by s. 624.509(6) and further determined by s. 624.509(7), shall not be taken into consideration.

(b) As used in this subsection, the term "portion of the remaining 20 percent" shall be calculated by multiplying the remaining 20 percent by a fraction, the numerator of which is the sum of the salaries qualifying for the credit allowed by s. 624.509(5) of employees whose place of employment is located in an enterprise zone created pursuant to chapter 290 and the denominator of which is the sum of the salaries qualifying for the credit allowed by s. 624.509(5).

Section 28. The sum of $2.6 million is appropriated from the Workers' Compensation Administration Trust Fund to the General Revenue Fund for the 2005-2006 fiscal year.

Section 29. The intent of the revision to section 624.509(5)(b), Florida Statutes, in section 25 is to clarify that adjusters, managing general agents, and service representatives, as defined in section 626.015, Florida Statutes, are considered employees for purposes of the salary credit provided in section 626.509, Florida Statutes. The reference in section 624.509, Florida Statutes, to section 626.015, Florida Statutes, was never intended to reference the definition of a "resident."

Section 30. Notwithstanding section 11 of chapter 2000-312, Laws of

Florida, section 213.21, Florida Statutes, shall not stand repealed on October 1, 2005, as scheduled by that law, but that section is revived and readopted.

Section 31. If a security agreement pledging condominium or homeowner association assessments or fees or club membership dues, fees, or assessments was recorded after April 15, 2000, and before April 10, 2005, with a clerk of the court, and if a Uniform Commercial Code financing statement was filed with the Secretary of State or the Florida Secured Transaction Registry with respect to such security agreement, the excise tax on documents under chapter 201, Florida Statutes, is not due solely as a result of the recording of the security agreement if an affidavit attesting that the security agreement was recorded in error or by mistake is filed or recorded with the clerk of the court.

Section 32. Retroactive to January 1, 2005, section 196.1999, Florida Statutes, is created to read:

196.1999 Space laboratories and carriers; exemption.--Notwithstanding other provisions of this chapter, a module, pallet, rack, locker, and any necessary associated hardware and subsystem owned by any person and intended to be used to transport or store cargo used for a space laboratory for the primary purpose of conducting scientific research in space is deemed to carry out a scientific purpose and is exempt from ad valorem taxation.

Section 33. Section 196.1994, Florida Statutes, is repealed.

Section 34. Subsection (4) of section 201.23, Florida Statutes, is amended to read:

201.23 Foreign notes and other written obligations exempt.--

(4)(a) The excise taxes imposed by this chapter shall not apply to the documents, notes, evidences of indebtedness, financing statements, drafts, bills of exchange, or other taxable items dealt with, made, issued, drawn upon, accepted, delivered, shipped, received, signed, executed, assigned, transferred, or sold by or to a banking organization~~, as defined in s. 199.023(9),~~ in the conduct of an international banking transaction~~, as defined in s. 199.023(11)~~. Nothing in this subsection shall be construed to change the application of paragraph (2)(a).

(b) For purposes of this subsection, the term:

1. "Banking organization" means:

a. A bank organized and existing under the laws of any state;

b. A national bank organized and existing pursuant to the provisions of the National Bank Act, 12 U.S.C. ss. 21 et seq.;

c. An Edge Act corporation organized pursuant to the provisions of s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq.;

d. An international bank agency licensed pursuant to the laws of any state;

e. A federal agency licensed pursuant to ss. 4 and 5 of the International Banking Act of 1978;

f. A savings association organized and existing under the laws of any state;

g. A federal association organized and existing pursuant to the provisions of the Home Owners' Loan Act of 1933, 12 U.S.C. ss. 1461 et seq.; or

h. A Florida export finance corporation organized and existing pursuant to the provisions of part V of chapter 288.

2. "International banking transaction" means:

a. The financing of the exportation from, or the importation into, the United States or between jurisdictions abroad of tangible personal property or services;

b. The financing of the production, preparation, storage, or transportation of tangible personal property or services which are identifiable as being directly and solely for export from, or import into, the United States or between jurisdictions abroad;

c. The financing of contracts, projects, or activities to be performed substantially abroad, except those transactions secured by a mortgage, deed of trust, or other lien upon real property located in the state;

d. The receipt of deposits or borrowings or the extensions of credit by an international banking facility, except the loan or deposit of funds secured by mortgage, deed of trust, or other lien upon real property located in the state; or

e. Entering into foreign exchange trading or hedging transactions in connection with the activities described in sub-subparagraph d.

Section 35. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2005.

And the title is amended as follows:

Delete everything before the enacting clause

and insert:

A bill to be entitled

An act relating to tax administration; amending s. 95.091, F.S.; adding a cross-reference; amending s. 198.32, F.S.; allowing an estate that is not required to file a federal tax return to file with the clerk of the court an affidavit attesting that no Florida estate tax is due, regardless of the decedent's date of death; amending s. 199.135, F.S.; providing special provisions for the imposition of the nonrecurring intangibles tax imposed by this section on the sale of a timeshare interest in a timeshare plan; amending s. 201.02, F.S.; providing special provisions for the imposition of the tax on deeds or other instruments relating to real property or interests in real property imposed by this section on the sale of a timeshare interest in a timeshare plan; amending s. 201.08, F.S.; providing special provisions for the imposition of the tax on promissory or nonnegotiable notes or written obligations to pay money imposed by this section on the sale of a timeshare interest in a timeshare plan; amending s. 202.11, F.S.; providing an additional definition of the term "service address" for the purposes of the tax on communications services; amending ss. 206.09, 206.095, 206.14, and 206.485, F.S., relating to fuel taxes; providing for the distribution of penalties; amending s. 206.27, F.S.; allowing the Department of Revenue the option of posting the list of active and canceled fuel licenses on the departmental web site or mailing it to licensees; amending s. 212.0305, F.S.; permitting golf courses to be built with the proceeds of a charter county convention development tax; amending s. 212.05, F.S.; clarifying the tax treatment of nonresident purchasers of aircraft; amending s. 212.06, F.S.; clarifying that sales tax is not due on any vessel imported into this state for the sole purpose of being offered for retail sale by a registered Florida yacht broker or dealer under certain conditions; amending s. 212.11, F.S.; correcting a cross-reference; amending s. 212.12, F.S.; including in the definition of tax fraud willful attempts to evade a tax, surcharge, or fee imposed by chapter 212, F.S.; amending s. 213.053, F.S.; authorizing expanded sharing of confidential information between the Department of Revenue and the Department of Agriculture and Consumer Services for the Bill of Lading Program; amending s. 213.21, F.S.; specifying which taxes qualify for the automatic penalty compromise or settlement of liability; providing for retroactivity; amending s. 213.27, F.S.; clarifying that the notification by the Department of Revenue to the taxpayer that the taxpayer's account is being referred to a debt collection agency must be at least 30 days before the referral; amending s. 215.26, F.S.; adding a cross-reference; amending s. 252.372, F.S.; authorizing the Florida Surplus Lines Service Office to collect the Emergency Management, Preparedness, and Assistance Trust Fund surcharge and deposit the proceeds into the trust fund; amending s. 443.131, F.S.; requiring employers who transfer their business to a related entity to retain their unemployment experience history under certain circumstances; providing penalties; amending s. 443.141, F.S.; authorizing the Department of Revenue to send to employers by regular mail notices of unemployment tax assessments and notices of the filing of liens; creating s. 624.50921, F.S.; creating a statute of limitations for assessments of the insurance premium tax if the amount of corporate income tax or a workers' compensation administrative assessment paid by the insurer is adjusted through an amended return or refund; amending s. 624.509, F.S.; providing for an alternative method of calculating a tax credit against the insurance premium tax for certain groups of affiliated corporations; clarifying the definition of the term "employees" for purposes of calculating such a credit; allowing a salary credit for employees of a

service company subsidiary of a mutual insurance holding company; providing an exception; authorizing the department to adopt rules to administer such a credit; amending s. 624.5091, F.S., increasing the amount of tax credits excluded from calculation of insurance retaliatory taxes; providing an appropriation; providing legislative intent regarding the meaning of the term "employees" for purposes of determining the salary credit against the insurance premium tax; reviving and readopting s. 213.21, F.S., relating to informal conference procedures within the Department of Revenue; exempting from the documentary stamp tax certain security agreements recorded in error or by mistake; creating s. 196.1999, F.S.; providing retroactivity; providing an exemption from ad valorem taxes for certain space laboratories; repealing s. 196.1994, F.S., which expired effective July 1, 2004, and which provided an exemption from ad valorem taxes for certain space laboratories; amending s. 201.23, F.S.; defining the terms "banking organization" and "international banking transaction," relating to exemption from certain excise taxes; providing effective dates.

Representative(s) Brummer offered the following:

(Amendment Bar Code: 898813)

House Amendment 1 to Senate Amendment 1 (with title amendment)—On page 20, line 14, through page 23, line 17, remove all of said lines, and insert:

Section 16. Effective July 1, 2005, paragraph (ccc) is added to subsection (7) of section 212.08, Florida Statutes, to read:

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

(7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(ccc) Advertising materials distributed by mail in an envelope.--Likewise exempt are materials consisting exclusively of advertising that are distributed by mail in an envelope, such as individual coupons or other individual cards, sheets, or pages of printed advertising, for ten or more persons, that are distributed free of charge on a monthly, bimonthly, or other regular basis.

Section 17. Paragraph (a) of subsection (2) of section 212.12, Florida Statutes, is amended, present paragraph (e) of that subsection is redesignated as paragraph (f), present paragraph (f) of that subsection is redesignated as paragraph (g) and amended, and a new paragraph (e) is added to that subsection, to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.--

(2)

(a) When any person required hereunder to make any return or to pay any tax or fee imposed by this chapter either fails to timely file such return or fails to pay the tax or fee shown due on the return within the time required hereunder, in addition to all other penalties provided herein and by the laws of this state in respect to such taxes or fees, a specific penalty shall be added to the tax or fee in the amount of 10 percent of either the tax or fee shown on the return that is not timely filed or any tax or fee not paid timely. The penalty may not be less than $50 for failure to timely file a tax return required by s. 212.11(1) or timely pay the tax or fee shown due on the return except as provided in s. 213.21(11)~~(10)~~. If a person fails to timely file a return required by s. 212.11(1) and to timely pay the tax or fee shown due on the return, only one penalty of 10 percent, which may not be less than $50, shall be imposed.

(e) A person who willfully attempts in any manner to evade any tax, surcharge, or fee imposed under this chapter or the payment thereof is, in addition to any other penalties provided by law, liable for a specific penalty in the amount of 100 percent of the tax, surcharge, or fee and commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(g)~~(f)~~ A dealer who files ~~Dealers filing~~ a consolidated return pursuant to s. 212.11(1)(e) is ~~shall be~~ subject to the penalty established in paragraph (f) ~~(e)~~ unless the dealer has paid the required estimated tax for his or her consolidated return as a whole without regard to each location. If the dealer fails to pay the required estimated tax for his or her consolidated return as a whole, each filing location shall stand on its own with respect to calculating penalties pursuant to paragraph (f) ~~(e)~~.

Section 18. Paragraph (l) 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:

(l) Information relative to chapter 212 and the Bill of Lading Program to the Office of Agriculture Law Enforcement of the Department of Agriculture and Consumer Services in the conduct of its official duties ~~the Bill of Lading Program. This information is limited to the business name and whether the business is in compliance with chapter 212.~~

Section 19. Paragraph (b) of subsection (5) of section 212.13, Florida Statutes, is amended to read:

212.13 Records required to be kept; power to inspect; audit procedure.--

(5)

(b) Such written notification shall contain:

1. The approximate date on which the auditor is scheduled to begin the audit.

2. A reminder that all of the records, receipts, invoices, resale certificates, and related documentation of the taxpayer must be made available to the auditor.

3. A notification of the availability of having the audit conducted pursuant to s. 213.285 by a qualified practitioner instead of the department.

4.~~3.~~ Any other requests or suggestions the department may deem necessary.

Section 20. Subsection (8) of section 213.21, Florida Statutes, is amended, subsection (9) of said section is renumbered as subsection (10), subsection (10) of said section is renumbered as subsection (11) and amended, and a new subsection (9) is added to said section, to read:

213.21 Informal conferences; compromises.--

(8) In order to determine whether certified audits are an effective tool in the overall state tax collection effort, the executive director of the department or the executive director's designee shall settle or compromise penalty liabilities of taxpayers who participate in the certified audits project before the department issues a notice of intent to audit. As further incentive for participating in the program before the department issues a notice of intent to audit, the department shall abate the first $25,000 of any interest liability and 25 percent of any interest due in excess of the first $25,000. A settlement or compromise of penalties or interest pursuant to this subsection shall not be subject to the provisions of paragraph (3)(a), except for the requirement relating to confidentiality of records. The department may consider an additional compromise of tax or interest pursuant to the provisions of paragraph (3)(a). This subsection

does not apply to any liability related to taxes collected but not remitted to the department.

(9) For taxpayers that participate in the certified audit program after a written notification of intent to audit has been issued by the department, the department shall only compromise penalty based upon reasonable cause pursuant to s. 213.21 and shall abate the first $10,000 of any interest liability and 10 percent of any interest due in excess of the first $10,000.

(11)~~(10)~~(a) ~~Effective July 1, 2003,~~ Notwithstanding any other provision of law and solely for the purpose of administering the taxes ~~tax~~ imposed by ss. 125.0104 and 125.0108 and chapter 212, except s. 212.0606, under the circumstances set forth in this subsection, the department shall settle or compromise a taxpayer's liability for penalty without requiring the taxpayer to submit a written request for compromise or settlement.

(b) For taxpayers who file returns and remit tax on a monthly basis:

1. Any penalty related to a noncompliant filing event shall be settled or compromised if the taxpayer has:

a. No noncompliant filing event in the immediately preceding 12-month period and no unresolved ~~chapter 212~~ liability under s. 125.0104, s. 125.0108, or chapter 212 resulting from a noncompliant filing event; or

b. One noncompliant filing event in the immediately preceding 12-month period, resolution of the current noncompliant filing event through payment of tax and interest and the filing of a return within 30 days after notification by the department, and no unresolved ~~chapter 212~~ liability under s. 125.0104, s. 125.0108, or chapter 212 resulting from a noncompliant filing event.

2. If a taxpayer has two or more noncompliant filing events in the immediately preceding 12-month period, the taxpayer shall be liable, absent a showing by the taxpayer that the noncompliant filing event was due to extraordinary circumstances, for the penalties provided in s. 125.0104 or s. 125.0108 and s. 212.12, including loss of collection allowance, and shall be reported to a credit bureau.

(c) For taxpayers who file returns and remit tax on a quarterly basis, any penalty related to a noncompliant filing event shall be settled or compromised if the taxpayer has no noncompliant filing event in the immediately preceding 12-month period and no unresolved ~~chapter 212~~ liability under s. 125.0104, s. 125.0108, or chapter 212 resulting from a noncompliant filing event.

(d) For purposes of this subsection:

1. "Noncompliant filing event" means a failure to timely file a complete and accurate return required under s. 125.0104, s. 125.0108, or chapter 212 or a failure to timely pay the amount of tax reported on a return required by s. 125.0104, s. 125.0108, or chapter 212.

2. "Extraordinary circumstances" means the occurrence of events beyond the control of the taxpayer, such as, but not limited to, the death of the taxpayer, acts of war or terrorism, natural disasters, fire, or other casualty, or the nonfeasance or misfeasance of the taxpayer's employees or representatives responsible for compliance with s. 125.0104, s. 125.0108, or ~~the provisions of~~ chapter 212. With respect to the acts of an employee or representative, the taxpayer must show that the principals of the business lacked actual knowledge of the noncompliance and that the noncompliance was resolved within 30 days after actual knowledge.

Section 21. The amendment to s. 213.21(10), Florida Statutes, made by this act, shall operate retroactively to July 1, 2003.

Section 22. Paragraph (d) of subsection (1), paragraph (b) of subsection (2), paragraphs (b) and (c) of subsection (4), and subsection (7) of section 213.285, Florida Statutes, are amended to read:

213.285 Certified audits.--

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

(d) "Qualified practitioner" means a certified public accountant who is licensed to practice in Florida and who has completed the certification program. For certified audits entered into after the department issues a notice of intent to audit, a qualified practitioner cannot have performed accounting, auditing, management consulting, or tax services for the taxpayer or person that is a subsidiary, parent, sister, or other affiliate of the taxpayer during the 60-month period immediately preceding the written notice of intent to conduct an audit. Furthermore, for certified audits entered into after the department issues a notice of intent to audit, the qualified practitioner may not perform accounting, auditing, management consulting, or tax services for any taxpayer or person that is a subsidiary, parent, sister, or other affiliate of the taxpayer for a period of 36 months after the department's approval of the certified audit report.

(2)

(b)1. As an incentive for taxpayers to incur the costs of a certified audit, the department shall compromise penalties and abate interest due on any tax liabilities revealed by a certified audit as provided in s. 213.21. This authority to compromise penalties or abate interest shall not apply to any liability for taxes that were collected by the participating taxpayer but that were not remitted to the department.

2. If the taxpayer's request to participate in the certified audit program is submitted after the taxpayer has been issued a written notice of intent to conduct an audit, the department shall compromise penalties on any tax liabilities revealed by a certified audit as provided in s. 213.21. This authority to compromise penalties shall not apply to any liability for taxes that were collected by the participating taxpayer but that were not remitted to the department.

(4)

(b)1. If the taxpayer has not been issued a written notice of intent to conduct an audit, the taxpayer shall be a participating taxpayer and the department shall so advise the qualified practitioner in writing within 10 days after receipt of the engagement notice. However, the department may exclude a taxpayer from a certified audit or may limit the taxes or periods subject to the certified audit on the basis that the department has previously conducted an audit, that it is in the process of conducting an investigation or other examination of the taxpayer's records, or for just cause determined solely by the department.

2. If the taxpayer has been issued a written notice of intent to conduct an audit and the department has not begun its field audit work, the taxpayer may be a participating taxpayer, and the department shall so advise the qualified practitioner in writing within 10 days after receipt of the engagement notice. An engagement notice must be submitted within 45 days after the written notice of intent to conduct an audit.

(c)1. Notice of the qualification of a taxpayer for a certified audit shall toll the statute of limitations provided in s. 95.091 with respect to the taxpayer for the tax and periods covered by the engagement.

2. If the taxpayer's request to participate in the certified audit program is submitted after the taxpayer has been issued a written notice of intent to conduct an audit, the written notice of intent to conduct an audit issued by the department shall toll the statute of limitations provided in s.95.091.

(7) To implement the certified audits project, the department shall have authority to adopt rules relating to:

(a) The availability of the certification program required for participation in the project;

(b) The requirements and basis for establishing just cause for approval or rejection of participation by taxpayers;

(c) The requirements and basis for establishing just cause for suspension, rejection, or cancellation of the department's certification of a qualified practitioner.

(d)~~(c)~~ Procedures for assessment, collection, and payment of liabilities or refund of overpayments and provisions for taxpayers to obtain informal and formal review of certified audit results;

(e)~~(d)~~ The nature, frequency, and basis for the department's review of certified audits conducted by qualified practitioners, including the requirements for documentation, work-paper retention and access, and reporting; and

(f)~~(e)~~ Requirements for conducting certified audits and for review of agreed-upon procedures.

(g) Requirements to prevent the qualified practitioner who conducted the certified audit after the department issued a notice of intent to audit from representing the taxpayer in the informal conference procedures provided in s. 213.21.

On page 49, lines 15-18, remove all of said lines, and insert:
amending s. 212.08, F.S.; exempting certain advertising materials distributed by mail in an envelope; amending s. 212.13, F.S.; specifying an additional audit notification notice requirement; amending s. 213.21, F.S.; clarifying application of certain certified audit program procedures; providing limitations on department authorization to compromise penalties and abate interest for certain taxpayers; specifying which taxes qualify for the automatic penalty compromise or settlement of liability; providing for retroactivity; amending s. 213.285, F.S.; revising provisions relating to certified audits; revising a definition, department authority to compromise penalties, participation by a taxpayer in certain audits, statutes of limitation, and department authority to adopt rules for the certified audits project; amending s.

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

On motion by Rep. Brummer, the House concurred in Senate Amendment 1, as amended. The question recurred on the passage of HB 1813. The vote was:

Session Vote Sequence: 567

Speaker Bense in the Chair.

Yeas—114

Adams	Cusack	Jennings	Quinones
Allen	Davis, D.	Johnson	Reagan
Altman	Davis, M.	Jordan	Rice
Ambler	Dean	Joyner	Rivera
Anderson	Detert	Justice	Robaina
Antone	Domino	Kendrick	Roberson
Arza	Evers	Kottkamp	Ross
Attkisson	Farkas	Kreegel	Rubio
Ausley	Fields	Kyle	Russell
Barreiro	Flores	Legg	Ryan
Baxley	Galvano	Littlefield	Sands
Bean	Gannon	Llorente	Sansom
Bendross-Mindingall	Garcia	Lopez-Cantera	Seiler
Bense	Gardiner	Machek	Simmons
Benson	Gelber	Mahon	Slosberg
Berfield	Gibson, A.	Mayfield	Smith
Bilirakis	Gibson, H.	McInvale	Sobel
Bogdanoff	Glorioso	Meadows	Sorensen
Bowen	Goldstein	Mealor	Stansel
Brandenburg	Goodlette	Murzin	Stargel
Brummer	Gottlieb	Needelman	Taylor
Brutus	Greenstein	Negron	Traviesa
Bucher	Grimsley	Patterson	Troutman
Bullard	Harrell	Peterman	Vana
Cannon	Hasner	Pickens	Waters
Carroll	Hays	Planas	Williams
Clarke	Holloway	Poppell	Zapata
Cretul	Homan	Porth	
Culp	Hukill	Proctor	

Nays—1

Brown

Votes after roll call:
Yeas—Grant, Henriquez, Richardson

So the bill passed, as amended. The action, together with the bill and amendments thereto, was immediately certified to the Senate.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1567, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 1567—A bill to be entitled An act relating to elections; amending s. 97.012, F.S.; revising duties of the Secretary of State as chief election officer; amending s. 97.021, F.S.; revising definitions; creating s. 97.029, F.S.; relating to the award of attorney's fees and costs in proceedings challenging election or voter registration law; amending s. 97.051, F.S.; revising the oath a person must take to register to vote; amending s. 97.052, F.S.; revising provisions relating to the uniform statewide voter registration application; removing the requirement that the uniform statewide voter registration application must contain certain homestead exemption information; providing for applicant notification upon his or her failure to answer required information on the voter registration application form; amending s. 97.053, F.S.; revising criteria for a voter registration application to be deemed complete; specifying where an initial voter registration application may be mailed; amending s. 97.055, F.S.; providing for permitted updates once registration books are closed; creating s. 97.0575, F.S.; regulating third-party voter registrations and registration organizations; requiring third-party voter registration organizations to name a registered agent and submit certain information to the Division of Elections; providing for a fiduciary duty of the third-party voter registration organization to the applicant; providing for joint and several liability for a breach of fiduciary duty; specifying fines; authorizing the division to investigate certain violations; providing for collected fines to be set aside by the division in a trust fund; authorizing the division to adopt certain rules; amending s. 98.045, F.S.; correcting a cross reference; amending s. 98.077, F.S.; providing for signature updates for use in verifying absentee and provisional ballots; providing a deadline for the supervisor of elections to receive voter signature updates; amending s. 99.061, F.S.; amending to conform; revising a financial disclosure requirement for candidate qualification; providing a submission deadline for qualifying papers; amending s. 99.063, F.S.; revising a financial disclosure requirement for certain designated candidates; amending s. 99.092, F.S., relating to qualifying fees of candidates, to conform; amending s. 99.095, F.S.; providing for a petition process in lieu of a qualifying fee and party assessment; providing requirements for signatures and petition format; providing submission deadlines; amending s. 99.0955, F.S.; revising provisions relating to candidates with no party affiliation; amending to conform; deleting obsolete provisions; amending s. 99.096, F.S.; revising filing requirements of minor political party candidates; amending to conform; deleting obsolete provisions; amending s. 99.09651, F.S., relating to signature requirements for ballot position in a year of apportionment, to conform; amending s. 100.011, F.S.; requiring electors in line at the official closing of the polls to be allowed to vote; amending s. 100.101, F.S.; deleting a provision requiring a special election to be held if a vacancy occurs in nomination; amending s. 100.111, F.S.; revising requirements relating to filling candidate vacancies; deleting provisions relating to a prohibition of qualified candidates to fill a vacancy in nomination; deleting obsolete provisions; amending s. 100.141, F.S.; conforming provisions relating to vacancies in nomination and qualifying by an alternative method; amending s. 101.031, F.S.; revising the voter's bill of rights to allow for an elector whose identity in question to cast a provisional ballot and to remove the right for an elector to prove identity by signing an affidavit; amending s. 101.043, F.S., relating to identification required at polls, to conform; amending s. 101.048, F.S.; providing a person casting a provisional ballot the right to present certain eligibility evidence by a certain date; providing for the county canvassing board to review provisional ballot voter's certificates and affirmations; providing a standard of review; revising the provisional ballot voter's

certificate and affirmation form; revising provisions relating to casting provisional ballots by electronic means; amending s. 101.049, F.S.; providing for provisional ballots and persons with disabilities; amending s. 101.051, F.S.; prohibiting solicitation of assistance to electors with certain disabilities at certain locations; providing a penalty; requiring a person providing an elector assistance to vote to take a specified oath; amending s. 101.111, F.S.; revising the oath taken by persons challenging the right of a person to vote; deleting the oath required to be taken by a person whose right to vote was challenged and allowing that person to cast a provisional ballot; providing a prohibition against and penalty for frivolous challenges; amending s. 101.131, F.S.; allowing certain poll watchers in early voting areas and polling rooms; providing limitations and restrictions on behavior of poll watchers; providing deadlines regarding designation and approval of poll watchers; amending s. 101.151, F.S.; replacing paper ballots with marksense ballots and accompanying specifications; amending s. 101.171, F.S.; requiring a copy of constitutional amendments to be available at polling locations in poster or booklet form; amending s. 101.294, F.S.; prohibiting a vendor of voting equipment from providing an uncertified voting system or upgrade; providing for certification of voting systems and upgrades; amending s. 101.295, F.S.; providing a penalty; amending s. 101.49, F.S.; revising the procedure of election officers where signatures differ; amending s. 101.51, F.S., relating to electors' occupation of booths, to conform; amending s. 101.5606, F.S., relating to requirements for approval of voting systems, to conform; amending s. 101.5608, F.S., relating to voting by electronic or electromechanical methods, to conform; amending s. 101.5612, F.S.; providing for additional testing of voting systems under certain circumstances; amending s. 101.5614, F.S.; correcting a cross reference; amending s. 101.572, F.S.; revising a provision relating to the public inspection of ballots; amending s. 101.58, F.S.; authorizing certain employees of the Department of State full access to all premises, records, equipment, and staff of the supervisor of elections; amending s. 101.595, F.S.; providing for the reporting of overvotes and undervotes in races for President and Vice President and Governor and Lieutenant Governor or, alternatively, other races appearing first on the ballot; amending s. 101.6103, F.S.; correcting a cross reference; authorizing canvassing boards to begin canvassing mail ballots before the election; providing a time when the results may be released; providing a penalty; amending s. 101.62, F.S.; revising provisions relating to the deadline by which the supervisor of elections must receive a request for an absentee ballot to be mailed to a voter; requiring absentee ballots to be mailed by a certain time; requiring certain information to be available and updated in electronic format as provided by rule adopted by the division; requiring information relating to absentee receipt and delivery dates to be available to the voter requesting the ballot; providing for unavailable regular absentee ballots for overseas electors; providing a deadline by which an absentee ballot request may be fulfilled by personal delivery; amending s. 101.64, F.S.; providing for a certain oath to be provided to overseas electors in lieu of a voter's certificate; amending s. 101.657, F.S.; revising requirements relating to early voting locations; revising the deadline to end early voting and the times for opening and closing the early voting sites each day; providing for uniformity of county early voting sites; requiring any person in line at the closing of an early voting site to be allowed to vote; providing for early voting in municipal and special district elections; requiring supervisors to provide certain information in electronic format to the Division of Elections; amending s. 101.663, F.S.; revising provisions relating to certain electors who move to another state; amending s. 101.68, F.S.; providing that an absentee ballot is deemed to have been cast once it has been received by the supervisor; amending s. 101.69, F.S.; revising a provision relating to voting in person by electors who have requested absentee ballots; amending s. 101.6923, F.S.; revising a provision relating to special absentee ballot instructions for certain voters; amending s. 101.694, F.S.; requiring certain absentee envelopes to meet specifications as determined by a certain federal program; amending s. 101.697, F.S.; providing a condition on the department's ability to accept certain election materials by electronic transmission from overseas voters; amending s. 102.012, F.S.; revising provisions to require supervisors of election to appoint one election board for each precinct; requiring each supervisor to furnish inspectors of election in each precinct with the list of registered voters for the precinct; amending s. 102.014, F.S.; requiring the division to develop a uniform training curriculum for poll workers; revising grounds upon which a supervisor shall replace an inspector or clerk; revising requirements relating to the provisions and availability of a uniform polling place procedures manual; amending s. 102.031, F.S.; revising a provision relating to maintenance of good order at polls, authorities, persons allowed in polling rooms, and unlawful solicitation of voters to apply to early voting areas; providing for the designation of the no solicitation zone; prohibiting photography in a polling room or early voting area; amending s. 102.071, F.S.; decreasing the certificates of the results needed to one; amending s. 102.111, F.S.; providing for typographical errors in official county returns to be certified by the Elections Canvassing Commission; amending s. 102.112, F.S.; requiring the county returns to contain a certain certification; authorizing the department to correct typographical errors in county returns; amending s. 102.141, F.S.; revising provisions relating to county canvassing boards and their duties; requiring that the county canvassing board be responsible for ordering county and local recounts; revising deadlines relating to submission of unofficial returns; adding procedure and content requirements relating to county canvassing boards' reports on conduct of elections; requiring the supervisor of elections to file or export files to the department from election results and other statistical information as may be requested by the department, the Legislature, and the Election Assistance Commission; requiring the department to adopt rules establishing the required content and acceptable formats for certain filings; amending s. 102.166, F.S.; revising provisions relating to manual recounts; amending s. 102.168, F.S.; revising proper party defendants in actions contesting the election or nomination of a candidate; amending s. 103.021, F.S.; requiring the state executive committee of each political party to recommend candidates for presidential electors to the Governor using a specified procedure; providing definitions; amending ss. 103.051 and 103.061, F.S.; revising certain meeting and notice times of the presidential electors; amending s. 103.121, F.S.; revising the powers and duties of executive committees; amending s. 105.031, F.S.; exempting school board candidates from qualifying fee requirements; providing a time by which a qualifying officer may accept and hold certain qualifying papers; amending s. 105.035, F.S.; renaming the "alternative method" of qualifying for certain offices as the "petition process"; removing provisions requiring a person seeking to qualify by the petition process to file a certain oath; providing a limitation upon elector signatures needed by certain candidates; revising deadlines; transferring s. 98.122, F.S., relating to closed caption television broadcasting requirements, and renumbering the section as s. 106.165, F.S.; amending s. 106.22, F.S.; revising the duties of the Division of Elections to remove the duty to conduct certain investigations and make subsequent reports; amending s. 106.29, F.S., relating to the powers and duties of the Florida Elections Commission, to conform; amending s. 16.56, F.S.; authorizing the Office of Statewide Prosecution to investigate and prosecute the offenses of crimes involving voter registration, voting, or candidate or issue petition activities; amending s. 119.07, F.S.; placing a condition on when the supervisor of elections shall notify certain candidates of ballot inspection; amending s. 145.09, F.S.; requiring the Department of State to adopt rules establishing certification requirements of supervisors of elections; repealing s. 98.095, F.S., relating to county registers open to inspection and copies; repealing s. 98.0979, F.S.; relating to the statewide voter registration database's being open to inspection and copies; repealing s. 98.181, F.S., relating to supervisors of elections making up indexes or records; repealing s. 98.481, F.S., relating to challenge to electors; repealing s. 101.253, F.S.; relating to when names are not to be printed on ballots; repealing s. 101.635, F.S.; relating to distribution of blocks of printed ballots; repealing s. 102.061, F.S.; relating to duties of election board, counting,

and closing polls; repealing s. 106.085, F.S., relating to independent expenditures, prohibited unfair surprise, notice requirements, and a penalty; repealing s. 106.144, F.S.; relating to endorsements or opposition by certain groups and organizations; providing for severability; providing an effective date.

(Amendment Bar Code: 961106)

Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause

and insert:

Section 1. Section 97.012, Florida Statutes, is amended to read:

97.012 Secretary of State as chief election officer.--The Secretary of State is the chief election officer of the state, and it is his or her responsibility to:

(1) Obtain and maintain uniformity in the application, operation, and interpretation of the election laws.

(2) Provide uniform standards for the proper and equitable implementation of the registration laws.

(3) Actively seek out and collect the data and statistics necessary to knowledgeably scrutinize the effectiveness of election laws.

(4) Provide technical assistance to the supervisors of elections on voter education and election personnel training services.

(5) Provide technical assistance to the supervisors of elections on voting systems.

(6) Provide voter education assistance to the public.

(7) Coordinate the state's responsibilities under the National Voter Registration Act of 1993.

(8) Provide training to all affected state agencies on the necessary procedures for proper implementation of this chapter.

(9) Ensure that all registration applications and forms prescribed or approved by the department are in compliance with the Voting Rights Act of 1965 and the National Voter Registration Act of 1993.

(10) Coordinate with the United States Department of Defense so that armed forces recruitment offices administer voter registration in a manner consistent with the procedures set forth in this code for voter registration agencies.

(11) Create and administer ~~maintain~~ a statewide voter registration system as required by the Help America Vote Act of 2002 ~~database~~.

(12) Maintain a voter fraud hotline and provide election fraud education to the public.

(13) Designate an office within the department to be responsible for providing information regarding voter registration procedures and absentee ballot procedures to absent uniformed services voters and overseas voters.

(14) Conduct preliminary investigations into any irregularities or fraud involving voter registration, voting, or candidate or issue petition activities and report his or her findings to the statewide prosecutor or the state attorney for the judicial circuit in which the alleged violation occurred for prosecution, if warranted. The Department of State may prescribe by rule requirements for filing an elections-fraud complaint and for investigating any such complaint.

Section 2. Subsection (3) and present subsections (24) and (39) of section 97.021, Florida Statutes, are amended, present subsections (8) through (33) of that section are redesignated as subsections (10) through (35), respectively, present subsections (34) through (39) of that section are redesignated as subsections (37) through (42), respectively, and new subsections (8), (9), and (36) are added to that section, to read:

97.021 Definitions.--For the purposes of this code, except where the context clearly indicates otherwise, the term:

(3) "Ballot" or "official ballot" when used in reference to:

(a) "Marksense ~~Paper~~ ballots" means that printed sheet of paper, used in conjunction with an electronic or electromechanical vote tabulation voting system, containing the names of candidates, or a statement of proposed constitutional amendments or other questions or propositions submitted to the electorate at any election, on which sheet of paper an elector casts his or her vote.

(b) "Electronic or electromechanical devices" means a ballot that is voted by the process of electronically designating, including by touchscreen, or marking with a marking device for tabulation by automatic tabulating equipment or data processing equipment.

(8) "Early voting area" means the area designated by the supervisor of elections at an early voting site at which early voting activities occur, including, but not limited to, lines of voters waiting to be processed, the area where voters check in and are processed, and the area where voters cast their ballots.

(9) "Early voting site" means those locations specified in s. 101.657 and the building in which early voting occurs.

(26)~~(24)~~ "Polling room" means the actual room in which ballots are cast on election day and during early voting.

(36) "Third-party registration organization" means any person, entity, or organization soliciting or collecting voter registration applications. A third-party voter registration organization does not include:

(a) A political party;

(b) A person who seeks only to register to vote or collect voter registration applications from that person's spouse, child, or parent; or

(c) A person engaged in registering to vote or collecting voter registration applications as an employee or agent of the division, supervisor of elections, Department of Highway Safety and Motor Vehicles, or a voter registration agency.

(42)~~(39)~~ "Voting system" means a method of casting and processing votes that functions wholly or partly by use of electromechanical or electronic apparatus or by use of marksense ~~paper~~ ballots and includes, but is not limited to, the procedures for casting and processing votes and the programs, operating manuals, supplies ~~tabulating cards~~, printouts, and other software necessary for the system's operation.

Section 3. Section 97.051, Florida Statutes, is amended to read:

97.051 Oath upon registering.--A person registering to vote must subscribe to the following oath: "I do solemnly swear (or affirm) that I will protect and defend the Constitution of the United States and the Constitution of the State of Florida, that I am qualified to register as an elector under the Constitution and laws of the State of Florida, and that all information provided in this application is true ~~I am a citizen of the United States and a legal resident of Florida~~."

Section 4. Section 97.052, Florida Statutes, is amended to read:

97.052 Uniform statewide voter registration application.--

(1) The department shall prescribe a uniform statewide voter registration application for use in this state.

(a) The uniform statewide voter registration application must be accepted for any one or more of the following purposes:

1. Initial registration.
2. Change of address.
3. Change of party affiliation.
4. Change of name.
5. Replacement of a voter registration identification card.
6. Signature update.

(b) The department is responsible for printing the uniform statewide voter registration application and the voter registration application form prescribed by the ~~Federal~~ Election Assistance Commission pursuant to federal law ~~the National Voter Registration Act of 1993~~. The applications and forms must be distributed, upon request, to the following:

1. Individuals seeking to register to vote.
2. Individuals or groups conducting voter registration programs. A charge of 1 cent per application shall be assessed on requests for 10,000 or more applications.
3. The Department of Highway Safety and Motor Vehicles.
4. Voter registration agencies.
5. Armed forces recruitment offices.
6. Qualifying educational institutions.
7. Supervisors, who must make the applications and forms available in the following manner:

a. By distributing the applications and forms in their offices to any individual or group.

b. By distributing the applications and forms at other locations designated by each supervisor.

c. By mailing the applications and forms to applicants upon the request of the applicant.

(c) The uniform statewide voter registration application may be reproduced by any private individual or group, provided the reproduced application is in the same format as the application prescribed under this section.

(2) The uniform statewide voter registration application must be designed to elicit the following information from the applicant:

(a) Full name.

(b) Date of birth.

(c) Address of legal residence.

(d) Mailing address, if different.

(e) County of legal residence.

~~(f) Address of property for which the applicant has been granted a homestead exemption, if any.~~

(f)~~(g)~~ Race or ethnicity that best describes the applicant:

1. American Indian or Alaskan Native.
2. Asian or Pacific Islander.
3. Black, not Hispanic.
4. White, not Hispanic.
5. Hispanic.

(g)~~(h)~~ State or country of birth.

(h)~~(i)~~ Sex.

(i)~~(j)~~ Party affiliation.

(j)~~(k)~~ Whether the applicant needs assistance in voting.

(k)~~(l)~~ Name and address where last registered.

(l)~~(m)~~ Last four digits of the applicant's social security number.

(m)~~(n)~~ Florida driver's license number or the identification number from a Florida identification card issued under s. 322.051.

(n)~~(o)~~ Telephone number (optional).

(o)~~(p)~~ Signature of applicant under penalty for false swearing pursuant to s. 104.011, by which the person subscribes to the oath required by s. 3, Art. VI of the State Constitution and s. 97.051, and swears or affirms that the information contained in the registration application is true.

(p)~~(q)~~ Whether the application is being used for initial registration, to update a voter registration record, or to request a replacement registration identification card.

(q)~~(r)~~ Whether the applicant is a citizen of the United States by asking the question "Are you a citizen of the United States of America?" and providing boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.

(r)~~(s)~~ Whether ~~That~~ the applicant has ~~not~~ been convicted of a felony, and ~~or~~, if convicted, has had his or her civil rights restored by including the statement "I affirm I am not a convicted felon, or if I am, my rights relating to voting have been restored" and providing a box for the applicant to affirm the statement.

(s)~~(t)~~ Whether ~~That~~ the applicant has ~~not~~ been adjudicated mentally incapacitated with respect to voting or, if so adjudicated, has had his or her right to vote restored by including the statement "I affirm I have not been adjudicated mentally incapacitated with respect to voting or, if I have, my competency has been restored" and providing a box for the applicant to check to affirm the statement.

The registration form must be in plain language and designed so that convicted felons whose civil rights have been restored and persons who have been adjudicated mentally incapacitated and have had their voting rights restored are not required to reveal their prior conviction or adjudication.

(3) The uniform statewide voter registration application must also contain:

(a) The oath required by s. 3, Art. VI of the State Constitution and s. 97.051.

(b) A statement specifying each eligibility requirement under s. 97.041.

(c) The penalties provided in s. 104.011 for false swearing in connection with voter registration.

(d) A statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and may be used only for voter registration purposes.

(e) A statement that informs the applicant who chooses to register to vote or update a voter registration record that the office at which the applicant submits a voter registration application or updates a voter registration record will remain confidential and may be used only for voter registration purposes.

~~(f) A statement that informs the applicant that any person who has been granted a homestead exemption in this state, and who registers to vote in any precinct other than the one in which the property for which the homestead exemption has been granted, shall have that information forwarded to the property appraiser where such property is located, which may result in the person's homestead exemption being terminated and the person being subject to assessment of back taxes under s. 193.092, unless the homestead granted the exemption is being maintained as the permanent residence of a legal or natural dependent of the owner and the owner resides elsewhere.~~

(f)~~(g)~~ A statement informing an ~~the~~ applicant who has not been issued a Florida driver's license, a Florida identification card, or a social security number that if the application ~~form~~ is submitted by mail and the applicant is registering for the first time in Florida, the applicant will be required to provide identification prior to voting the first time.

(4) A supervisor may produce a voter registration application that has the supervisor's direct mailing address if the department has reviewed the application and determined that it is substantially the same as the uniform statewide voter registration application.

(5) The voter registration application form prescribed by the ~~Federal~~ Election Assistance Commission pursuant to federal law ~~the National Voter Registration Act of 1993~~ or the federal postcard application must be accepted as an application for registration in this state if the completed application or postcard application contains the information required by the constitution and laws of this state.

Section 5. Section 97.053, Florida Statutes, is amended to read:

97.053 Acceptance of voter registration applications.--

(1) Voter registration applications, changes in registration, and requests for a replacement registration identification card must be accepted in the office of any supervisor, the division, a driver license office, a voter registration agency, or an armed forces recruitment office when hand delivered by the applicant or a third party during the hours that office is open or when mailed.

(2) A ~~completed~~ voter registration application is complete and ~~that contains the information necessary to establish an applicant's eligibility pursuant to s. 97.041~~ becomes the official voter registration record of that applicant when all information necessary to establish the applicant's eligibility pursuant to s. 97.041 is received by the appropriate supervisor. If the applicant fails to complete his or her voter registration application before the date of book closing for an election, such applicant is not eligible to vote in that election.

(3) The registration date for a valid initial voter registration application that has been hand delivered is the date when received by a driver license office, a voter registration agency, an armed forces recruitment office, the division, or the office of any supervisor in the state.

(4) The registration date for a valid initial voter registration application that has been mailed to a driver license office, a voter registration agency, an armed forces recruitment office, the division, or the office of any supervisor in the state and bears a clear postmark is the date of that ~~the~~ postmark. If an initial voter registration application that has been mailed does not bear a postmark or if the postmark is unclear, the registration date is the date the registration is received by any

supervisor or the division, unless it is received within 5 days after the closing of the books for an election, excluding Saturdays, Sundays, and legal holidays, in which case the registration date is the book-closing date.

(5)(a) A voter registration application is complete if it contains the following information necessary to establish eligibility pursuant to s. 97.041:

1. The applicant's name.
2. The applicant's legal residence address.
3. The applicant's date of birth.
4. A mark in the checkbox affirming ~~An indication~~ that the applicant is a citizen of the United States.
5. The applicant's Florida driver's license number, the identification number from a Florida identification card issued under s. 322.051, or the last four digits of the applicant's social security number.
6. A mark in the checkbox affirming ~~An indication~~ that the applicant has not been convicted of a felony or that, if convicted, has had his or her civil rights restored.
7. A mark in the checkbox affirming ~~An indication~~ that the applicant has not been adjudicated mentally incapacitated with respect to voting or that, if so adjudicated, has had his or her right to vote restored.
8. The original signature of the applicant swearing or affirming under the penalty for false swearing pursuant to s. 104.011 that the information contained in the registration application is true and subscribing to the oath required by s. 3, Art. VI of the State Constitution and s. 97.051.

(b) An applicant who fails to designate party affiliation must be registered without party affiliation. The supervisor must notify the voter by mail that the voter has been registered without party affiliation and that the voter may change party affiliation as provided in s. 97.1031.

Section 6. Subsection (1) of section 97.055, Florida Statutes, is amended to read:

97.055 Registration books; when closed for an election.--

(1) The registration books must be closed on the 29th day before each election and must remain closed until after that election. If an election is called and there are fewer than 29 days before that election, the registration books must be closed immediately. When the registration books are closed for an election, updates to a voter's name, address, and signature pursuant to ss. 98.077 and 101.045 shall be the only changes permitted for purposes of the upcoming election. Voter registration applications and party changes must be accepted but only for the purpose of subsequent elections. However, party changes received between the book-closing date of the first primary election and the date of the second primary election are not effective until after the second primary election.

Section 7. Section 97.0575, Florida Statutes, is created to read:

97.0575 Third-party voter registrations.--

(1) Prior to engaging in any voter-registration activities, a third-party voter registration organization shall name a registered agent in the state and submit to the division, in a form adopted by the division, the name of the registered agent and the name of those individuals responsible for the day-to-day operation of the third-party voter registration organization, including, if applicable, the names of the entity's board of directors, president, vice president, managing partner, or such other individuals engaged in similar duties or functions. On or before the 15th day after the end of each calendar quarter, each third-party voter registration organization shall submit to the division a report providing the date and location of any organized voter-registration drives conducted by the organization in the prior calendar quarter.

(2) The failure to submit the information required by subsection (1) does not subject the third-party voter registration organization to any civil or criminal penalties for such failure and the failure to submit such information is not a basis for denying such third-party voter registration organization with copies of voter-registration application forms.

(3) A third-party voter registration organization that collects voter-registration applications serves as a fiduciary to the applicant, ensuring that any voter-registration application entrusted to the third-party voter registration organization, irrespective of party affiliation, race, ethnicity, or gender shall be promptly delivered to the division or the supervisor of elections. If a voter-registration application collected by any third-party voter registration organization is not delivered to the division or supervisor of elections, the individual collecting the voter-registration application, the registered agent, and those individuals responsible for the day-to-day operation of the third-party voter registration organization, including, if applicable, the entity's board of directors, president, vice president, managing partner, or such other individuals engaged in similar duties or functions, shall be personally and jointly and severally liable for the following fines:

(a) A fine in the amount of $250 for each application received by the division or the supervisor of elections more than 10 days after the applicant delivered the completed voter-registration application to the third-party voter registration organization or any person, entity, or agent acting on its behalf.

(b) A fine in the amount of $500 for each application collected by a third-party voter registration organization or any person, entity, or agent acting on its behalf, prior to book closing for any given election for federal or state office and received by the division or the supervisor of elections after the book closing deadline for such election.

(c) A fine in the amount of $5,000 for each application collected by a third-party voter registration organization or any person, entity, or agent acting on its behalf, which is not submitted to the division or supervisor of elections.

The fines provided in this subsection shall be reduced by three-fourths in cases in which the third-party voter registration organization has complied with subsection (1).

(4)(a) The division shall adopt by rule a form to elicit specific information concerning the facts and circumstances from a person who claims to have been registered by a third-party voter registration organization but who does not appear as an active voter on the voter-registration rolls.

(b) The division may investigate any violation of this section. Civil fines shall be assessed by the division and enforced through any appropriate legal proceedings.

(5) The date on which an applicant signs a voter-registration application is presumed to be the date on which the third-party voter registration organization received or collected the voter-registration application.

(6) The civil fines provided in this section are in addition to any applicable criminal penalties.

(7) Fines collected pursuant to this section shall be annually appropriated by the Legislature to the department for enforcement of this section and for voter education.

(8) The division may adopt rules to administer this section.

Section 8. Section 97.071, Florida Statutes, is amended to read:

97.071 Registration identification card.--

(1) The supervisor must furnish a registration identification card ~~must be furnished~~ to all voters registering under the permanent single registration system and must contain:

(a) Voter's registration number.
(b) Date of registration.
(c) Full name.
(d) Party affiliation.
(e) Date of birth.
(f) Race or ethnicity, if provided by the applicant.
(g) Sex, if provided by the applicant.
(h) Address of legal residence.
(i) Precinct number.
(j) Name of supervisor.
(k) Place for voter's signature.
(l) Other information deemed necessary by the department.

(2) A voter may receive a replacement of a registration identification card by providing a signed, written request for a replacement card to the supervisor. Upon verification of registration, the supervisor shall issue the

voter a duplicate card without charge.

(3) In the case of a change of name, address, or party affiliation, the supervisor must issue the voter a new registration identification card. However, a registration identification card indicating a party affiliation change made between the book-closing date for the first primary election and the date of the second primary election may not be issued until after the second primary election.

Section 9. Subsection (3) of section 98.045, Florida Statutes, is amended to read:

98.045 Administration of voter registration.--

(3) Notwithstanding the provisions of s. ~~ss. 98.095 and~~ 98.0977, each supervisor shall maintain for at least 2 years, and make available for public inspection and copying, all records concerning implementation of registration list maintenance programs and activities conducted pursuant to ss. 98.065, 98.075, and 98.0977. The records must include lists of the name and address of each person to whom an address confirmation final notice was sent and information as to whether each such person responded to the mailing, but may not include any information that is confidential or exempt from public records requirements under this code.

Section 10. Section 98.077, Florida Statutes, is amended to read:

98.077 Update of voter signature.--The supervisor of elections shall provide to each registered voter of the county the opportunity to update his or her signature on file at the supervisor's office by providing notification of the ability to do so in any correspondence, other than postcard notifications, sent to the voter. The notice shall advise when, where, and how to update the signature and shall provide the voter information on how to obtain a form from the supervisor that can be returned to update the signature. In addition, at least once during each general election year, the supervisor shall publish in a newspaper of general circulation or other newspaper in the county deemed appropriate by the supervisor a notice specifying when, where, or how a voter can update his or her signature that is on file or how a voter can obtain a form from the supervisor to do so. All signature updates for use in verifying absentee and provisional ballots must be received by the appropriate supervisor of elections no later than the start of the canvassing of absentee ballots by the canvassing board. The signature on file at the start of the canvas of the absentee ballots is the signature that shall be used in verifying the signature on the absentee and provisional ballot certificates.

Section 11. Section 99.061, Florida Statutes, is amended to read:

99.061 Method of qualifying for nomination or election to federal, state, county, or district office.--

(1) The provisions of any special act to the contrary notwithstanding, each person seeking to qualify for nomination or election to a federal, state, or multicounty district office, other than election to a judicial office as defined in chapter 105 or the office of school board member, shall file his or her qualification papers with, and pay the qualifying fee, which shall consist of the filing fee and election assessment, and party assessment, if any has been levied, to, the Department of State, or qualify by the petition process pursuant to s. 99.095 ~~alternative method~~ with the Department of State, at any time after noon of the 1st day for qualifying, which shall be as follows: the 120th day prior to the first primary, but not later than noon of the 116th day prior to the date of the first primary, for persons seeking to qualify for nomination or election to federal office or to the office of the state attorney or the public defender; and noon of the 50th day prior to the first primary, but not later than noon of the 46th day prior to the date of the first primary, for persons seeking to qualify for nomination or election to a state or multicounty district office, other than the office of the state attorney or the public defender.

(2) The provisions of any special act to the contrary notwithstanding, each person seeking to qualify for nomination or election to a county office, or district or special district office not covered by subsection (1), shall file his or her qualification papers with, and pay the qualifying fee, which shall consist of the filing fee and election assessment, and party assessment, if any has been levied, to, the supervisor of elections of the county, or shall qualify by the petition process pursuant to s. 99.095 ~~alternative method~~ with the supervisor of elections, at any time after noon of the 1st day for qualifying, which shall be the 50th day prior to the first primary or special district election, but not later than noon of the 46th day prior to the date of the first primary or special district election. However, if a special district election is held at the same time as the second primary or general election, qualifying shall be the 50th day prior to the first primary, but not later than noon of the 46th day prior to the date of the first primary. Within 30 days after the closing of qualifying time, the supervisor of elections shall remit to the secretary of the state executive committee of the political party to which the candidate belongs the amount of the filing fee, two-thirds of which shall be used to promote the candidacy of candidates for county offices and the candidacy of members of the Legislature.

(3)(a) Each person seeking to qualify for election to office as a write-in candidate shall file his or her qualification papers with the respective qualifying officer at any time after noon of the 1st day for qualifying, but not later than noon of the last day of the qualifying period for the office sought.

(b) Any person who is seeking election as a write-in candidate shall not be required to pay a filing fee, election assessment, or party assessment. A write-in candidate shall not be entitled to have his or her name printed on any ballot; however, space for the write-in candidate's name to be written in shall be provided on the general election ballot. No person may qualify as a write-in candidate if the person has also otherwise qualified for nomination or election to such office.

(4) At the time of qualifying for office, each candidate for a constitutional office shall file a full and public disclosure of financial interests pursuant to s. 8, Art. II of the State Constitution, and a candidate for any other office, including local elective office, shall file a statement of financial interests pursuant to s. 112.3145.

(5) The Department of State shall certify to the supervisor of elections, within 7 days after the closing date for qualifying, the names of all duly qualified candidates for nomination or election who have qualified with the Department of State.

(6) Notwithstanding the qualifying period prescribed in this section, if a candidate has submitted the necessary petitions by the required deadline in order to qualify by the petition process pursuant to s. 99.095 ~~alternative method~~ as a candidate for nomination or election and the candidate is notified after the 5th day prior to the last day for qualifying that the required number of signatures has been obtained, the candidate is entitled to subscribe to the candidate's oath and file the qualifying papers at any time within 5 days from the date the candidate is notified that the necessary number of signatures has been obtained. Any candidate who qualifies within the time prescribed in this subsection is entitled to have his or her name printed on the ballot.

(7)(a) In order for a candidate to be qualified, the following items must be received by the filing officer by the end of the qualifying period:

1. A properly executed check drawn upon the candidate's campaign account in an amount not less than the fee required by s. 99.092 or, in lieu thereof, as applicable, the copy of the notice of obtaining ballot position pursuant to s. 99.095 ~~or the undue burden oath authorized pursuant to s. 99.0955 or s. 99.096~~. If a candidate's check is returned by the bank for any reason, the filing officer shall immediately notify the candidate and the candidate shall, the end of qualifying notwithstanding, have 48 hours from the time such notification is received, excluding Saturdays, Sundays, and legal holidays, to pay the fee with a cashier's check purchased from funds of the campaign account. Failure to pay the fee as provided in this subparagraph shall disqualify the candidate.

2. The candidate's oath required by s. 99.021, which must contain the name of the candidate as it is to appear on the ballot; the office sought, including the district or group number if applicable; and the signature of the candidate, duly acknowledged.

3. The loyalty oath required by s. 876.05, signed by the candidate and duly acknowledged.

4. If the office sought is partisan, the written statement of political party affiliation required by s. 99.021(1)(b).

5. The completed form for the appointment of campaign treasurer and

designation of campaign depository, as required by s. 106.021.

6. The full and public disclosure or statement of financial interests required by subsection (4). A public officer who has filed the full and public disclosure or statement of financial interests with the Commission on Ethics or the supervisor of elections prior to qualifying for office may file a copy of that disclosure at the time of qualifying.

(b) If the filing officer receives qualifying papers that do not include all items as required by paragraph (a) prior to the last day of qualifying, the filing officer shall make a reasonable effort to notify the candidate of the missing or incomplete items and shall inform the candidate that all required items must be received by the close of qualifying. A candidate's name as it is to appear on the ballot may not be changed after the end of qualifying.

(8) Notwithstanding the qualifying period prescribed in this section, a qualifying office may accept and hold qualifying papers submitted not earlier than 14 days prior to the beginning of the qualifying period, to be processed and filed during the qualifying period.

(9)~~(8)~~ Notwithstanding the qualifying period prescribed by this section, in each year in which the Legislature apportions the state, the qualifying period for persons seeking to qualify for nomination or election to federal office shall be between noon of the 57th day prior to the first primary, but not later than noon of the 53rd day prior to the first primary.

(10)~~(9)~~ The Department of State may prescribe by rule requirements for filing papers to qualify as a candidate under this section.

Section 12. Section 99.063, Florida Statutes, is amended to read:

99.063 Candidates for Governor and Lieutenant Governor.--

(1) No later than 5 p.m. of the 9th day following the second primary election, each candidate for Governor shall designate a Lieutenant Governor as a running mate. Such designation must be made in writing to the Department of State.

(2) No later than 5 p.m. of the 9th day following the second primary election, each designated candidate for Lieutenant Governor shall file with the Department of State:

(a) The candidate's oath required by s. 99.021, which must contain the name of the candidate as it is to appear on the ballot; the office sought; and the signature of the candidate, duly acknowledged.

(b) The loyalty oath required by s. 876.05, signed by the candidate and duly acknowledged.

(c) If the office sought is partisan, the written statement of political party affiliation required by s. 99.021(1)(b).

(d) The full and public disclosure of financial interests pursuant to s. 8, Art. II of the State Constitution. A public officer who has filed the full and public disclosure with the Commission on Ethics prior to qualifying for office may file a copy of that disclosure at the time of qualifying.

(3) A designated candidate for Lieutenant Governor is not required to pay a separate qualifying fee or obtain signatures on petitions. Ballot position obtained by the candidate for Governor entitles the designated candidate for Lieutenant Governor, upon receipt by the Department of State of the qualifying papers required by subsection (2), to have his or her name placed on the ballot for the joint candidacy.

(4) In order to have the name of the candidate for Lieutenant Governor printed on the first or second primary election ballot, a candidate for Governor participating in the primary must designate the candidate for Lieutenant Governor, and the designated candidate must qualify no later than the end of the qualifying period specified in s. 99.061. If the candidate for Lieutenant Governor has not been designated and has not qualified by the end of the qualifying period specified in s. 99.061, the phrase "Not Yet Designated" must be included in lieu of the candidate's name on primary election ballots and on advance absentee ballots for the general election.

(5) Failure of the Lieutenant Governor candidate to be designated and qualified by the time specified in subsection (2) shall result in forfeiture of ballot position for the candidate for Governor for the general election.

Section 13. Section 99.092, Florida Statutes, is amended to read:

99.092 Qualifying fee of candidate; notification of Department of State.--

(1) Each person seeking to qualify for nomination or election to any office, except a person seeking to qualify by the petition process ~~alternative method~~ pursuant to s. 99.095~~, s. 99.0955, or s. 99.096~~ and except a person seeking to qualify as a write-in candidate, shall pay a qualifying fee, which shall consist of a filing fee and election assessment, to the officer with whom the person qualifies, and any party assessment levied, and shall attach the original or signed duplicate of the receipt for his or her party assessment or pay the same, in accordance with the provisions of s. 103.121, at the time of filing his or her other qualifying papers. The amount of the filing fee is 3 percent of the annual salary of the office. The amount of the election assessment is 1 percent of the annual salary of the office sought. The election assessment shall be deposited into the Elections Commission Trust Fund. The amount of the party assessment is 2 percent of the annual salary. The annual salary of the office for purposes of computing the filing fee, election assessment, and party assessment shall be computed by multiplying 12 times the monthly salary, excluding any special qualification pay, authorized for such office as of July 1 immediately preceding the first day of qualifying. No qualifying fee shall be returned to the candidate unless the candidate withdraws his or her candidacy before the last date to qualify. If a candidate dies prior to an election and has not withdrawn his or her candidacy before the last date to qualify, the candidate's qualifying fee shall be returned to his or her designated beneficiary, and, if the filing fee or any portion thereof has been transferred to the political party of the candidate, the Secretary of State shall direct the party to return that portion to the designated beneficiary of the candidate.

(2) The supervisor of elections shall, immediately after the last day for qualifying, submit to the Department of State a list containing the names, party affiliations, and addresses of all candidates and the offices for which they qualified.

Section 14. Section 99.095, Florida Statutes, is amended to read:

(Substantial rewording of section. See
s. 99.095, F.S., for present text.)

99.095 Petition process in lieu of a qualifying fee and party assessment.--

(1) A person who seeks to qualify as a candidate for any office and who meets the petition requirements of this section is not required to pay the qualifying fee or party assessment required by this chapter.

(2)(a) A candidate shall obtain the number of signatures of voters in the geographical area represented by the office sought equal to at least 1 percent of the total number of registered voters of that geographical area, as shown by the compilation by the department for the last preceding general election. Signatures may not be obtained until the candidate has filed the appointment of campaign treasurer and designation of campaign depository pursuant to s. 106.021.

(b) The format of the petition shall be prescribed by the division and shall be used by candidates to reproduce petitions for circulation. If the candidate is running for an office that requires a group or district designation, the petition must indicate that designation and if it does not, the signatures are not valid. A separate petition is required for each candidate.

(3) Each petition must be submitted before noon of the 28th day preceding the first day of the qualifying period for the office sought to the supervisor of elections of the county in which such petition was circulated. Each supervisor shall check the signatures on the petitions to verify their status as voters in the county, district, or other geographical area represented by the office sought. No later than the 7th day before the first day of the qualifying period, the supervisor shall certify the number of valid signatures.

(4)(a) Certifications for candidates for federal, state, or multicounty district office shall be submitted to the division. The division shall determine whether the required number of signatures has been obtained and shall notify the candidate.

(b) For candidates for county or district office not covered by paragraph (a), the supervisor shall determine whether the required

number of signatures has been obtained and shall notify the candidate.

(5) If the required number of signatures has been obtained, the candidate is eligible to qualify pursuant to s. 99.061.

Section 15. Section 99.0955, Florida Statutes, is amended to read:

99.0955 Candidates with no party affiliation; name on general election ballot.--

(1) Each person seeking to qualify for election as a candidate with no party affiliation shall file his or her qualifying ~~qualification~~ papers and pay the qualifying fee or qualify by the petition process pursuant to s. 99.095 ~~alternative method prescribed in subsection (3)~~ with the officer and during the times and under the circumstances prescribed in s. 99.061. Upon qualifying, the candidate is entitled to have his or her name placed on the general election ballot.

(2) The qualifying fee for candidates with no party affiliation shall consist of a filing fee and an election assessment as prescribed in s. 99.092. ~~The amount of the filing fee is 3 percent of the annual salary of the office sought. The amount of the election assessment is 1 percent of the annual salary of the office sought. The election assessment shall be deposited into the Elections Commission Trust Fund.~~ Filing fees paid to the Department of State shall be deposited into the General Revenue Fund of the state. Filing fees paid to the supervisor of elections shall be deposited into the general revenue fund of the county.

~~(3)(a) A candidate with no party affiliation may, in lieu of paying the qualifying fee, qualify for office by the alternative method prescribed in this subsection. A candidate using this petitioning process shall file an oath with the officer before whom the candidate would qualify for the office stating that he or she intends to qualify by this alternative method. If the person is running for an office that requires a group or district designation, the candidate must indicate the designation in his or her oath. The oath shall be filed at any time after the first Tuesday after the first Monday in January of the year in which the election is held, but before the 21st day preceding the first day of the qualifying period for the office sought. The Department of State shall prescribe the form to be used in administering and filing the oath. Signatures may not be obtained by a candidate on any petition until the candidate has filed the oath required in this subsection. Upon receipt of the written oath from a candidate, the qualifying officer shall provide the candidate with petition forms in sufficient numbers to facilitate the gathering of signatures. If the candidate is running for an office that requires a group or district designation, the petition must indicate that designation or the signatures obtained on the petition will not be counted.~~

~~(b) A candidate shall obtain the signatures of a number of qualified electors in the geographical entity represented by the office sought equal to 1 percent of the registered electors of the geographical entity represented by the office sought, as shown by the compilation by the Department of State for the preceding general election.~~

~~(c) Each petition must be submitted before noon of the 21st day preceding the first day of the qualifying period for the office sought, to the supervisor of elections of the county for which such petition was circulated. Each supervisor to whom a petition is submitted shall check the signatures on the petition to verify their status as electors in the county, district, or other geographical entity represented by the office sought. Before the first day for qualifying, the supervisor shall certify the number shown as registered electors.~~

~~(d)1. Certifications for candidates for federal, state, or multicounty district office shall be submitted to the Department of State. The Department of State shall determine whether the required number of signatures has been obtained for the name of the candidate to be placed on the ballot and shall notify the candidate.~~

~~2. For candidates for county or district office not covered by subparagraph 1., the supervisor of elections shall determine whether the required number of signatures has been obtained for the name of the candidate to be placed on the ballot and shall notify the candidate.~~

~~(e) If the required number of signatures has been obtained, the candidate shall, during the time prescribed for qualifying for office, submit a copy of the notice received under paragraph (d) and file his or her qualifying papers and the oath prescribed by s. 99.021 with the qualifying officer.~~

Section 16. Section 99.096, Florida Statutes, is amended to read:

99.096 Minor political party candidates; names on ballot.--

(1) ~~The executive committee of a minor political party shall,~~ No later than noon of the third day prior to the first day of the qualifying period prescribed for federal candidates, the executive committee of a minor political party shall submit to the Department of State a list of federal candidates nominated by the party to be on the general election ballot. ~~and~~ No later than noon of the third day prior to the first day of the qualifying period for state candidates, the executive committee of a minor political party shall submit to the filing officer for each of the candidates ~~submit to the Department of State~~ the official list of the state, multicounty, and county ~~respective~~ candidates nominated by that party to be on the ballot in the general election. ~~The Department of State shall notify the appropriate supervisors of elections of the name of each minor party candidate eligible to qualify before such supervisor.~~ The official list of nominated candidates may not be changed by the party after having been filed with the filing officers ~~Department of State~~, except that ~~candidates who have qualified may withdraw from the ballot pursuant to the provisions of this code, and~~ vacancies in nominations may be filled pursuant to s. 100.111.

(2) Each person seeking to qualify for election as a candidate of a minor political party shall file his or her qualifying ~~qualification~~ papers with, and pay the qualifying fee and, if one has been levied, the party assessment, or qualify by the petition process pursuant to s. 99.095 ~~alternative method prescribed in subsection (3)~~, with the officer and at the times and under the circumstances provided in s. 99.061.

~~(3)(a) A minor party candidate may, in lieu of paying the qualifying fee and party assessment, qualify for office by the alternative method prescribed in this subsection. A candidate using this petitioning process shall file an oath with the officer before whom the candidate would qualify for the office stating that he or she intends to qualify by this alternative method. If the person is running for an office that requires a group or district designation, the candidate must indicate the designation in his or her oath. The oath must be filed at any time after the first Tuesday after the first Monday in January of the year in which the election is held, but before the 21st day preceding the first day of the qualifying period for the office sought. The Department of State shall prescribe the form to be used in administering and filing the oath. Signatures may not be obtained by a candidate on any petition until the candidate has filed the oath required in this section. Upon receipt of the written oath from a candidate, the qualifying officer shall provide the candidate with petition forms in sufficient numbers to facilitate the gathering of signatures. If the candidate is running for an office that requires a group or district designation, the petition must indicate that designation or the signatures on such petition will not be counted.~~

~~(b) A candidate shall obtain the signatures of a number of qualified electors in the geographical entity represented by the office sought equal to 1 percent of the registered electors in the geographical entity represented by the office sought, as shown by the compilation by the Department of State for the last preceding general election.~~

~~(c) Each petition shall be submitted prior to noon of the 21st day preceding the first day of the qualifying period for the office sought to the supervisor of elections of the county for which the petition was circulated. Each supervisor to whom a petition is submitted shall check the signatures on the petition to verify their status as electors in the county, district, or other geographical entity represented by the office sought. Before the first day for qualifying, the supervisor shall certify the number shown as registered electors.~~

~~(d)1. Certifications for candidates for federal, state, or multicounty district office shall be submitted to the Department of State. The Department of State shall determine whether the required number of signatures has been obtained for the name of the candidate to be placed on the ballot and shall notify the candidate.~~

~~2. For candidates for county or district office not covered by~~

~~subparagraph 1., the supervisor of elections shall determine whether the required number of signatures has been obtained for the name of the candidate to be placed on the ballot and shall notify the candidate.~~

~~(c) If the required number of signatures has been obtained, the candidate shall, during the prescribed time for qualifying for office, submit a copy of the notice received under paragraph (d) and file his or her qualifying papers and the oath prescribed by s. 99.021 with the qualifying officer.~~

~~(4) A minor party candidate whose name has been submitted pursuant to subsection (1) and who has qualified for office is entitled to have his or her name placed on the general election ballot.~~

Section 17. Subsection (1) of section 99.09651, Florida Statutes, is amended to read:

99.09651 Signature requirements for ballot position in year of apportionment.--

(1) In a year of apportionment, any candidate for representative to Congress, state Senate, or state House of Representatives seeking ballot position by the petition process ~~alternative method~~ prescribed in s. 99.095~~, s. 99.0955, or s. 99.096~~ shall obtain at least the number of signatures equal to one-third of 1 percent of the ideal population for the district of the office being sought.

Section 18. Subsection (1) of section 100.011, Florida Statutes, is amended to read:

100.011 Opening and closing of polls, all elections; expenses.--

(1) The polls shall be open at the voting places at 7:00 a.m., on the day of the election, and shall be kept open until 7:00 p.m., of the same day, and the time shall be regulated by the customary time in standard use in the county seat of the locality. The inspectors shall make public proclamation of the opening and closing of the polls. During the election and canvass of the votes, the ballot box shall not be concealed. Any elector who is in line at the time of the official closing of the polls shall be allowed to cast a vote in the election.

Section 19. Section 100.101, Florida Statutes, is amended to read:

100.101 Special elections and special primary elections.--Except as provided in s. 100.111(2), a special election or special primary election shall be held in the following cases:

(1) If no person has been elected at a general election to fill an office which was required to be filled by election at such general election.

(2) If a vacancy occurs in the office of state senator or member of the state house of representatives.

(3) If it is necessary to elect presidential electors, by reason of the offices of President and Vice President both having become vacant.

(4) If a vacancy occurs in the office of member from Florida of the House of Representatives of Congress.

~~(5) If a vacancy occurs in nomination.~~

Section 20. Section 100.111, Florida Statutes, is amended to read:

100.111 Filling vacancy.--

(1)(a) If any vacancy occurs in any office which is required to be filled pursuant to s. 1(f), Art. IV of the State Constitution and the remainder of the term of such office is 28 months or longer, then at the next general election a person shall be elected to fill the unexpired portion of such term, commencing on the first Tuesday after the first Monday following such general election.

(b) If such a vacancy occurs prior to the first day set by law for qualifying for election to office at such general election, any person seeking nomination or election to the unexpired portion of the term shall qualify within the time prescribed by law for qualifying for other offices to be filled by election at such general election.

(c) If such a vacancy occurs prior to the first primary but on or after the first day set by law for qualifying, the Secretary of State shall set dates for qualifying for the unexpired portion of the term of such office. Any person seeking nomination or election to the unexpired portion of the term shall qualify within the time set by the Secretary of State. If time does not permit party nominations to be made in conjunction with the first and second primary elections, the Governor may call a special primary election, and, if necessary, a second special primary election, to select party nominees for the unexpired portion of such term.

(2)(a) If, in any state or county office required to be filled by election, a vacancy occurs during an election year by reason of the incumbent having qualified as a candidate for federal office pursuant to s. 99.061, no special election is required. Any person seeking nomination or election to the office so vacated shall qualify within the time prescribed by s. 99.061 for qualifying for state or county offices to be filled by election.

(b) If such a vacancy occurs in an election year other than the one immediately preceding expiration of the present term, the Secretary of State shall notify the supervisor of elections in each county served by the office that a vacancy has been created. Such notice shall be provided to the supervisor of elections not later than the close of the first day set for qualifying for state or county office. The supervisor shall provide public notice of the vacancy in any manner the Secretary of State deems appropriate.

(3) Whenever there is a vacancy for which a special election is required pursuant to s. 100.101 ~~s. 100.101(1)-(4)~~, the Governor, after consultation with the Secretary of State, shall fix the date of a special first primary election, a special second primary election, and a special election. Nominees of political parties other than minor political parties shall be chosen under the primary laws of this state in the special primary elections to become candidates in the special election. Prior to setting the special election dates, the Governor shall consider any upcoming elections in the jurisdiction where the special election will be held. The dates fixed by the Governor shall be specific days certain and shall not be established by the happening of a condition or stated in the alternative. The dates fixed shall provide a minimum of 2 weeks between each election. In the event a vacancy occurs in the office of state senator or member of the House of Representatives when the Legislature is in regular legislative session, the minimum times prescribed by this subsection may be waived upon concurrence of the Governor, the Speaker of the House of Representatives, and the President of the Senate. If a vacancy occurs in the office of state senator and no session of the Legislature is scheduled to be held prior to the next general election, the Governor may fix the dates for any special primary and for the special election to coincide with the dates of the first and second primary and general election. If a vacancy in office occurs in any district in the state Senate or House of Representatives or in any congressional district, and no session of the Legislature, or session of Congress if the vacancy is in a congressional district, is scheduled to be held during the unexpired portion of the term, the Governor is not required to call a special election to fill such vacancy.

(a) The dates for candidates to qualify in such special election or special primary election shall be fixed by the Department of State, and candidates shall qualify not later than noon of the last day so fixed. The dates fixed for qualifying shall allow a minimum of 14 days between the last day of qualifying and the special first primary election.

(b) The filing of campaign expense statements by candidates in such special elections or special primaries and by committees making contributions or expenditures to influence the results of such special primaries or special elections shall be not later than such dates as shall be fixed by the Department of State, and in fixing such dates the Department of State shall take into consideration and be governed by the practical time limitations.

(c) The dates for a candidate to qualify by the petition process pursuant to s. 99.095 ~~alternative method~~ in such special primary or special election shall be fixed by the Department of State. In fixing such dates the Department of State shall take into consideration and be governed by the practical time limitations. Any candidate seeking to qualify by the petition process ~~alternative method~~ in a special primary election shall obtain 25 percent of the signatures required by s. 99.095~~, s. 99.0955, or s. 99.096, as applicable~~.

(d) The qualifying fees and party assessments of such candidates as may qualify shall be the same as collected for the same office at the last previous primary for that office. The party assessment shall be paid to the appropriate executive committee of the political party to which the

candidate belongs.

(e) Each county canvassing board shall make as speedy a return of the result of such special elections and primaries as time will permit, and the Elections Canvassing Commission likewise shall make as speedy a canvass and declaration of the nominees as time will permit.

(4)(a) In the event that death, resignation, withdrawal, removal, or any other cause or event should cause a party to have a vacancy in nomination which leaves no candidate for an office from such party, ~~the Governor shall, after conferring with the Secretary of State, call a special primary election and, if necessary, a second special primary election to select for such office a nominee of such political party. The dates on which candidates may qualify for such special primary election shall be fixed by the Department of State, and the candidates shall qualify no later than noon of the last day so fixed. The filing of campaign expense statements by candidates in special primaries shall not be later than such dates as shall be fixed by the Department of State. In fixing such dates, the Department of State shall take into consideration and be governed by the practical time limitations. The qualifying fees and party assessment of such candidates as may qualify shall be the same as collected for the same office at the last previous primary for that office. Each county canvassing board shall make as speedy a return of the results of such primaries as time will permit, and the Elections Canvassing Commission shall likewise make as speedy a canvass and declaration of the nominees as time will permit.~~

~~(b) If the vacancy in nomination occurs later than September 15, or if the vacancy in nomination occurs with respect to a candidate of a minor political party which has obtained a position on the ballot, no special primary election shall be held and~~ the Department of State shall notify the chair of the appropriate state, district, or county political party executive committee of such party; and, within 5 ~~7~~ days, the chair shall call a meeting of his or her executive committee to consider designation of a nominee to fill the vacancy. The name of any person so designated shall be submitted to the Department of State within 7 ~~14~~ days after ~~of~~ notice to the chair in order that the person designated may have his or her name ~~printed or otherwise placed~~ on the ballot of the ensuing general election~~, but in no event shall the supervisor of elections be required to place on a ballot a name submitted less than 21 days prior to the election~~. If the name of the new nominee is submitted after the certification of results of the preceding primary election, however, the ballots shall not be changed and ~~vacancy occurs less than 21 days prior to the election, the person designated by the political party will replace the former party nominee even though~~ the former party nominee's name will appear ~~be~~ on the ballot. Any ballots cast for the former party nominee will be counted for the person designated by the political party to replace the former party nominee. If there is no opposition to the party nominee, the person designated by the political party to replace the former party nominee will be elected to office at the general election. For purposes of this paragraph, the term "district political party executive committee" means the members of the state executive committee of a political party from those counties comprising the area involving a district office.

(b)~~(c)~~ When, under the circumstances set forth in the preceding paragraph, vacancies in nomination are required to be filled by committee nominations, such vacancies shall be filled by party rule. In any instance in which a nominee is selected by a committee to fill a vacancy in nomination, such nominee shall pay the same filing fee and take the same oath as the nominee would have taken had he or she regularly qualified for election to such office.

(c)~~(d)~~ Any person who, at the close of qualifying as prescribed in ss. 99.061 and 105.031, was qualified for nomination or election to or retention in a public office to be filled at the ensuing general election is prohibited from qualifying as a candidate to fill a vacancy in nomination for any other office to be filled at that general election, even if such person has withdrawn or been eliminated as a candidate for the original office sought. However, this paragraph does not apply to a candidate for the office of Lieutenant Governor who applies to fill a vacancy in nomination for the office of Governor on the same ticket or to a person who has withdrawn or been eliminated as a candidate and who is subsequently designated as a candidate for Lieutenant Governor under s. 99.063.

(5) In the event of unforeseeable circumstances not contemplated in these general election laws concerning the calling and holding of special primary elections and special elections resulting from court order or other unpredictable circumstances, the Department of State shall have the authority to provide for the conduct of orderly elections.

~~(6) In the event that a vacancy occurs which leaves less than 4 weeks for a candidate seeking to qualify by the alternative method to gather signatures for ballot position, the number of signatures required for ballot placement shall be 25 percent of the number of signatures required by s. 99.095, s. 99.0955, or s. 99.096, whichever is applicable.~~

Section 21. Section 100.141, Florida Statutes, is amended to read:

100.141 Notice of special election to fill any vacancy in office ~~or nomination~~.--

(1) Whenever a special election is required to fill any vacancy in office ~~or nomination~~, the Governor, after consultation with the Secretary of State, shall issue an order declaring on what day the election shall be held and deliver the order to the Department of State.

(2) The Department of State shall prepare a notice stating what offices ~~and vacancies~~ are to be filled in the special election, the date set for each special primary election and the special election, the dates fixed for qualifying for office, the dates fixed for qualifying by the petition process pursuant to s. 99.095 ~~alternative method~~, and the dates fixed for filing campaign expense statements.

(3) The department shall deliver a copy of such notice to the supervisor of elections of each county in which the special election is to be held. The supervisor shall have the notice published two times in a newspaper of general circulation in the county at least 10 days prior to the first day set for qualifying for office. If such a newspaper is not published within the period set forth, the supervisor shall post at least five copies of the notice in conspicuous places in the county not less than 10 days prior to the first date set for qualifying.

Section 22. Subsection (2) of section 101.031, Florida Statutes, is amended to read:

101.031 Instructions for electors.--

(2) The supervisor of elections in each county shall have posted at each polling place in the county the Voter's Bill of Rights and Responsibilities in the following form:

VOTER'S BILL OF RIGHTS

Each registered voter in this state has the right to:

1. Vote and have his or her vote accurately counted.

2. Cast a vote if he or she is in line at the official closing of the polls in that county.

3. Ask for and receive assistance in voting.

4. Receive up to two replacement ballots if he or she makes a mistake prior to the ballot being cast.

5. An explanation if his or her registration or identity is in question.

6. If his or her registration or identity is in question, cast a provisional ballot.

~~7. Prove his or her identity by signing an affidavit if election officials doubt the voter's identity.~~

7.~~8.~~ Written instructions to use when voting, and, upon request, oral instructions in voting from elections officers.

8.~~9.~~ Vote free from coercion or intimidation by elections officers or any other person.

9.~~10.~~ Vote on a voting system that is in working condition and that will allow votes to be accurately cast.

VOTER RESPONSIBILITIES

Each registered voter in this state should:

1. Familiarize himself or herself with the candidates and issues.

2. Maintain with the office of the supervisor of elections a current address.

3. Know the location of his or her polling place and its hours of operation.

4. Bring proper identification to the polling station.

5. Familiarize himself or herself with the operation of the voting equipment in his or her precinct.

6. Treat precinct workers with courtesy.

7. Respect the privacy of other voters.

8. Report any problems or violations of election laws to the supervisor of elections.

9. Ask questions, if needed.

10. Make sure that his or her completed ballot is correct before leaving the polling station.

NOTE TO VOTER: Failure to perform any of these responsibilities does not prohibit a voter from voting.

Section 23. Section 101.043, Florida Statutes, is amended to read:

101.043 Identification required at polls.--

(1) The precinct register, as prescribed in s. 98.461, shall be used at the polls in lieu of the registration books for the purpose of identifying the elector at the polls prior to allowing him or her to vote. The clerk or inspector shall require each elector, upon entering the polling place, to present a current and valid picture identification as provided in s. 97.0535(3)(a). If the picture identification does not contain the signature of the voter, an additional identification that provides the voter's signature shall be required. The elector shall sign his or her name in the space provided, and the clerk or inspector shall compare the signature with that on the identification provided by the elector and enter his or her initials in the space provided and allow the elector to vote if the clerk or inspector is satisfied as to the identity of the elector.

~~(2) Except as provided in subsection (3), if the elector fails to furnish the required identification, or if the clerk or inspector is in doubt as to the identity of the elector, such clerk or inspector shall follow the procedure prescribed in s. 101.49.~~

(2)~~(3)~~ If the elector ~~who~~ fails to furnish the required identification ~~is a first time voter who registered by mail and has not provided the required identification to the supervisor of elections prior to election day~~, the elector shall be allowed to vote a provisional ballot. The canvassing board shall determine the validity of the ballot pursuant to s. 101.048(2).

Section 24. Section 101.048, Florida Statutes, is amended to read:

101.048 Provisional ballots.--

(1) At all elections, a voter claiming to be properly registered in the county and eligible to vote at the precinct in the election~~,~~ but whose eligibility cannot be determined, a person whom an election official asserts is not eligible, and other persons specified in the code shall be entitled to vote a provisional ballot. Once voted, the provisional ballot shall be placed in a secrecy envelope and thereafter sealed in a provisional ballot envelope. The provisional ballot shall be deposited in a ballot box. All provisional ballots shall remain sealed in their envelopes for return to the supervisor of elections. The department shall prescribe the form of the provisional ballot envelope. A person casting a provisional ballot shall have the right to present written evidence supporting his or her eligibility to vote to the supervisor of elections by not later that 5 p.m. on the third day following the election.

(2)(a) The county canvassing board shall examine each Provisional Ballot Voter's Certificate and Affirmation ~~envelope~~ to determine if the person voting that ballot was entitled to vote at the precinct where the person cast a vote in the election and that the person had not already cast a ballot in the election. In determining whether a person casting a provisional ballot is entitled to vote, the county canvassing board shall review the information provided in the Voter's Certificate and Affirmation, written evidence provided by the person pursuant to subsection (1), any other evidence presented by the supervisor of elections, and, in the case of a challenge, any evidence presented by the challenger. A ballot of a person casting a provisional ballot shall be counted unless the canvassing board determines by a preponderance of the evidence that the person was not entitled to vote.

(b)1. If it is determined that the person was registered and entitled to vote at the precinct where the person cast a vote in the election, the canvassing board shall compare the signature on the Provisional Ballot Voter's Certificate and Affirmation ~~envelope~~ with the signature on the voter's registration and, if it matches, shall count the ballot.

2. If it is determined that the person voting the provisional ballot was not registered or entitled to vote at the precinct where the person cast a vote in the election, the provisional ballot shall not be counted and the ballot shall remain in the envelope containing the Provisional Ballot Voter's Certificate and Affirmation and the envelope shall be marked "Rejected as Illegal."

(3) The Provisional Ballot Voter's Certificate and Affirmation shall be in substantially the following form:

STATE OF FLORIDA
COUNTY OF ....

I do solemnly swear (or affirm) that my name is ....; that my date of birth is ....; that I am registered and qualified to vote ~~and at the time I registered I resided at ...., in the municipality of ....,~~ in .... County, Florida; that I am registered in the .... Party; that I am a qualified voter of the county; and that I have not voted in this election. I understand that if I commit any fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an election, I can be convicted of a felony of the third degree and fined up to $5,000 and/or imprisoned for up to 5 years.

...(Signature of Voter)...
...(Current Residence Address)...
...(Current Mailing Address)...
...(City, State, Zip Code)...
...(Driver's License Number or Last Four Digits of Social Security Number)...

Sworn to and subscribed before me this .... day of ....., ...(year)....
...(Election Official)...

Precinct # .... Ballot Style/Party Issued: ....

(4) Notwithstanding the requirements of subsections (1), (2), and (3) ~~In counties where the voting system does not utilize a paper ballot~~, the supervisor of elections may, and for persons with disabilities shall, provide the appropriate provisional ballot to the voter by electronic means that meet the requirements of s. 101.56062, as provided for by the certified voting system. Each person casting a provisional ballot by electronic means shall, prior to casting his or her ballot, complete the Provisional Ballot Voter's Certificate and Affirmation as provided in subsection (3).

(5) Each person casting a provisional ballot shall be given written instructions regarding the person's right to provide the supervisor of elections with written evidence of his or her eligibility to vote and regarding the free access system established pursuant to subsection (6). The instructions shall contain information on how to access the system and the information the voter will need to provide to obtain information on his or her particular ballot. The instructions shall also include the following statement: "If this is a primary election, you should contact the supervisor of elections' office immediately to confirm that you are registered and can vote in the general election."

(6) Each supervisor of elections shall establish a free access system that allows each person who casts a provisional ballot to determine whether his or her provisional ballot was counted in the final canvass of votes and, if not, the reasons why. Information regarding provisional ballots shall be available no later than 30 days following the election. The system established must restrict information regarding an individual ballot to the person who cast the ballot.

Section 25. Section 101.049, Florida Statutes, is amended to read:

101.049 Provisional ballots; special circumstances.--

(1) Any person who votes in an election after the regular poll-closing time pursuant to a court or other order extending the statutory polling hours must vote a provisional ballot. Once voted, the provisional ballot shall be placed in a secrecy envelope and thereafter sealed in a provisional ballot envelope. The election official witnessing the voter's subscription and affirmation on the Provisional Ballot Voter's Certificate shall indicate whether or not the voter met all requirements to vote a regular ballot at the polls. All such provisional ballots shall remain sealed in their envelopes and be transmitted to the supervisor of elections.

(2) Separate and apart from all other ballots, the county canvassing board shall count all late-voted provisional ballots that the canvassing board determines to be valid.

(3) The supervisor shall ensure that late-voted provisional ballots are not commingled with other ballots during the canvassing process or at any other time they are statutorily required to be in the supervisor's possession.

(4) This section shall not apply to voters in line at the poll-closing time provided in s. 100.011 who cast their ballots subsequent to that time.

(5) As an alternative, provisional ballots cast pursuant to this section may, and for persons with disabilities shall, be cast in accordance with the provisions of s. 101.048(4).

Section 26. Effective July 1, 2005, section 101.051, Florida Statutes, as amended by section 10 of chapter 2002-281, Laws of Florida, is amended to read:

101.051 Electors seeking assistance in casting ballots; oath to be executed; forms to be furnished.--

(1) Any elector applying to vote in any election who requires assistance to vote by reason of blindness, disability, or inability to read or write may request the assistance of two election officials or some other person of the elector's own choice, other than the elector's employer, an agent of the employer, or an officer or agent of his or her union, to assist the elector in casting his or her vote. Any such elector, before retiring to the voting booth, may have one of such persons read over to him or her, without suggestion or interference, the titles of the offices to be filled and the candidates therefor and the issues on the ballot. After the elector requests the aid of the two election officials or the person of the elector's choice, they shall retire to the voting booth for the purpose of casting the elector's vote according to the elector's choice.

(2) It is unlawful for any person to be in the voting booth with any elector except as provided in subsection (1). A person at a polling place or early voting site, or within 100 feet of the entrance of a polling place or early voting site, may not solicit any elector in an effort to provide assistance to vote pursuant to subsection (1). Any person who violates this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) Any elector applying to cast an absentee ballot in the office of the supervisor, in any election, who requires assistance to vote by reason of blindness, disability, or inability to read or write may request the assistance of some person of his or her own choice, other than the elector's employer, an agent of the employer, or an officer or agent of his or her union, in casting his or her absentee ballot.

(4) If an elector needs assistance in voting pursuant to the provisions of this section, the clerk or one of the inspectors shall require the elector requesting assistance in voting to take the following oath:

DECLARATION TO SECURE ASSISTANCE

State of Florida
County of ....
Date ....
Precinct ....

I, ...(Print name)..., swear or affirm that I am a registered elector and request assistance from ...(Print names)... in voting at the ...(name of election)... held on ...(date of election).... ...(Signature of assistor)....
Sworn and subscribed to before me this .... day of ...., ...(year)....
...(Signature of Official Administering Oath)...

(5) If an elector needing assistance requests that a person other than an election official provide him or her with assistance in voting, the clerk or one of the inspectors shall require the person providing assistance to take the following oath:

DECLARATION TO PROVIDE ASSISTANCE

State of Florida
County of ....
Date ....
Precinct ....

I, ...(Print name)..., have been requested by ...(print name of elector needing assistance)... to provide him or her with assistance to vote. I swear or affirm that I am not the employer, an agent of the employer, or an officer or agent of the union of the voter and that I have not solicited this voter at the polling place or early voting site or within 100 feet of such locations in an effort to provide assistance....(Signature of assistor)...
Sworn and subscribed to before me this .... day of ...., ...(year)....
...(Signature of Official Administering Oath)...

(6)~~(5)~~ The supervisor of elections shall deliver a sufficient number of these forms to each precinct, along with other election paraphernalia.

Section 27. Section 101.111, Florida Statutes, is amended to read:

101.111 Person desiring to vote may be challenged; challenger to execute oath; oath of person challenged; determination of challenge.--

(1) When the right to vote of any person who desires to vote is challenged by any elector or poll watcher, the challenge shall be reduced to writing with an oath as provided in this section, giving reasons for the challenge, which shall be delivered to the clerk or inspector. Any elector or poll watcher challenging the right of a person to vote shall execute the oath set forth below:

OATH OF PERSON ENTERING CHALLENGE

State of Florida
County of ....

I do solemnly swear that my name is ....; that I am a member of the .... party; that I am a registered voter or pollwatcher~~.... years old~~; that my residence address is ...., in the municipality of ....; and that I have reason to believe that .... is attempting to vote illegally and the reasons for my belief are set forth herein to wit: ....
...(Signature of person challenging voter)...

Sworn and subscribed to before me this .... day of ...., ...(year)....
...(Clerk of election)...

(2) ~~Before a person who is challenged is permitted to vote, the challenged person's right to vote shall be determined in accordance with the provisions of subsection (3).~~ The clerk or inspector shall immediately deliver to the challenged person a copy of the oath of the person entering the challenge and the challenged voter shall be allowed to cast a provisional ballot. ~~shall request the challenged person to execute the following oath:~~

~~OATH OF PERSON CHALLENGED~~

~~State of Florida~~
~~County of~~ ....

~~I do solemnly swear that my name is ....; that I am a member of the .... party; that my date of birth is ....; that my residence address is ...., in the municipality of ...., in this the ....precinct of ....county; that I personally made application for registration and signed my name and that I am a~~

~~qualified voter in this election.~~
~~...(Signature of person)...~~

~~Sworn and subscribed to before me this .... day of ....,~~
~~..(year)....~~
~~...(Clerk of election or Inspector)...~~

~~Any inspector or clerk of election may administer the oath.~~

(3) Any elector or poll watcher may challenge the right of any voter to vote not sooner than 30 days before an election by filing a completed copy of the oath contained in subsection (1) to the supervisor of election's office. The challenged voter shall be permitted to cast a provisional ballot.

(4) Any elector or poll watcher filing a frivolous challenge of any person's right to vote commits a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084; however, electors or poll watchers shall not be subject to liability for any action taken in good faith and in furtherance of any activity or duty permitted of such electors or poll watchers by law. Each instance where any elector or poll watcher files a frivolous challenge of any person's right to vote constitutes a separate offense.

~~(a) The clerk and inspectors shall compare the information in the challenged person's oath with that entered on the precinct register and shall take any other evidence that may be offered. The clerk and inspectors shall then decide by a majority vote whether the challenged person may vote a regular ballot.~~

~~(b) If the challenged person refuses to complete the oath or if a majority of the clerk and inspectors doubt the eligibility of the person to vote, the challenged person shall be allowed to vote a provisional ballot. The oath of the person entering the challenge and the oath of the person challenged shall be attached to the provisional ballot for transmittal to the canvassing board.~~

Section 28. Section 101.131, Florida Statutes, is amended to read:

101.131 Watchers at polls.--

(1) Each political party and each candidate may have one watcher in each polling room or early voting area at any one time during the election. A political committee formed for the specific purpose of expressly advocating the passage or defeat of an issue on the ballot may have one watcher for each polling room or early voting area at any one time during the election. No watcher shall be permitted to come closer to the officials' table or the voting booths than is reasonably necessary to properly perform his or her functions, but each shall be allowed within the polling room or early voting area to watch and observe the conduct of electors and officials. The poll watchers shall furnish their own materials and necessities and shall not obstruct the orderly conduct of any election. The poll watchers shall pose any questions regarding polling place procedures directly to the clerk for resolution. They may not interact with voters. Each poll watcher shall be a qualified and registered elector of the county in which he or she serves.

(2) Each party, each political committee, and each candidate requesting to have poll watchers shall designate, in writing, ~~poll watchers for each precinct~~ prior to noon of the second Tuesday preceding the election poll watchers for each polling room on election day. Designations of poll watchers for early voting areas shall be submitted in writing to the supervisor of elections at least 14 days before early voting begins. The poll watchers for each polling room ~~precinct~~ shall be approved by the supervisor of elections on or before the Tuesday before the election. Poll watchers for early voting areas shall be approved by the supervisor of elections no later than 7 days before early voting begins. The supervisor shall furnish to each election board ~~precinct~~ a list of the poll watchers designated and approved for such polling room or early voting area ~~precinct~~.

(3) No candidate or sheriff, deputy sheriff, police officer, or other law enforcement officer may be designated as a poll watcher.

Section 29. Subsection (1) of section 101.151, Florida Statutes, is amended to read:

101.151 Specifications for ballots.--

(1) Marksense ~~Paper~~ ballots shall be printed on paper of such thickness that the printing cannot be distinguished from the back and shall meet the specifications of the voting system that will be used to tabulate the ballots.

Section 30. Section 101.171, Florida Statutes, is amended to read:

101.171 Copy of constitutional amendment to be available at voting locations ~~posted~~.--Whenever any amendment to the State Constitution is to be voted upon at any election, the Department of State shall have printed~~,~~ and shall furnish to each supervisor of elections~~,~~ a sufficient number of copies of the amendment either in poster or booklet form, and the supervisor shall have a copy thereof conspicuously posted or available at each polling room or early voting area ~~precinct~~ upon the day of election.

Section 31. Section 101.294, Florida Statutes, is amended to read:

101.294 Purchase and sale of voting equipment.--

(1) The Division of Elections of the Department of State shall adopt uniform rules for the purchase, use, and sale of voting equipment in the state. No governing body shall purchase or cause to be purchased any voting equipment unless such equipment has been certified for use in this state by the Department of State.

(2) Any governing body contemplating the purchase or sale of voting equipment shall notify the Division of Elections of such considerations. The division shall attempt to coordinate the sale of excess or outmoded equipment by one county with purchases of necessary equipment by other counties.

(3) The division shall inform the governing bodies of the various counties of the state of the availability of new or used voting equipment and of sources available for obtaining such equipment.

(4) A vendor of voting equipment may not provide an uncertified voting system, voting system component, or voting system upgrade to a local governing body or supervisor of elections in this state.

(5) Before or in conjunction with providing a voting system, voting system component, or voting system upgrade, the vendor shall provide the local governing body or supervisor of elections with a sworn certification that the voting system, voting system component, or voting system upgrade being provided has been certified by the Division of Elections.

Section 32. Section 101.295, Florida Statutes, is amended to read:

101.295 Penalties for violation.--

(1) Any member of a governing body which purchases or sells voting equipment in violation of the provisions of ss. 101.292-101.295, which member knowingly votes to purchase or sell voting equipment in violation of the provisions of ss. 101.292-101.295, is guilty of a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083, and shall be subject to suspension from office on the grounds of malfeasance.

(2) Any vendor, chief executive officer, or vendor representative of voting equipment who provides a voting system, voting system component, or voting system upgrade in violation of this chapter commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 33. Section 101.49, Florida Statutes, is amended to read:

101.49 Procedure of election officers where signatures differ.--

(1) Whenever any clerk or inspector, upon a just comparison of the signatures, doubts that the signature on the identification presented by the ~~of any~~ elector ~~who presents himself or herself at the polls to vote~~ is the same as the signature ~~of~~ the elector affixed on the precinct register or early voting certificate ~~in the registration book~~, the clerk or inspector shall deliver to the person an affidavit which shall be in substantially the following form:

STATE OF FLORIDA,
COUNTY OF .....

I do solemnly swear (or affirm) that my name is ....; that I am .... years old; that I was born in the State of ....; that I am registered to vote~~, and at the time I registered I resided on .... Street, in the municipality of ....,~~

~~County of ..., State of Florida~~; that I am a qualified voter of the county and state aforesaid and have not voted in this election.

...(Signature of voter)...

Sworn to and subscribed before me this .... day of ...., A. D. ....(year)....

...(Clerk or inspector of election)...

Precinct No. ....

County of ....

(2) The person shall fill out, in his or her own handwriting or with assistance from a member of the election board, the form and make an affidavit to the facts stated in the filled-in form; such affidavit shall then be sworn to and subscribed before one of the inspectors or clerks of the election who is authorized to administer the oath. Whenever the affidavit is made and filed with the clerk or inspector, the person shall then be admitted to cast his or her vote, but if the person fails or refuses to make out or file such affidavit and asserts his or her eligibility, then he or she shall be entitled to vote a provisional ballot ~~not be permitted to vote~~.

Section 34. Effective July 1, 2005, subsection (1) of section 101.51, Florida Statutes, as amended by section 11 of chapter 2002-281, Laws of Florida, is amended to read:

101.51 Electors to occupy booth alone.--

(1) When the elector presents himself or herself to vote, the election official shall ascertain whether the elector's name is upon the register of electors, and, if the elector's name appears and no challenge interposes, or, if interposed, be not sustained, one of the election officials stationed at the entrance shall announce the name of the elector and permit him or her to enter the booth or compartment to cast his or her vote, allowing only one elector at a time to pass through to vote. An elector, while casting his or her ballot, may not occupy a booth or compartment already occupied or speak with anyone, except as provided by s. 101.051~~, while in the polling place~~.

Section 35. Subsection (4) of section 101.5606, Florida Statutes, is amended to read:

101.5606 Requirements for approval of systems.--No electronic or electromechanical voting system shall be approved by the Department of State unless it is so constructed that:

(4) For systems using marksense ~~paper~~ ballots, it accepts a rejected ballot pursuant to subsection (3) if a voter chooses to cast the ballot, but records no vote for any office that has been overvoted or undervoted.

Section 36. Subsections (2) and (3) of section 101.5608, Florida Statutes, are amended to read:

101.5608 Voting by electronic or electromechanical method; procedures.--

(2) When an electronic or electromechanical voting system utilizes a ballot card or marksense ~~paper~~ ballot, the following procedures shall be followed:

(a) After receiving a ballot from an inspector, the elector shall, without leaving the polling place, retire to a booth or compartment and mark the ballot. After preparing his or her ballot, the elector shall place the ballot in a secrecy envelope with the stub exposed or shall fold over that portion on which write-in votes may be cast, as instructed, so that the ballot will be deposited in the ballot box without exposing the voter's choices. Before the ballot is deposited in the ballot box, the inspector shall detach the exposed stub and place it in a separate envelope for audit purposes; when a fold-over ballot is used, the entire ballot shall be placed in the ballot box.

(b) Any voter who spoils his or her ballot or makes an error may return the ballot to the election official and secure another ballot, except that in no case shall a voter be furnished more than three ballots. If the vote tabulation device has rejected a ballot, the ballot shall be considered spoiled and a new ballot shall be provided to the voter unless the voter chooses to cast the rejected ballot. The election official, without examining the original ballot, shall state the possible reasons for the rejection and shall provide instruction to the voter pursuant to s. 101.5611. A spoiled ballot shall be preserved, without examination, in an envelope provided for that purpose. The stub shall be removed from the ballot and placed in an envelope.

(c) The supervisor of elections shall prepare for each polling place at least one ballot box to contain the ballots of a particular precinct, and each ballot box shall be plainly marked with the name of the precinct for which it is intended.

(3) The Department of State shall promulgate rules regarding voting procedures to be used when an electronic or electromechanical voting system is of a type which does not utilize a ballot card or marksense ~~paper~~ ballot.

Section 37. Subsection (2) of section 101.5612, Florida Statutes, is amended to read:

101.5612 Testing of tabulating equipment.--

(2) On any day not more than 10 days prior to the commencement of early voting as provided in s. 101.657, the supervisor of elections shall have the automatic tabulating equipment publicly tested to ascertain that the equipment will correctly count the votes cast for all offices and on all measures. If the ballots to be used at the polling place on election day are not available at the time of the testing, the supervisor may conduct an additional test not more than 10 days before election day. Public notice of the time and place of the test shall be given at least 48 hours prior thereto by publication once in one or more newspapers of general circulation in the county or, if there is no newspaper of general circulation in the county, by posting the notice in at least four conspicuous places in the county. The supervisor or the municipal elections official may, at the time of qualifying, give written notice of the time and location of the public preelection test to each candidate qualifying with that office and obtain a signed receipt that the notice has been given. The Department of State shall give written notice to each statewide candidate at the time of qualifying, or immediately at the end of qualifying, that the voting equipment will be tested and advise each candidate to contact the county supervisor of elections as to the time and location of the public preelection test. The supervisor or the municipal elections official shall, at least 15 days prior to the commencement of early voting as provided in s. 101.657, send written notice by certified mail to the county party chair of each political party and to all candidates for other than statewide office whose names appear on the ballot in the county and who did not receive written notification from the supervisor or municipal elections official at the time of qualifying, stating the time and location of the public preelection test of the automatic tabulating equipment. The canvassing board shall convene, and each member of the canvassing board shall certify to the accuracy of the test. For the test, the canvassing board may designate one member to represent it. The test shall be open to representatives of the political parties, the press, and the public. Each political party may designate one person with expertise in the computer field who shall be allowed in the central counting room when all tests are being conducted and when the official votes are being counted. The designee shall not interfere with the normal operation of the canvassing board.

Section 38. Subsection (5) of section 101.5614, Florida Statutes, is amended to read:

101.5614 Canvass of returns.--

(5) If any absentee ballot is physically damaged so that it cannot properly be counted by the automatic tabulating equipment, a true duplicate copy shall be made of the damaged ballot in the presence of witnesses and substituted for the damaged ballot. Likewise, a duplicate ballot shall be made of an absentee ballot containing an overvoted race or a marked absentee ballot in which every race is undervoted which shall include all valid votes as determined by the canvassing board based on rules adopted by the division pursuant to s. 102.166(4)~~(5)~~. All duplicate ballots shall be clearly labeled "duplicate," bear a serial number which shall be recorded on the defective ballot, and be counted in lieu of the defective ballot. After a ballot has been duplicated, the defective ballot shall be placed in an envelope provided for that purpose, and the duplicate ballot shall be tallied with the other ballots for that precinct.

Section 39. Section 101.572, Florida Statutes, is amended to read:

101.572 Public inspection of ballots.--The official ballots and ballot cards received from election boards and removed from absentee ballot mailing envelopes shall be open for public inspection or examination while in the custody of the supervisor of elections or the county canvassing board at any reasonable time, under reasonable conditions; however, no persons other than the supervisor of elections or his or her employees or the county canvassing board shall handle any official ballot or ballot card. If the ballots are being examined prior to the end of the contest period in s. 102.168, the supervisor of elections shall make a reasonable effort to notify all candidates whose names appear on such ballots or ballot cards by telephone or otherwise of the time and place of the inspection or examination. All such candidates, or their representatives, shall be allowed to be present during the inspection or examination.

Section 40. Section 101.58, Florida Statutes, is amended to read:

101.58 Supervising and observing registration and election processes.--

(1) The Department of State may, at any time it deems fit; upon the petition of 5 percent of the registered electors; or upon the petition of any candidate, county executive committee chair, state committeeman or committeewoman, or state executive committee chair, appoint one or more deputies whose duties shall be to observe and examine the registration and election processes and the condition, custody, and operation of voting systems and equipment in any county or municipality. The deputy shall have access to all registration books and records as well as any other records or procedures relating to the voting process. The deputy may supervise preparation of the voting equipment and procedures for election, and it shall be unlawful for any person to obstruct the deputy in the performance of his or her duty. The deputy shall file with the Department of State a report of his or her findings and observations of the registration and election processes in the county or municipality, and a copy of the report shall also be filed with the clerk of the circuit court of said county. The compensation of such deputies shall be fixed by the Department of State; and costs incurred under this section shall be paid from the annual operating appropriation made to the Department of State.

(2) Upon the written direction of the Secretary of State, any employee of the Department of State having expertise in the matter of concern to the Secretary of State shall have full access to all premises, records, equipment, and staff of the supervisor of elections.

Section 41. Subsection (1) of section 101.595, Florida Statutes, is amended to read:

101.595 Analysis and reports of voting problems.--

(1) No later than December 15 of each general election year, the supervisor of elections in each county shall report to the Department of State the total number of overvotes and undervotes in the "President and Vice President" or "Governor and Lieutenant Governor" race that appears first on the ballot or, if neither appears, the first race appearing on the ballot pursuant to s. 101.151(2), along with the likely reasons for such overvotes and undervotes and other information as may be useful in evaluating the performance of the voting system and identifying problems with ballot design and instructions which may have contributed to voter confusion.

Section 42. Section 101.6103, Florida Statutes, is amended to read:

101.6103 Mail ballot election procedure.--

(1) Except as otherwise provided in subsection (7) ~~(6)~~, the supervisor of elections shall mail all official ballots with a secrecy envelope, a return mailing envelope, and instructions sufficient to describe the voting process to each elector entitled to vote in the election not sooner than the 20th day before the election and not later than the 10th day before the date of the election. All such ballots shall be mailed by first-class mail. Ballots shall be addressed to each elector at the address appearing in the registration records and placed in an envelope which is prominently marked "Do Not Forward."

(2) Upon receipt of the ballot the elector shall mark the ballot, place it in the secrecy envelope, sign the return mailing envelope supplied with the ballot, and comply with the instructions provided with the ballot. The elector shall mail, deliver, or have delivered the marked ballot so that it reaches the supervisor of elections no later than 7 p.m. on the day of the election. The ballot must be returned in the return mailing envelope.

(3) The return mailing envelope shall contain a statement in substantially the following form:

VOTER'S CERTIFICATE

I, (Print Name), do solemnly swear (or affirm) that I am a qualified voter in this election and that I have not and will not vote more than one ballot in this election.

I understand that failure to sign this certificate and give my residence address will invalidate my ballot.

...(Signature)...

...(Residence Address)...

(4) If the ballot is destroyed, spoiled, lost, or not received by the elector, the elector may obtain a replacement ballot from the supervisor of elections as provided in this subsection. An elector seeking a replacement ballot shall sign a sworn statement that the ballot was destroyed, spoiled, lost, or not received and present such statement to the supervisor of elections prior to 7 p.m. on the day of the election. The supervisor of elections shall keep a record of each replacement ballot provided under this subsection.

(5) A ballot shall be counted only if:

(a) It is returned in the return mailing envelope;

(b) The elector's signature has been verified as provided in this subsection; and

(c) It is received by the supervisor of elections not later than 7 p.m. on the day of the election.

The supervisor of elections shall verify the signature of each elector on the return mailing envelope with the signature on the elector's registration records. Such verification may commence at any time prior to the canvass of votes. The supervisor of elections shall safely keep the ballot unopened in his or her office until the county canvassing board canvasses the vote. If the supervisor of elections determines that an elector to whom a replacement ballot has been issued under subsection (4) has voted more than once, the canvassing board shall determine which ballot, if any, is to be counted.

(6) The canvassing board may begin the canvassing of mail ballots at 7 a.m. on the fourth day before the election, including processing the ballots through the tabulating equipment. However, results may not be released until after 7 p.m. on election day. Any canvassing board member or election employee who releases any result before 7 p.m. on election day commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(7)~~(6)~~ With respect to absent electors overseas entitled to vote in the election, the supervisor of elections shall mail an official ballot with a secrecy envelope, a return mailing envelope, and instructions sufficient to describe the voting process to each such elector on a date sufficient to allow such elector time to vote in the election and to have his or her marked ballot reach the supervisor by 7 p.m. on the day of the election.

(8) Effective July 1, 2005, a ballot that otherwise satisfies the requirements of subsection (5) shall be counted even if the elector dies after mailing the ballot but before election day, as long as, prior to the death of the voter, the ballot was:

(a) Postmarked by the United States Postal Service;

(b) Date-stamped with a verifiable tracking number by common carrier; or

(c) Already in the possession of the supervisor of elections.

Section 43. Section 101.62, Florida Statutes, is amended to read:

101.62 Request for absentee ballots.--

(1)(a) The supervisor may accept a request for an absentee ballot from an elector in person or in writing. Except as provided in s. 101.694, one

request shall be deemed sufficient to receive an absentee ballot for all elections which are held within a calendar year, unless the elector or the elector's designee indicates at the time the request is made the elections for which the elector desires to receive an absentee ballot. Such request may be considered canceled when any first-class mail sent by the supervisor to the elector is returned as undeliverable.

(b) The supervisor may accept a written or telephonic request for an absentee ballot from the elector, or, if directly instructed by the elector, a member of the elector's immediate family, or the elector's legal guardian. For purposes of this section, the term "immediate family" has the same meaning as specified in paragraph (4)(b). The person making the request must disclose:

1. The name of the elector for whom the ballot is requested;
2. The elector's address;
3. The elector's date of birth;
4. The requester's name;
5. The requester's address;
6. The requester's driver's license number, if available;
7. The requester's relationship to the elector; and
8. The requester's signature (written requests only).

(2) ~~If~~ A request for an absentee ballot to be mailed to a voter must be ~~is~~ received no later than 5 p.m. on the sixth day ~~after the Friday~~ before the election by the supervisor of elections ~~from an absent elector overseas, the supervisor shall send a notice to the elector acknowledging receipt of his or her request and notifying the elector that the ballot will not be forwarded due to insufficient time for return of the ballot by the required deadline~~. The supervisor of elections shall mail absentee ballots to voters requesting ballots by such deadline no later than 4 days before the election.

(3) For each request for an absentee ballot received, the supervisor shall record the date the request was made, the date the absentee ballot was delivered to the voter or the voter's designee or the date the absentee ballot was delivered to the post office or other carrier ~~or mailed~~, the date the ballot was received by the supervisor, and such other information he or she may deem necessary. This information shall be provided in electronic format as provided by rule adopted by the division. The information shall be updated and made available no later than noon of each day and shall be contemporaneously provided to the division. This information shall be confidential and exempt from the provisions of s. 119.07(1) and shall be made available to or reproduced only for the voter requesting the ballot, a canvassing board, an election official, a political party or official thereof, a candidate who has filed qualification papers and is opposed in an upcoming election, and registered political committees or registered committees of continuous existence, for political purposes only.

(4)(a) To each absent qualified elector overseas who has requested an absentee ballot, the supervisor of elections shall, not fewer than 35 days before the first primary election, mail an absentee ballot. Not fewer than 45 days before the second primary and general election, the supervisor of elections shall mail an absentee ballot. If the regular absentee ballots are not available, the supervisor shall mail an advance absentee ballot to those persons requesting ballots for such elections. The advance absentee ballot for the second primary shall be the same as the first primary absentee ballot as to the names of candidates, except that for any offices where there are only two candidates, those offices and all political party executive committee offices shall be omitted. Except as provided in ss. 99.063(4) and 100.371(6), the advance absentee ballot for the general election shall be as specified in s. 101.151, except that in the case of candidates of political parties where nominations were not made in the first primary, the names of the candidates placing first and second in the first primary election shall be printed on the advance absentee ballot. The advance absentee ballot or advance absentee ballot information booklet shall be of a different color for each election and also a different color from the absentee ballots for the first primary, second primary, and general election. The supervisor shall mail an advance absentee ballot for the second primary and general election to each qualified absent elector for whom a request is received until the absentee ballots are printed. The supervisor shall enclose with the advance second primary absentee ballot and advance general election absentee ballot an explanation stating that the absentee ballot for the election will be mailed as soon as it is printed; and, if both the advance absentee ballot and the absentee ballot for the election are returned in time to be counted, only the absentee ballot will be counted. The Department of State may prescribe by rule the requirements for preparing and mailing absentee ballots to absent qualified electors overseas.

(b) As soon as the remainder of the absentee ballots are printed, the supervisor shall provide an absentee ballot to each elector by whom a request for that ballot has been made by one of the following means:

1. By nonforwardable, return-if-undeliverable mail to the elector's current mailing address on file with the supervisor, unless the elector specifies in the request that:

a. The elector is absent from the county and does not plan to return before the day of the election;

b. The elector is temporarily unable to occupy the residence because of hurricane, tornado, flood, fire, or other emergency or natural disaster; or

c. The elector is in a hospital, assisted-living facility, nursing home, short-term medical or rehabilitation facility, or correctional facility,

in which case the supervisor shall mail the ballot by nonforwardable, return-if-undeliverable mail to any other address the elector specifies in the request.

2. By forwardable mail to voters who are entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act.

3. By personal delivery before 7 p.m. on election day to the elector, upon presentation of the identification required in s. 101.657.

4. By delivery to a designee on election day or up to 4 days prior to the day of an election. Any elector may designate in writing a person to pick up the ballot for the elector; however, the person designated may not pick up more than two absentee ballots per election, other than the designee's own ballot, except that additional ballots may be picked up for members of the designee's immediate family. For purposes of this section, "immediate family" means the designee's spouse or the parent, child, grandparent, or sibling of the designee or of the designee's spouse. The designee shall provide to the supervisor the written authorization by the elector and a picture identification of the designee and must complete an affidavit. The designee shall state in the affidavit that the designee is authorized by the elector to pick up that ballot and shall indicate if the elector is a member of the designee's immediate family and, if so, the relationship. The department shall prescribe the form of the affidavit. If the supervisor is satisfied that the designee is authorized to pick up the ballot and that the signature of the elector on the written authorization matches the signature of the elector on file, the supervisor shall give the ballot to that designee for delivery to the elector.

(5) In the event that the Elections Canvassing Commission is unable to certify the results of an election for a state office in time to comply with subsection (4), the Department of State is authorized to prescribe rules for a ballot to be sent to absent electors overseas.

(6) Nothing other than the materials necessary to vote absentee shall be mailed or delivered with any absentee ballot.

Section 44. Section 101.64, Florida Statutes, is amended to read:

101.64 Delivery of absentee ballots; envelopes; form.--

(1) The supervisor shall enclose with each absentee ballot two envelopes: a secrecy envelope, into which the absent elector shall enclose his or her marked ballot; and a mailing envelope, into which the absent elector shall then place the secrecy envelope, which shall be addressed to the supervisor and also bear on the back side a certificate in substantially the following form:

Note: Please Read Instructions Carefully Before Marking Ballot and Completing Voter's Certificate.

VOTER'S CERTIFICATE

I, ..., do solemnly swear or affirm that I am a qualified and registered voter of .... County, Florida, and that I have not and will not vote more than one ballot in this election. I understand that if I commit or attempt to commit any fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an election, I can be convicted of a felony of the third degree and fined up to $5,000 and/or imprisoned for up to 5 years. I also understand that failure to sign this certificate will invalidate my ballot.

...(Date)... ...(Voter's Signature)...

(2) The certificate shall be arranged on the back of the mailing envelope so that the line for the signature of the absent elector is across the seal of the envelope; however, no statement shall appear on the envelope which indicates that a signature of the voter must cross the seal of the envelope. The absent elector shall execute the certificate on the envelope.

(3) In lieu of the voter's certificate provided in this section, the supervisor of elections shall provide each person voting absentee under the Uniformed and Overseas Citizens Absentee Voting Act with the standard oath prescribed by the presidential designee.

Section 45. Subsection (1) of section 101.657, Florida Statutes, is amended, present subsection (2) of that section is renumbered as subsection (4), and new subsections (2) and (3) are added to that section, to read:

101.657 Early voting.--

(1)(a) As a convenience to the voter, the supervisor of elections shall allow an elector to vote early in the main or branch office of the supervisor ~~by depositing the voted ballot in a voting device used by the supervisor to collect or tabulate ballots~~. In order for a branch office to be used for early voting, it shall be a permanent ~~full-service~~ facility of the supervisor and shall have been designated and used as such for at least 1 year prior to the election. The supervisor may also designate any city hall or permanent public library facility as early voting sites; however, if so designated, the sites must be geographically located so as to provide all voters in the county an equal opportunity to cast a ballot, insofar as is practicable. The results or tabulation of votes cast during early voting may not be made before the close of the polls on election day. Results shall be reported by precinct.

(b) The supervisor shall designate each early voting site by no later than the 30th day prior to an election and shall designate an early voting area, as defined in s. 97.021, at each early voting site.

(c) All early voting sites in a county shall be open on the same days for the same amount of time and shall allow any person in line at the closing of an early voting site to vote.

(d)~~(b)~~ Early voting shall begin on the 15th day before an election and end on the 2nd day before an election. For purposes of a special election held pursuant to s. 100.101, early voting shall begin on the 8th day before an election and end on the 2nd day before an election. Early voting shall be provided for ~~at least~~ 8 hours per weekday and 8 hours in the aggregate each weekend at each site during the applicable periods. Early voting sites shall open no sooner than 7 a.m. and close no later than 7 p.m. on each applicable day ~~during the applicable periods. Early voting shall also be provided for 8 hours in the aggregate for each weekend during the applicable periods~~.

(e) Notwithstanding the requirements of s. 100.3605, municipalities may provide early voting in municipal elections that are not held in conjunction with county or state elections. If a municipality provides early voting, it may designate as many sites as necessary and shall conduct its activities in accordance with the provisions of paragraphs (a)-(c). The supervisor is not required to conduct early voting if it is provided pursuant to this subsection.

(f) Notwithstanding the requirements of s. 189.405, special districts may provide early voting in any district election not held in conjunction with county or state elections. If a special district provides early voting, it may designate as many sites as necessary and shall conduct its activities in accordance with the provisions of paragraphs (a)-(c). The supervisor is not required to conduct early voting if it is provided pursuant to this subsection.

(2) During any early voting period, each supervisor of elections shall make available the total number of voters casting a ballot at each early voting location during the previous day. Each supervisor shall prepare an electronic data file listing the individual voters who cast a ballot during the early voting period. This information shall be provided in electronic format as provided by rule adopted by the division. The information shall be updated and made available no later than noon of each day and shall be contemporaneously provided to the division.

(3) The ballot of each elector voting early shall be counted even if the elector dies on or before election day.

Section 46. Subsection (2) of section 101.663, Florida Statutes, is amended to read:

101.663 Electors; change of residence.--

(2) An elector registered in this state who moves his or her permanent residence to another state after the registration books in that state have closed ~~and who is prohibited by the laws of that state from voting for the offices of President and Vice President of the United States~~ shall be permitted to vote absentee in the county of his or her former residence for the offices of President and Vice President of the United States ~~those offices~~.

Section 47. Subsection (1) and paragraph (c) of subsection (2) of section 101.68, Florida Statutes, are amended to read:

101.68 Canvassing of absentee ballot.--

(1) The supervisor of the county where the absent elector resides shall receive the voted ballot, at which time the supervisor shall compare the signature of the elector on the voter's certificate with the signature of the elector in the registration books to determine whether the elector is duly registered in the county and may record on the elector's registration certificate that the elector has voted. However, effective July 1, 2005, an elector who dies after casting an absentee ballot but on or before election day shall remain listed in the registration books until the results have been certified for the election in which the ballot was cast. The supervisor shall safely keep the ballot unopened in his or her office until the county canvassing board canvasses the vote. After an absentee ballot is received by the supervisor, the ballot is deemed to have been cast, and changes or additions may not be made to the voter's certificate.

(2)

(c)1. The canvassing board shall, if the supervisor has not already done so, compare the signature of the elector on the voter's certificate with the signature of the elector in the registration books to see that the elector is duly registered in the county and to determine the legality of that absentee ballot. Effective July 1, 2005, the ballot of an elector who casts an absentee ballot shall be counted even if the elector dies on or before election day, as long as, prior to the death of the voter, the ballot was postmarked by the United States Postal Service, date-stamped with a verifiable tracking number by common carrier, or already in the possession of the supervisor of elections. An absentee ballot shall be considered illegal if it does not include the signature of the elector, as shown by the registration records. However, an absentee ballot shall not be considered illegal if the signature of the elector does not cross the seal of the mailing envelope. If the canvassing board determines that any ballot is illegal, a member of the board shall, without opening the envelope, mark across the face of the envelope: "rejected as illegal." The envelope and the ballot contained therein shall be preserved in the manner that official ballots voted are preserved.

2. If any elector or candidate present believes that an absentee ballot is illegal due to a defect apparent on the voter's certificate, he or she may, at any time before the ballot is removed from the envelope, file with the canvassing board a protest against the canvass of that ballot, specifying

the precinct, the ballot, and the reason he or she believes the ballot to be illegal. A challenge based upon a defect in the voter's certificate may not be accepted after the ballot has been removed from the mailing envelope.

Section 48. Section 101.69, Florida Statutes, is amended to read:

101.69 Voting in person; return of absentee ballot.--The provisions of this code shall not be construed to prohibit any elector from voting in person at the elector's precinct on the day of an election or at an early voting site, notwithstanding that the elector has requested an absentee ballot for that election. An elector who has returned a voted absentee ballot to the supervisor, however, is deemed to have cast his or her ballot and is not entitled to vote another ballot or to have a provisional ballot counted by the county canvassing board. An elector who has received an absentee ballot and has not returned the voted ballot to the supervisor, but desires to vote in person, shall return the ballot, whether voted or not, to the election board in the elector's precinct or to an early voting site. The returned ballot shall be marked "canceled" by the board and placed with other canceled ballots. However, if the elector does not return the ballot and the election official:

(1) Confirms that the supervisor has received the elector's absentee ballot, the elector shall not be allowed to vote in person. If the elector maintains that he or she has not returned the absentee ballot or remains eligible to vote, the elector shall be provided a provisional ballot as provided in s. 101.048.

(2) Confirms that the supervisor has not received the elector's absentee ballot, the elector shall be allowed to vote in person as provided in this code. The elector's absentee ballot, if subsequently received, shall not be counted and shall remain in the mailing envelope, and the envelope shall be marked "Rejected as Illegal."

(3) Cannot determine whether the supervisor has received the elector's absentee ballot, the elector may vote a provisional ballot as provided in s. 101.048.

Section 49. Section 101.6923, Florida Statutes, is amended to read:

101.6923 Special absentee ballot instructions for certain first-time voters.--

(1) The provisions of this section apply to voters who registered to vote by mail, who have not previously voted in the county, and who have not provided the identification or information required by s. 97.0535 by the time the absentee ballot is mailed.

(2) A voter covered by this section shall be provided with the following printed instructions with his or her absentee ballot in substantially the following form:

READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING YOUR BALLOT. FAILURE TO FOLLOW THESE INSTRUCTIONS MAY CAUSE YOUR BALLOT NOT TO COUNT.

1. In order to ensure that your absentee ballot will be counted, it should be completed and returned as soon as possible so that it can reach the supervisor of elections of the county in which your precinct is located no later than 7 p.m. on the date of the election.

2. Mark your ballot in secret as instructed on the ballot. You must mark your own ballot unless you are unable to do so because of blindness, disability, or inability to read or write.

3. Mark only the number of candidates or issue choices for a race as indicated on the ballot. If you are allowed to "Vote for One" candidate and you vote for more than one, your vote in that race will not be counted.

4. Place your marked ballot in the enclosed secrecy envelope and seal the envelope.

5. Insert the secrecy envelope into the enclosed envelope bearing the Voter's Certificate. Seal the envelope and completely fill out the Voter's Certificate on the back of the envelope.

a. You must sign your name on the line above (Voter's Signature).

b. If you are an overseas voter, you must include the date you signed the Voter's Certificate on the line above (Date) or your ballot may not be counted.

6. Unless you meet one of the exemptions in Item 7., you must make a copy of one of the following forms of identification:

a. Identification which must include your name and photograph: current and valid Florida driver's license; Florida identification card issued by the Department of Highway Safety and Motor Vehicles; United States passport; employee badge or identification; buyer's club identification card; debit or credit card; military identification; student identification; retirement center identification; neighborhood association identification; entertainment identification; or public assistance identification; or

b. Identification which shows your name and current residence address: current utility bill, bank statement, government check, paycheck, or government document (excluding voter identification card).

7. The identification requirements of Item 6. do not apply if you meet one of the following requirements:

a. You are 65 years of age or older.

b. You have a temporary or permanent physical disability.

c. You are a member of a uniformed service on active duty who, by reason of such active duty, will be absent from the county on election day.

d. You are a member of the Merchant Marine who, by reason of service in the Merchant Marine, will be absent from the county on election day.

e. You are the spouse or dependent of a member referred to in paragraph c. or paragraph d. who, by reason of the active duty or service of the member, will be absent from the county on election day.

f. You are currently residing outside the United States.

8. Place the envelope bearing the Voter's Certificate into the mailing envelope addressed to the supervisor. Insert a copy of your identification in the mailing envelope. DO NOT PUT YOUR IDENTIFICATION INSIDE THE SECRECY ENVELOPE WITH THE BALLOT OR INSIDE THE ENVELOPE WHICH BEARS THE VOTER'S CERTIFICATE OR YOUR BALLOT WILL NOT COUNT.

9. Mail, deliver, or have delivered the completed mailing envelope. Be sure there is sufficient postage if mailed.

10. FELONY NOTICE. It is a felony under Florida law to accept any gift, payment, or gratuity in exchange for your vote for a candidate. It is also a felony under Florida law to vote in an election using a false identity or false address, or under any other circumstances making your ballot false or fraudulent.

Section 50. Subsection (3) of section 101.694, Florida Statutes, is amended to read:

101.694 Mailing of ballots upon receipt of federal postcard application.--

(3) Absentee envelopes printed for voters entitled to vote absentee under the Uniformed and Overseas Citizens Absentee Voting Act shall meet the specifications as determined by the Federal Voting Assistance Program of the United States Department of Defense and the United States Postal Service. ~~There shall be printed across the face of each envelope in which a ballot is sent to a federal postcard applicant, or is returned by such applicant to the supervisor, two parallel horizontal red bars, each one-quarter inch wide, extending from one side of the envelope to the other side, with an intervening space of one-quarter inch, the top bar to be 1¼ inches from the top of the envelope, and with the words "Official Election Balloting Material via Air Mail," or similar language, between the bars. There shall be printed in the upper right corner of each such envelope, in a box, the words "Free of U. S. Postage, including Air Mail." All printing on the face of each envelope shall be in red, and there shall be printed in red in the upper left corner of each ballot envelope an appropriate inscription or blanks for return address of sender. Additional specifications may be prescribed by rule of the Division of Elections upon recommendation of the presidential designee under the Uniformed and Overseas Citizens Absentee Voting Act. Otherwise, the envelopes shall be the same as those used in sending ballots to, or receiving them from, other absentee voters.~~

Section 51. Section 101.697, Florida Statutes, is amended to read:

101.697 Electronic transmission of election materials.--The

Department of State shall determine whether secure electronic means can be established for receiving ballots from overseas voters. If such security can be established, the department shall adopt rules to authorize a supervisor of elections to accept from an overseas voter a request for an absentee ballot or ~~and~~ a voted absentee ballot by secure facsimile machine transmission or other secure electronic means ~~from overseas voters~~. The rules must provide that in order to accept a voted ballot, the verification of the voter must be established, the security of the transmission must be established, and each ballot received must be recorded.

Section 52. Section 102.012, Florida Statutes, is amended to read:

102.012 Inspectors and clerks to conduct elections.--

(1) The supervisor of elections of each county, at least 20 days prior to the holding of any election, shall appoint an election board comprised of poll workers who serve as clerks or inspectors ~~two election boards~~ for each precinct in the county~~; however, the supervisor of elections may, in any election, appoint one election board if the supervisor has reason to believe that only one is necessary~~. The clerk shall be in charge of, and responsible for, seeing that the election board carries out its duties and responsibilities. Each inspector and each clerk shall take and subscribe to an oath or affirmation, which shall be written or printed, to the effect that he or she will perform the duties of inspector or clerk of election, respectively, according to law and will endeavor to prevent all fraud, deceit, or abuse in conducting the election. The oath may be taken before an officer authorized to administer oaths or before any of the persons who are to act as inspectors, one of them to swear the others, and one of the others sworn thus, in turn, to administer the oath to the one who has not been sworn. The oaths shall be returned with the poll list and the returns of the election to the supervisor. In all questions that may arise before the members of an election board, the decision of a majority of them shall decide the question. The supervisor of elections of each county shall be responsible for the attendance and diligent performance of his or her duties by each clerk and inspector.

(2) Each member of the election board shall be able to read and write the English language and shall be a registered qualified elector of the county in which the member is appointed or a person who has preregistered to vote, pursuant to s. 97.041(1)(b), in the county in which the member is appointed. No election board shall be composed solely of members of one political party; however, in any primary in which only one party has candidates appearing on the ballot, all clerks and inspectors may be of that party. Any person whose name appears as an opposed candidate for any office shall not be eligible to serve on an election board.

(3) The supervisor shall furnish inspectors of election for each precinct with the list of registered voters for the precinct ~~registration books divided alphabetically as will best facilitate the holding of an election~~. The supervisor shall also furnish to the inspectors of election at the polling place at each precinct in the supervisor's county a sufficient number of forms and blanks for use on election day.

(4)~~(a)~~ The election board of each precinct shall attend the polling place by 6 a.m. of the day of the election and shall arrange the furniture, stationery, and voting equipment.

~~(b)~~ The ~~An~~ election board shall conduct the voting, beginning and closing at the time set forth in s. 100.011. ~~If more than one board has been appointed, the second board shall, upon the closing of the polls, come on duty and count the votes cast. In such case, the first board shall turn over to the second board all closed ballot boxes, registration books, and other records of the election at the time the boards change. The second board shall continue counting until the count is complete or until 7 a.m. the next morning, and, if the count is not completed at that time, the first board that conducted the election shall again report for duty and complete the count. The second board shall turn over to the first board all ballots counted, all ballots not counted, and all registration books and other records and shall advise the first board as to what has transpired in tabulating the results of the election.~~

~~(5) In precincts in which there are more than 1,000 registered electors, the supervisor of elections shall appoint additional election boards necessary for the election.~~

~~(6) In any precinct in which there are fewer than 300 registered electors, it is not necessary to appoint two election boards, but one such board will suffice. Such board shall be composed of at least one inspector and one clerk.~~

Section 53. Subsections (1), (2), (3), and (5) of section 102.014, Florida Statutes, is amended to read:

102.014 Poll worker recruitment and training.--

(1) The supervisor of elections shall conduct training for inspectors, clerks, and deputy sheriffs prior to each primary, general, and special election for the purpose of instructing such persons in their duties and responsibilities as election officials. The Division of Elections shall develop a statewide uniform training curriculum for poll workers, and each supervisor shall use such curriculum in training poll workers. A certificate may be issued by the supervisor of elections to each person completing such training. No person shall serve as an inspector, clerk, or deputy sheriff for an election unless such person has completed the training as required. A clerk may not work at the polls unless he or she demonstrates a working knowledge of the laws and procedures relating to voter registration, voting system operation, balloting and polling place procedures, and problem-solving and conflict-resolution skills.

(2) A person who has attended previous training conducted within 2 years before the election may be appointed by the supervisor to fill a vacancy on an election board ~~day~~. If no person with prior training is available to fill such vacancy, the supervisor of elections may fill such vacancy in accordance with the provisions of subsection (3) from among persons who have not received the training required by this section.

(3) In the case of absence or refusal to act on the part of any inspector or clerk ~~at any precinct on the day of an election~~, the supervisor shall appoint a replacement who meets the qualifications prescribed in s. 102.012(2). The inspector or clerk so appointed shall be a member of the same political party as the clerk or inspector whom he or she replaces.

(5) The Department of State shall create a uniform polling place procedures manual and adopt the manual by rule. Each supervisor of elections shall ensure that the manual is available in hard copy or electronic form in every polling place ~~precinct in the supervisor's jurisdiction on election day~~. The manual shall guide inspectors, clerks, and deputy sheriffs in the proper implementation of election procedures and laws. The manual shall be indexed by subject, and written in plain, clear, unambiguous language. The manual shall provide specific examples of common problems encountered at the polls ~~on election day,~~ and detail specific procedures for resolving those problems. The manual shall include, without limitation:

(a) Regulations governing solicitation by individuals and groups at the polling place;

(b) Procedures to be followed with respect to voters whose names are not on the precinct register;

(c) Proper operation of the voting system;

(d) Ballot handling procedures;

(e) Procedures governing spoiled ballots;

(f) Procedures to be followed after the polls close;

(g) Rights of voters at the polls;

(h) Procedures for handling emergency situations;

(i) Procedures for dealing with irate voters;

(j) The handling and processing of provisional ballots; and

(k) Security procedures.

The Department of State shall revise the manual as necessary to address new procedures in law or problems encountered by voters and poll workers at the precincts.

Section 54. Section 102.031, Florida Statutes, is amended to read:

102.031 Maintenance of good order at polls; authorities; persons allowed in polling rooms and early voting areas; unlawful solicitation of voters.--

(1) Each election board shall possess full authority to maintain order

at the polls and enforce obedience to its lawful commands during an election and the canvass of the votes.

(2) The sheriff shall deputize a deputy sheriff for each polling place and each early voting site who shall be present during the time the polls or early voting sites are open and until the election is completed, who shall be subject to all lawful commands of the clerk or inspectors, and who shall maintain good order. The deputy may summon assistance from among bystanders to aid him or her when necessary to maintain peace and order at the polls or early voting sites.

(3)(a) No person may enter any polling room or polling place where the polling place is also a polling room, or any early voting area during voting hours except the following:

1. Official poll watchers;
2. Inspectors;
3. Election clerks;
4. The supervisor of elections or his or her deputy;
5. Persons there to vote, persons in the care of a voter, or persons caring for such voter;
6. Law enforcement officers or emergency service personnel there with permission of the clerk or a majority of the inspectors; or
7. A person, whether or not a registered voter, who is assisting with or participating in a simulated election for minors, as approved by the supervisor of elections.

(b) The restriction in this subsection does not apply where the polling room is in an area commonly traversed by the public in order to gain access to businesses or homes or in an area traditionally utilized as a public area for discussion.

(4)(a)~~(c)~~ No person, political committee, committee of continuous existence, or other group or organization may solicit voters inside the polling place or within 100 ~~50~~ feet of the entrance to any polling place, or polling room where the polling place is also a polling room, or early voting site. Before the opening of the polling place or early voting site, the clerk or supervisor shall designate the no-solicitation zone and mark the boundaries. ~~on the day of any election.~~

~~1. Solicitation shall not be restricted if:~~

~~a. Conducted from a separately marked area within the 50-foot zone so as not to disturb, hinder, impede, obstruct, or interfere with voter access to the polling place or polling room entrance; and~~

~~b. The solicitation activities and subject matter are clearly and easily identifiable by the voters as an activity in which they may voluntarily participate; or~~

~~c. Conducted on property within the 50-foot zone which is a residence, established business, private property, sidewalk, park, or property traditionally utilized as a public area for discussion.~~

~~2. Solicitation shall not be permitted within the 50-foot zone on a public sidewalk or other similar means of access to the polling room if it is clearly identifiable to the poll workers that the solicitation is impeding, obstructing, or interfering with voter access to the polling room or polling place.~~

(b)~~(d)~~ For the purpose of this subsection, the term "solicit" shall include, but not be limited to, seeking or attempting to seek any vote, fact, opinion, or contribution; distributing or attempting to distribute any political or campaign material, leaflet, or handout; conducting a poll; seeking or attempting to seek a signature on any petition; and selling or attempting to sell any item.

(c)~~(e)~~ Each supervisor of elections shall inform the clerk ~~of each precinct~~ of the area within which soliciting is unlawful, based on the particular characteristics of that polling place. The supervisor or the clerk may take any reasonable action necessary to ensure order at the polling places, including, but not limited to, ~~which shall include:~~

~~1. Designating a specific area for soliciting pursuant to paragraph (c) of this subsection, or~~

~~2.~~ having disruptive and unruly persons removed by law enforcement officers from the polling room or place or from the 100-foot ~~50-foot~~ zone surrounding the polling place.

(5) No photography is permitted in the polling room or early voting area.

Section 55. Section 102.071, Florida Statutes, is amended to read:

102.071 Tabulation of votes and proclamation of results ~~where ballots are used~~.--The election board shall post at the polls, for the benefit of the public, the results of the voting for each office or other item on the ballot as the count is completed. Upon completion of all counts in all races, a certificate ~~triplicate certificates~~ of the results shall be drawn up by the inspectors and clerk at each precinct upon a form provided by the supervisor of elections which shall contain the name of each person voted for, for each office, and the number of votes cast for each person for such office; and, if any question is submitted, the certificate shall also contain the number of votes cast for and against the question. The certificate shall be signed by the inspectors and clerk~~,~~ and ~~one of the certificates~~ shall be delivered without delay by one of the inspectors, securely sealed, to the supervisor for immediate publication~~; the duplicate copy of the certificate shall be delivered to the county court judge; and the remaining copy shall be enclosed in the ballot box together with the oaths of inspectors and clerks~~. All the ballot boxes, ballots, ballot stubs, memoranda, and papers of all kinds used in the election shall also be transmitted, after being sealed by the inspectors, to ~~with the certificates of result of the election to be filed in~~ the supervisor's office. Registration books and the poll lists shall not be placed in the ballot boxes but shall be returned to the supervisor.

Section 56. Section 102.111, Florida Statutes, is amended to read:

102.111 Elections Canvassing Commission.--

(1) The Elections Canvassing Commission shall consist of the Governor and two members of the Cabinet selected by the Governor. If a member of the Elections Canvassing Commission is unable to serve for any reason, the Governor shall appoint a remaining member of the Cabinet. If there is a further vacancy, the remaining members of the commission shall agree on another elected official to fill the vacancy. The Elections Canvassing Commission shall, as soon as the official results are compiled from all counties, certify the returns of the election and determine and declare who has been elected for each federal, state, and multicounty office. If a member of a county canvassing board that was constituted pursuant to s. 102.141 determines, within 5 days after the certification by the Elections Canvassing Commission, that a typographical error occurred in the official returns of the county, the correction of which could result in a change in the outcome of an election, the county canvassing board must certify corrected returns to the Department of State within 24 hours, and the Elections Canvassing Commission must correct and recertify the election returns as soon as practicable.

(2) The Division of Elections shall provide the staff services required by the Elections Canvassing Commission.

Section 57. Section 102.112, Florida Statutes, is amended to read:

102.112 Deadline for submission of county returns to the Department of State.--

(1) The county canvassing board or a majority thereof shall file the county returns for the election of a federal or state officer with the Department of State immediately after certification of the election results. The returns must contain a certification by the canvassing board that the board has reconciled the number of persons who voted with the number of ballots counted and that the certification includes all valid votes cast in the election.

(2) Returns must be filed by 5 p.m. on the 7th day following a primary election and by 5 p.m. on the 11th day following the general election. However, the Department of State may correct typographical errors, including the transposition of numbers, in any returns submitted to the Department of State pursuant to s. 102.111(1).

(3) If the returns are not received by the department by the time specified, such returns shall be ignored and the results on file at that time shall be certified by the department.

(4) If the returns are not received by the department due to an emergency, as defined in s. 101.732, the Elections Canvassing Commission shall determine the deadline by which the returns must be

received.

Section 58. Section 102.141, Florida Statutes, is amended to read:

102.141 County canvassing board; duties.--

(1) The county canvassing board shall be composed of the supervisor of elections; a county court judge, who shall act as chair; and the chair of the board of county commissioners. In the event any member of the county canvassing board is unable to serve, is a candidate who has opposition in the election being canvassed, or is an active participant in the campaign or candidacy of any candidate who has opposition in the election being canvassed, such member shall be replaced as follows:

(a) If no county court judge is able to serve or if all are disqualified, the chief judge of the judicial circuit in which the county is located shall appoint as a substitute member a qualified elector of the county who is not a candidate with opposition in the election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed. In such event, the members of the county canvassing board shall meet and elect a chair.

(b) If the supervisor of elections is unable to serve or is disqualified, the chair of the board of county commissioners shall appoint as a substitute member a member of the board of county commissioners who is not a candidate with opposition in the election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed. The supervisor, however, shall act in an advisory capacity to the canvassing board.

(c) If the chair of the board of county commissioners is unable to serve or is disqualified, the board of county commissioners shall appoint as a substitute member one of its members who is not a candidate with opposition in the election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed.

(d) If a substitute member cannot be appointed as provided elsewhere in this subsection, the chief judge of the judicial circuit in which the county is located shall appoint as a substitute member a qualified elector of the county who is not a candidate with opposition in the election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed.

(2) The county canvassing board shall meet in a building accessible to the public in the county where the election occurred at a time and place to be designated by the supervisor of elections to publicly canvass the absentee electors' ballots as provided for in s. 101.68 and provisional ballots as provided by ss. 101.048, 101.049, and 101.6925. Provisional ballots cast pursuant to s. 101.049 shall be canvassed in a manner that votes for candidates and issues on those ballots can be segregated from other votes. Public notice of the time and place at which the county canvassing board shall meet to canvass the absentee electors' ballots and provisional ballots shall be given at least 48 hours prior thereto by publication once in one or more newspapers of general circulation in the county or, if there is no newspaper of general circulation in the county, by posting such notice in at least four conspicuous places in the county. As soon as the absentee electors' ballots and the provisional ballots are canvassed, the board shall proceed to publicly canvass the vote given each candidate, nominee, constitutional amendment, or other measure submitted to the electorate of the county, as shown by the returns then on file in the office of the supervisor of elections and the office of the county court judge.

(3) The canvass, except the canvass of absentee electors' returns and the canvass of provisional ballots, shall be made from the returns and certificates of the inspectors as signed and filed by them with the ~~county court judge and~~ supervisor, ~~respectively,~~ and the county canvassing board shall not change the number of votes cast for a candidate, nominee, constitutional amendment, or other measure submitted to the electorate of the county, respectively, in any polling place, as shown by the returns. All returns shall be made to the board on or before 2 a.m. of the day following any primary, general~~, special,~~ or other election. If the returns from any precinct are missing, if there are any omissions on the returns from any precinct, or if there is an obvious error on any such returns, the canvassing board shall order a retabulation ~~recount~~ of the returns from such precinct. Before canvassing such returns, the canvassing board shall examine the tabulation of the ballots cast in such precinct and determine whether the returns correctly reflect the votes cast. If there is a discrepancy between the returns and the tabulation of the ballots cast, the tabulation of the ballots cast shall be presumed correct and such votes shall be canvassed accordingly.

(4) The canvassing board shall submit on forms or in formats provided by the division unofficial returns to the Department of State for each federal, statewide, state, or multicounty office or ballot measure no later than noon on the third ~~second~~ day after any primary election and no later than noon on the fifth day after any~~,~~ general~~, special,~~ or other election. Such returns shall include the canvass of all ballots as required by subsection (2), except for provisional ballots, which returns shall be reported at the time required for official returns pursuant to s. 102.112(2).

(5) If the county canvassing board determines that the unofficial returns may contain a counting error in which the vote tabulation system failed to count votes that were properly marked in accordance with the instructions on the ballot, the county canvassing board shall:

(a) Correct the error and retabulate ~~recount~~ the affected ballots with the vote tabulation system; or

(b) Request that the Department of State verify the tabulation software. When the Department of State verifies such software, the department shall compare the software used to tabulate the votes with the software filed with the department pursuant to s. 101.5607 and check the election parameters.

(6) If the unofficial returns reflect that a candidate for any office was defeated or eliminated by one-half of a percent or less of the votes cast for such office, that a candidate for retention to a judicial office was retained or not retained by one-half of a percent or less of the votes cast on the question of retention, or that a measure appearing on the ballot was approved or rejected by one-half of a percent or less of the votes cast on such measure, the board responsible for certifying the results of the vote on such race or measure shall order a recount of the votes cast with respect to such office or measure. The Elections Canvassing Commission is the board responsible for ordering federal, state, and multi county recounts. A recount need not be ordered with respect to the returns for any office, however, if the candidate or candidates defeated or eliminated from contention for such office by one-half of a percent or less of the votes cast for such office request in writing that a recount not be made.

(a) ~~In counties with voting systems that use paper ballots,~~ Each canvassing board responsible for conducting a recount shall put each marksense ballot through automatic tabulating equipment and determine whether the returns correctly reflect the votes cast. If any marksense ~~paper~~ ballot is physically damaged so that it cannot be properly counted by the automatic tabulating equipment during the recount, a true duplicate shall be made of the damaged ballot pursuant to the procedures in s. 101.5614(5). Immediately before the start of the recount ~~and after completion of the count~~, a test of the tabulating equipment shall be conducted as provided in s. 101.5612. If the test indicates no error, the recount tabulation of the ballots cast shall be presumed correct and such votes shall be canvassed accordingly. If an error is detected, the cause therefor shall be ascertained and corrected and the recount repeated, as necessary. The canvassing board shall immediately report the error, along with the cause of the error and the corrective measures being taken, to the Department of State. No later than 11 days after the election, the canvassing board shall file a separate incident report with the Department of State, detailing the resolution of the matter and identifying any measures that will avoid a future recurrence of the error.

(b) ~~In counties with voting systems that do not use paper ballots,~~ Each canvassing board responsible for conducting a recount where touchscreen ballots were used shall examine the counters on the precinct tabulators to ensure that the total of the returns on the precinct tabulators equals the overall election return. If there is a discrepancy between the overall

election return and the counters of the precinct tabulators, the counters of the precinct tabulators shall be presumed correct and such votes shall be canvassed accordingly.

(c) The canvassing board shall submit on forms or in formats provided by the division a second set of unofficial returns to the Department of State for each federal, statewide, state, or multicounty office or ballot measure no later than 3 p.m. ~~noon~~ on the fifth ~~third~~ day after any primary election and no later than 3 p.m. on the eighth day after any general election in which a recount was conducted pursuant to this subsection. If the canvassing board is unable to complete the recount prescribed in this subsection by the deadline, the second set of unofficial returns submitted by the canvassing board shall be identical to the initial unofficial returns and the submission shall also include a detailed explanation of why it was unable to timely complete the recount. However, the canvassing board shall complete the recount prescribed in this subsection, along with any manual recount prescribed in s. 102.166, and certify election returns in accordance with the requirements of this chapter.

(d) The Department of State shall adopt detailed rules prescribing additional recount procedures for each certified voting system, which shall be uniform to the extent practicable.

(7) The canvassing board may employ such clerical help to assist with the work of the board as it deems necessary, with at least one member of the board present at all times, until the canvass of the returns is completed. The clerical help shall be paid from the same fund as inspectors and other necessary election officials.

(8)(a) At the same time that the official results of an election are certified to the Department of State, the county canvassing board shall file a report with the Division of Elections on the conduct of the election. The report must describe:

1. All equipment or software malfunctions at the precinct level, at a counting location, or within computer and telecommunications networks supporting a county location, and the steps that were taken to address the malfunctions;

2. All election definition errors that were discovered after the logic and accuracy test, and the steps that were taken to address the errors;

3. All ballot printing errors or ballot supply problems, and the steps that were taken to address the errors or problems;

4. All staffing shortages or procedural violations by employees or precinct workers which were addressed by the supervisor of elections or the county canvassing board during the conduct of the election, and the steps that were taken to correct such issues;

5. All instances where needs for staffing or equipment were insufficient to meet the needs of the voters; and

6. Any additional information regarding material issues or problems associated with the conduct of the election.

(b) If a supervisor discovers new or additional information on any of the items required to be included in the report pursuant to paragraph (a) after the report is filed, the supervisor shall notify the division that new information has been discovered no later than the next business day after the discovery and the supervisor shall file an amended report signed by the supervisor of elections on the conduct of the election within 10 days after the discovery. ~~shall contain information relating to any problems incurred as a result of equipment malfunctions either at the precinct level or at a counting location, any difficulties or unusual circumstances encountered by an election board or the canvassing board, and any other additional information which the canvassing board feels should be made a part of the official election record.~~

(c) Such reports shall be maintained on file in the Division of Elections and shall be available for public inspection. The division shall utilize the reports submitted by the canvassing boards to determine what problems may be likely to occur in other elections and disseminate such information, along with possible solutions, to the supervisors of elections.

(9) The supervisor shall file with the department a copy of or an export file from the results database of the county's voting system and other statistical information as may be required by the department, the Legislature, or the Election Assistance Commission. The department shall adopt rules establishing the required content and acceptable formats for the filings and time for filings.

Section 59. Section 102.166, Florida Statutes, is amended to read:

102.166 Manual recounts.--

(1) If the second set of unofficial returns pursuant to s. 102.141 indicates that a candidate for any office was defeated or eliminated by one-quarter of a percent or less of the votes cast for such office, that a candidate for retention to a judicial office was retained or not retained by one-quarter of a percent or less of the votes cast on the question of retention, or that a measure appearing on the ballot was approved or rejected by one-quarter of a percent or less of the votes cast on such measure, the board responsible for certifying the results of the vote on such race or measure shall order a manual recount of the overvotes and undervotes cast in the entire geographic jurisdiction of such office or ballot measure. A manual recount may not be ordered, however, if the number of overvotes, undervotes, and provisional ballots is fewer than the number of votes needed to change the outcome of the election.

~~(2)(a) If the second set of unofficial returns pursuant to s. 102.141 indicates that a candidate for any office was defeated or eliminated by between one-quarter and one-half of a percent of the votes cast for such office, that a candidate for retention to judicial office was retained or not retained by between one quarter and one half of a percent of the votes cast on the question of retention, or that a measure appearing on the ballot was approved or rejected by between one quarter and one half of a percent of the votes cast on such measure, any such candidate, the political party of such candidate, or any political committee that supports or opposes such ballot measure is entitled to a manual recount of the overvotes and undervotes cast in the entire geographic jurisdiction of such office or ballot measure, provided that a request for a manual recount is made by 5 p.m. on the third day after the election.~~

~~(b) For federal, statewide, state, and multicounty races and ballot issues, requests for a manual recount shall be made in writing to the state Elections Canvassing Commission. For all other races and ballot issues, requests for a manual recount shall be made in writing to the county canvassing board.~~

~~(c) Upon receipt of a proper and timely request, the Elections Canvassing Commission or county canvassing board shall immediately order a manual recount of overvotes and undervotes in all affected jurisdictions.~~

(2)~~(3)~~(a) Any hardware or software used to identify and sort overvotes and undervotes for a given race or ballot measure must be certified by the Department of State as part of the voting system pursuant to s. 101.015. Any such hardware or software must be capable of simultaneously counting votes. ~~For certified voting systems, the department shall certify such hardware or software by July 1, 2002. If the department is unable to certify such hardware or software for a certified voting system by July 1, 2002, the department shall adopt rules prescribing procedures for identifying and sorting such overvotes and undervotes. The department's rules may provide for the temporary use of hardware or software whose sole function is identifying and sorting overvotes and undervotes.~~

~~(b) This subsection does not preclude the department from certifying hardware or software after July 1, 2002.~~

(b)~~(c)~~ Overvotes and undervotes shall be identified and sorted while recounting ballots pursuant to s. 102.141, if the hardware or software for this purpose has been certified or the department's rules so provide.

(3)~~(4)~~ Any manual recount shall be open to the public.

(4)~~(5)~~(a) A vote for a candidate or ballot measure shall be counted if there is a clear indication on the ballot that the voter has made a definite choice.

(b) The Department of State shall adopt specific rules for each certified voting system prescribing what constitutes a "clear indication on the ballot that the voter has made a definite choice." The rules may not:

1. Exclusively provide that the voter must properly mark or designate his or her choice on the ballot; or

2. Contain a catch-all provision that fails to identify specific standards, such as "any other mark or indication clearly indicating that the voter has made a definite choice."

(5)~~(6)~~ Procedures for a manual recount are as follows:

(a) The county canvassing board shall appoint as many counting teams of at least two electors as is necessary to manually recount the ballots. A counting team must have, when possible, members of at least two political parties. A candidate involved in the race shall not be a member of the counting team.

(b) Each duplicate ballot prepared pursuant to s. 101.5614(5) or s. 102.141(6) shall be compared with the original ballot to ensure the correctness of the duplicate.

(c) If a counting team is unable to determine whether the ballot contains a clear indication that the voter has made a definite choice, the ballot shall be presented to the county canvassing board for a determination.

(d) The Department of State shall adopt detailed rules prescribing additional recount procedures for each certified voting system which shall be uniform to the extent practicable. The rules shall address, at a minimum, the following areas:

1. Security of ballots during the recount process;
2. Time and place of recounts;
3. Public observance of recounts;
4. Objections to ballot determinations;
5. Record of recount proceedings; and
6. Procedures relating to candidate and petitioner representatives.

Section 60. Subsections (2) and (4) of section 102.168, Florida Statutes, are amended to read:

102.168 Contest of election.--

(2) Such contestant shall file a complaint, together with the fees prescribed in chapter 28, with the clerk of the circuit court within 10 days after midnight of the date the last board responsible for certifying the results officially ~~county canvassing board empowered to canvass the returns~~ certifies the results of the election being contested.

(4) The county canvassing board is an indispensable and ~~or Elections Canvassing Commission shall be the~~ proper party defendant in county and local elections; the Elections Canvassing Commission is an indispensable and proper party defendant in federal, state, and multicounty races;~~,~~ and the successful candidate is ~~shall be~~ an indispensable party to any action brought to contest the election or nomination of a candidate.

Section 61. Subsections (1) and (4) of section 103.021, Florida Statutes, are amended to read:

103.021 Nomination for presidential electors.--Candidates for presidential electors shall be nominated in the following manner:

(1) The Governor shall nominate the presidential electors of each political party. The state executive committee of each political party shall by resolution recommend candidates for presidential electors and deliver a certified copy thereof to the Governor before September 1 of each presidential election year. The Governor ~~He or she~~ shall nominate only the electors recommended by the state executive committee of the respective political party. Each such elector shall be a qualified elector of the party he or she represents who has taken an oath that he or she will vote for the candidates of the party that he or she is nominated to represent. The Governor shall certify to the Department of State on or before September 1, in each presidential election year, the names of a number of electors for each political party equal to the number of senators and representatives which this state has in Congress.

(4)(a) A minor political party that is affiliated with a national party holding a national convention to nominate candidates for President and Vice President of the United States may have the names of its candidates for President and Vice President of the United States printed on the general election ballot by filing with the Department of State a certificate naming the candidates for President and Vice President and listing the required number of persons to serve as electors. Notification to the Department of State under this subsection shall be made by September 1 of the year in which the election is held. When the Department of State has been so notified, it shall order the names of the candidates nominated by the minor political party to be included on the ballot and shall permit the required number of persons to be certified as electors in the same manner as other party candidates. As used in this section, the term "national party" means a political party established and admitted to the ballot in at least one state other than Florida.

(b) A minor political party that is not affiliated with a national party holding a national convention to nominate candidates for President and Vice President of the United States may have the names of its candidates for President and Vice President printed on the general election ballot if a petition is signed by 1 percent of the registered electors of this state, as shown by the compilation by the Department of State for the preceding general election. A separate petition from each county for which signatures are solicited shall be submitted to the supervisors of elections of the respective county no later than July 15 of each presidential election year. The supervisor shall check the names and, on or before the date of the first primary, shall certify the number shown as registered electors of the county. The supervisor shall be paid by the person requesting the certification the cost of checking the petitions as prescribed in s. 99.097. The supervisor shall then forward the certificate to the Department of State, which shall determine whether or not the percentage factor required in this section has been met. When the percentage factor required in this section has been met, the Department of State shall order the names of the candidates for whom the petition was circulated to be included on the ballot and shall permit the required number of persons to be certified as electors in the same manner as other party candidates.

Section 62. Section 103.051, Florida Statutes, is amended to read:

103.051 Congress sets meeting dates of electors.--The presidential electors shall, ~~at noon~~ on the day that ~~which~~ is directed by Congress and at the time fixed by the Governor, meet at Tallahassee and perform the duties required of them by the Constitution and laws of the United States.

Section 63. Section 103.061, Florida Statutes, is amended to read:

103.061 Meeting of electors and filling of vacancies.--Each presidential elector shall, ~~before 10 a.m.~~ on the day fixed by Congress to elect a President and Vice President and at the time fixed by the Governor, give notice to the Governor that the elector is in Tallahassee and ready to perform the duties of presidential elector. The Governor shall forthwith deliver to the presidential electors present a certificate of the names of all the electors; and if, on examination thereof, it should be found that one or more electors are absent, the electors present shall elect by ballot, in the presence of the Governor, a person or persons to fill such vacancy or vacancies as may have occurred through the nonattendance of one or more of the electors.

Section 64. Section 103.121, Florida Statutes, is amended to read:

103.121 Powers and duties of executive committees.--

(1)(a) Each state and county executive committee of a political party shall have the power and duty:

1. To adopt a constitution by two-thirds vote of the full committee.
2. To adopt such bylaws as it may deem necessary by majority vote of the full committee.
3. To conduct its meetings according to generally accepted parliamentary practice.
4. To make party nomination when required by law.
5. To conduct campaigns for party nominees.
6. To raise and expend party funds. Such funds may not be expended or committed to be expended except after written authorization by the chair of the state or county executive committee.

(b) ~~Except as otherwise provided in subsection (5),~~ The county executive committee shall receive payment of assessments upon candidates to be voted for in a single county except state senators and members of the House of Representatives and representatives to the Congress of the United States; and the state executive committees shall receive all other assessments authorized. All party assessments shall be 2 percent of the annual salary of the office sought by the respective candidate. All such committee assessments shall be remitted to the state

executive committee of the appropriate party and distributed in accordance with subsection (5) ~~(6)~~.

~~(2) The state executive committee shall by resolution recommend candidates for presidential electors and deliver a certified copy thereof to the Governor prior to September 1 of each presidential election year.~~

(2)~~(3)~~ The chair and treasurer of an executive committee of any political party shall be accountable for the funds of such committee and jointly liable for their proper expenditure for authorized purposes only. ~~The chair and treasurer of the state executive committee of any political party shall furnish adequate bond, but not less than $10,000, conditioned upon the faithful performance by such party officers of their duties and for the faithful accounting for party funds which shall come into their hands; and the chair and treasurer of a county executive committee of a political party shall furnish adequate bond, but not less than $5,000, conditioned as aforesaid. A bond for the chair and treasurer of the state executive committee of a political party shall be filed with the Department of State. A bond for the chair and treasurer of a county executive committee shall be filed with the supervisor of elections.~~ The funds of each such state executive committee shall be publicly audited at the end of each calendar year and a copy of such audit furnished to the Department of State for its examination prior to April 1 of the ensuing year. When filed with the Department of State, copies of such audit shall be public documents. The treasurer of each county executive committee shall maintain adequate records evidencing receipt and disbursement of all party funds received by him or her, and such records shall be publicly audited at the end of each calendar year and a copy of such audit filed with the supervisor of elections and the state executive committee prior to April 1 of the ensuing year.

(3)~~(4)~~ Any chair or treasurer of a state or county executive committee of any political party who knowingly misappropriates, or makes an unlawful expenditure of, or a false or improper accounting for, the funds of such committee is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4)~~(5)(a)~~ The central committee or other equivalent governing body of each state executive committee shall adopt a rule which governs the time and manner in which the respective county executive committees of such party may endorse, certify, screen, or otherwise recommend one or more candidates for such party's nomination for election. Upon adoption, such rule shall provide the exclusive method by which a county committee may so endorse, certify, screen, or otherwise recommend. No later than the date on which qualifying for public office begins pursuant to s. 99.061, the chair of each county executive committee shall notify in writing the supervisor of elections of his or her county whether the county executive committee has endorsed or intends to endorse, certify, screen, or otherwise recommend candidates for nomination pursuant to party rule. A copy of such notification shall be provided to the Secretary of State and to the chair of the appropriate state executive committee. ~~Any county executive committee that endorses or intends to endorse, certify, screen, or otherwise recommend one or more candidates for nomination shall forfeit all party assessments which would otherwise be returned to the county executive committee; and such assessments shall be remitted instead to the state executive committee of such party, the provisions of paragraph (1)(b) to the contrary notwithstanding. No such funds so remitted to the state executive committee shall be paid, returned, or otherwise disbursed to the county executive committee under any circumstances. Any county executive committee that is in violation of any party rule after receiving the party assessment shall remit such party assessment to the state executive committee.~~

~~(b) Any state executive committee that endorses or intends to endorse, certify, screen, or otherwise recommend one or more candidates for nomination shall forfeit all party assessments which would otherwise be returned to the state executive committee; and such assessments shall be remitted instead to the General Revenue Fund of the state. Any state executive committee that is in violation of this section after receiving the party assessment shall remit such party assessment to the General Revenue Fund of the state.~~

(5)~~(6)~~ The state chair of each state executive committee shall return the 2-percent committee assessment for county candidates to the appropriate county executive committees only upon receipt of a written statement that such county executive committee chooses not to endorse, certify, screen, or otherwise recommend one or more candidates for such party's nomination for election and upon the state chair's determination that the county executive committee is in compliance with all Florida statutes and all state party rules, bylaws, constitutions, and requirements.

Section 65. Section 105.031, Florida Statutes, is amended to read:

105.031 Qualification; filing fee; candidate's oath; items required to be filed.--

(1) TIME OF QUALIFYING.--Except for candidates for judicial office, nonpartisan candidates for multicounty office shall qualify with the Division of Elections of the Department of State and nonpartisan candidates for countywide or less than countywide office shall qualify with the supervisor of elections. Candidates for judicial office other than the office of county court judge shall qualify with the Division of Elections of the Department of State, and candidates for the office of county court judge shall qualify with the supervisor of elections of the county. Candidates for judicial office shall qualify no earlier than noon of the 120th day, and no later than noon of the 116th day, before the first primary election. Candidates for the office of school board member shall qualify no earlier than noon of the 50th day, and no later than noon of the 46th day, before the first primary election. Filing shall be on forms provided for that purpose by the Division of Elections and furnished by the appropriate qualifying officer. Any person seeking to qualify by the petition process ~~alternative method~~, as set forth in s. 105.035, who ~~if the person~~ has submitted the necessary petitions by the required deadline and is notified after the fifth day prior to the last day for qualifying that the required number of signatures has been obtained, shall be entitled to subscribe to the candidate's oath and file the qualifying papers at any time within 5 days from the date he or she is notified that the necessary number of signatures has been obtained. Any person other than a write-in candidate who qualifies within the time prescribed in this subsection shall be entitled to have his or her name printed on the ballot.

(2) FILING IN GROUPS OR DISTRICTS.--Candidates shall qualify in groups or districts where multiple offices are to be filled.

(3) QUALIFYING FEE.--Each candidate qualifying for election to a judicial office or the office of school board member, except write-in judicial or school board candidates, shall, during the time for qualifying, pay to the officer with whom he or she qualifies a qualifying fee, which shall consist of a filing fee and an election assessment, or qualify by the petition process ~~alternative method~~. The amount of the filing fee is 3 percent of the annual salary of the office sought. The amount of the election assessment is 1 percent of the annual salary of the office sought. The Department of State shall forward all filing fees to the Department of Revenue for deposit in the Elections Commission Trust Fund. The supervisor of elections shall forward all filing fees to the Elections Commission Trust Fund. The election assessment shall be deposited into the Elections Commission Trust Fund. The annual salary of the office for purposes of computing the qualifying fee shall be computed by multiplying 12 times the monthly salary authorized for such office as of July 1 immediately preceding the first day of qualifying. This subsection shall not apply to candidates qualifying for retention to judicial office.

(4) CANDIDATE'S OATH.--

(a) All candidates for the office of school board member shall subscribe to the oath as prescribed in s. 99.021.

(b) All candidates for judicial office shall subscribe to an oath or affirmation in writing to be filed with the appropriate qualifying officer upon qualifying. A printed copy of the oath or affirmation shall be furnished to the candidate by the qualifying officer and shall be in substantially the following form:

State of Florida
County of ....

Before me, an officer authorized to administer oaths, personally

appeared ...(please print name as you wish it to appear on the ballot)..., to me well known, who, being sworn, says he or she: is a candidate for the judicial office of ....; that his or her legal residence is .... County, Florida; that he or she is a qualified elector of the state and of the territorial jurisdiction of the court to which he or she seeks election; that he or she is qualified under the constitution and laws of Florida to hold the judicial office to which he or she desires to be elected or in which he or she desires to be retained; that he or she has taken the oath required by ss. 876.05-876.10, Florida Statutes; that he or she has qualified for no other public office in the state, the term of which office or any part thereof runs concurrent to the office he or she seeks; and that he or she has resigned from any office which he or she is required to resign pursuant to s. 99.012, Florida Statutes.

...(Signature of candidate)...

...(Address)...

Sworn to and subscribed before me this .... day of ...., ...(year)..., at .... County, Florida.

...(Signature and title of officer administering oath)...

(5) ITEMS REQUIRED TO BE FILED.--

(a) In order for a candidate for judicial office or the office of school board member to be qualified, the following items must be received by the filing officer by the end of the qualifying period:

1. Except for candidates for retention to judicial office, a properly executed check drawn upon the candidate's campaign account in an amount not less than the fee required by subsection (3) or, in lieu thereof, the copy of the notice of obtaining ballot position pursuant to s. 105.035. If a candidate's check is returned by the bank for any reason, the filing officer shall immediately notify the candidate and the candidate shall, the end of qualifying notwithstanding, have 48 hours from the time such notification is received, excluding Saturdays, Sundays, and legal holidays, to pay the fee with a cashier's check purchased from funds of the campaign account. Failure to pay the fee as provided in this subparagraph shall disqualify the candidate.

2. The candidate's oath required by subsection (4), which must contain the name of the candidate as it is to appear on the ballot; the office sought, including the district or group number if applicable; and the signature of the candidate, duly acknowledged.

3. The loyalty oath required by s. 876.05, signed by the candidate and duly acknowledged.

4. The completed form for the appointment of campaign treasurer and designation of campaign depository, as required by s. 106.021. In addition, each candidate for judicial office, including an incumbent judge, shall file a statement with the qualifying officer, within 10 days after filing the appointment of campaign treasurer and designation of campaign depository, stating that the candidate has read and understands the requirements of the Florida Code of Judicial Conduct. Such statement shall be in substantially the following form:

Statement of Candidate for Judicial Office

I, ...(name of candidate)..., a judicial candidate, have received, read, and understand the requirements of the Florida Code of Judicial Conduct.

...(Signature of candidate)...

...(Date)...

5. The full and public disclosure of financial interests required by s. 8, Art. II of the State Constitution or the statement of financial interests required by s. 112.3145, whichever is applicable. A public officer who has filed the full and public disclosure or statement of financial interests with the Commission on Ethics or the supervisor of elections prior to qualifying for office may file a copy of that disclosure at the time of qualifying.

(b) If the filing officer receives qualifying papers that do not include all items as required by paragraph (a) prior to the last day of qualifying, the filing officer shall make a reasonable effort to notify the candidate of the missing or incomplete items and shall inform the candidate that all required items must be received by the close of qualifying. A candidate's name as it is to appear on the ballot may not be changed after the end of qualifying.

(6) Notwithstanding the qualifying period prescribed in this section, a filing officer may accept and hold qualifying papers submitted not earlier than 14 days prior to the beginning of the qualifying period, to be processed and filed during the qualifying period.

Section 66. Section 105.035, Florida Statutes, is amended to read:

105.035 Petition process ~~Alternative method~~ of qualifying for certain judicial offices and the office of school board member.--

(1) A person seeking to qualify for election to the office of circuit judge or county court judge or the office of school board member may qualify for election to such office by means of the petitioning process prescribed in this section. A person qualifying by this petition process is ~~alternative method shall~~ not ~~be~~ required to pay the qualifying fee required by this chapter. ~~A person using this petitioning process shall file an oath with the officer before whom the candidate would qualify for the office stating that he or she intends to qualify by this alternative method for the office sought. Such oath shall be filed at any time after the first Tuesday after the first Monday in January of the year in which the election is held, but prior to the 21st day preceding the first day of the qualifying period for the office sought. The form of such oath shall be prescribed by the Division of Elections. No signatures shall be obtained until the person has filed the oath prescribed in this subsection.~~

(2) The ~~Upon receipt of a written oath from a candidate, the qualifying officer shall provide the candidate with a~~ petition format shall be prescribed by the Division of Elections and shall ~~to~~ be used by the candidate to reproduce petitions for circulation. If the candidate is running for an office that ~~which~~ will be grouped on the ballot with two or more similar offices to be filled at the same election, the candidate's petition must indicate, prior to the obtaining of registered electors' signatures, for which group or district office the candidate is running.

(3) Each candidate for election to a judicial office or the office of school board member shall obtain the signature of a number of qualified electors equal to at least 1 percent of the total number of registered electors of the district, circuit, county, or other geographic entity represented by the office sought as shown by the compilation by the Department of State for the last preceding general election. A separate petition shall be circulated for each candidate availing himself or herself of the provisions of this section. Signatures may not be obtained until the candidate has filed the appointment of campaign treasurer and designation of campaign depository pursuant to s. 106.021.

(4)(a) Each candidate seeking to qualify for election to the office of circuit judge or the office of school board member from a multicounty school district pursuant to this section shall file a separate petition from each county from which signatures are sought. Each petition shall be submitted, prior to noon of the 28th ~~21st~~ day preceding the first day of the qualifying period for the office sought, to the supervisor of elections of the county for which such petition was circulated. Each supervisor of elections to whom a petition is submitted shall check the signatures on the petition to verify their status as electors of that county and of the geographic area represented by the office sought. No later than the seventh day before ~~Prior to~~ the first date for qualifying, the supervisor shall certify the number shown as registered electors and submit such certification to the Division of Elections. The division shall determine whether the required number of signatures has been obtained for the name of the candidate to be placed on the ballot and shall notify the candidate. If the required number of signatures has been obtained, the candidate shall, during the time prescribed for qualifying for office, submit a copy of such notice and file his or her qualifying papers and oath prescribed in s. 105.031 with the Division of Elections. Upon receipt of the copy of such notice and qualifying papers, the division shall certify the name of the candidate to the appropriate supervisor or supervisors of elections as having qualified for the office sought.

(b) Each candidate seeking to qualify for election to the office of

county court judge or the office of school board member from a single county school district pursuant to this section shall submit his or her petition, prior to noon of the 28th ~~21st~~ day preceding the first day of the qualifying period for the office sought, to the supervisor of elections of the county for which such petition was circulated. The supervisor shall check the signatures on the petition to verify their status as electors of the county and of the geographic area represented by the office sought. No later than the seventh day before ~~Prior to~~ the first date for qualifying, the supervisor shall determine whether the required number of signatures has been obtained for the name of the candidate to be placed on the ballot and shall notify the candidate. If the required number of signatures has been obtained, the candidate shall, during the time prescribed for qualifying for office, submit a copy of such notice and file his or her qualifying papers and oath prescribed in s. 105.031 with the qualifying officer. Upon receipt of the copy of such notice and qualifying papers, such candidate shall be entitled to have his or her name printed on the ballot.

Section 67. Section 106.022, Florida Statutes, is created to read:

106.022 Appointment of a registered agent; duties.--

(1) Each political committee, committee of continuous existence, or electioneering communications entity shall have and continuously maintain in this state a registered office and a registered agent and must file with the division a statement of appointment for the registered office and registered agent. The statement of appointment must:

(a) Provide the name of the registered agent and the street address and phone number for the registered office;

(b) Identify the entity for whom the registered agent serves;

(c) Designate the address the registered agent wishes to use to receive mail;

(d) Include the entity's undertaking to inform the division of any change in such designated address;

(e) Provide for the registered agent's acceptance of the appointment, which must confirm that the registered agent is familiar with and accepts the obligations of the position as set forth in this section; and

(f) Contain the signature of the registered agent and the entity engaging the registered agent.

(2) An entity may change its appointment of registered agent and registered office under this section by executing a written statement of change that identifies the former registered agent and registered address and also satisfies all of the requirements of subsection (1).

(3) A registered agent may resign his or her appointment as registered agent by executing a written statement of resignation and filing it with the division. An entity without a registered agent may not make expenditures or accept contributions until it files a written statement of change as required in subsection (2).

Section 68. Subsection (6) of section 106.08, Florida Statutes, is amended to read:

106.08 Contributions; limitations on.--

(6) A political party may not accept any contribution which has been specifically designated for the partial or exclusive use of a particular candidate. Any contribution so designated must be returned to the contributor and may not be used or expended by or on behalf of the candidate. Also, a political party may not accept any in-kind contribution that fails to provide a direct benefit to the political party. A "direct benefit" includes, but is not limited to, fundraising or furthering the objectives of the political party.

Section 69. Subsection (6) of section 106.24, Florida Statutes, is amended to read:

106.24 Florida Elections Commission; membership; powers; duties.--

(6) There is hereby established in the State Treasury an Elections Commission Trust Fund to be utilized by the Division of Elections and the Florida Elections Commission in order to carry out their duties pursuant to ss. 106.24-106.28. The trust fund may also be used by the Secretary of State ~~division~~, pursuant to his or her ~~its~~ authority under s. 97.012(14) ~~s. 106.22(11)~~, to provide rewards for information leading to criminal convictions related to voter registration fraud, voter fraud, and vote scams.

Section 70. Subsection (6) of section 106.141, Florida Statutes, is amended to read:

106.141 Disposition of surplus funds by candidates.--

(6) Prior to disposing of funds pursuant to subsection (4) or transferring funds into an office account pursuant to subsection (5), any candidate who filed an oath stating that he or she was unable to pay the election assessment or fee for verification of petition signatures without imposing an undue burden on his or her personal resources or on resources otherwise available to him or her, or who filed both such oaths, or who qualified by the petition process ~~alternative method~~ and was not required to pay an election assessment, shall reimburse the state or local governmental entity, whichever is applicable, for such waived assessment or fee or both. Such reimbursement shall be made first for the cost of petition verification and then, if funds are remaining, for the amount of the election assessment. If there are insufficient funds in the account to pay the full amount of either the assessment or the fee or both, the remaining funds shall be disbursed in the above manner until no funds remain. All funds disbursed pursuant to this subsection shall be remitted to the qualifying officer. Any reimbursement for petition verification costs which are reimbursable by the state shall be forwarded by the qualifying officer to the state for deposit in the General Revenue Fund. All reimbursements for the amount of the election assessment shall be forwarded by the qualifying officer to the Department of State for deposit in the General Revenue Fund.

Section 71. Section 98.122, Florida Statutes, is transferred and renumbered as section 106.165, Florida Statutes.

Section 72. Section 106.22, Florida Statutes, is amended to read:

106.22 Duties of the Division of Elections.--It is the duty of the Division of Elections to:

(1) Prescribe forms for statements and other information required to be filed by this chapter. Such forms shall be furnished by the Department of State or office of the supervisor of elections to persons required to file such statements and information with such agency.

(2) Prepare and publish manuals or brochures setting forth recommended uniform methods of bookkeeping and reporting, and including appropriate portions of the election code, for use by persons required by this chapter to file statements.

(3) Develop a filing, coding, and cross-indexing system consonant with the purposes of this chapter.

(4) Preserve statements and other information required to be filed with the division pursuant to this chapter for a period of 10 years from date of receipt.

(5) Prepare and publish such reports as it may deem appropriate.

(6) Make, from time to time, audits and field investigations with respect to reports and statements filed under the provisions of this chapter and with respect to alleged failures to file any report or statement required under the provisions of this chapter. The division shall conduct a postelection audit of the campaign accounts of all candidates receiving contributions from the Election Campaign Financing Trust Fund.

(7) Report to the Florida Elections Commission any failure to file a report or information required by this chapter or any apparent violation of this chapter.

(8) Employ such personnel or contract for such services as are necessary to adequately carry out the intent of this chapter.

(9) Prescribe rules and regulations to carry out the provisions of this chapter. Such rules shall be prescribed pursuant to chapter 120.

~~(10) Make an annual report to the President of the Senate and the Speaker of the House of Representatives concerning activities of the division and recommending improvements in the election code.~~

~~(11) Conduct preliminary investigations into any irregularities or fraud involving voter registration or voting and report its findings to the state attorney for the judicial circuit in which the alleged violation occurred for prosecution, where warranted. The Department of State may prescribe by rule requirements for filing a complaint of voter fraud and for investigating any such complaint.~~

(10)~~(12)~~ Conduct random audits with respect to reports and

statements filed under this chapter and with respect to alleged failure to file any reports and statements required under this chapter.

Section 73. Subsection (1) of section 16.56, Florida Statutes, is amended to read:

16.56 Office of Statewide Prosecution.--

(1) There is created in the Department of Legal Affairs an Office of Statewide Prosecution. The office shall be a separate "budget entity" as that term is defined in chapter 216. The office may:

(a) Investigate and prosecute the offenses of:

1. Bribery, burglary, criminal usury, extortion, gambling, kidnapping, larceny, murder, prostitution, perjury, robbery, carjacking, and home-invasion robbery;

2. Any crime involving narcotic or other dangerous drugs;

3. Any violation of the provisions of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act, including any offense listed in the definition of racketeering activity in s. 895.02(1)(a), providing such listed offense is investigated in connection with a violation of s. 895.03 and is charged in a separate count of an information or indictment containing a count charging a violation of s. 895.03, the prosecution of which listed offense may continue independently if the prosecution of the violation of s. 895.03 is terminated for any reason;

4. Any violation of the provisions of the Florida Anti-Fencing Act;

5. Any violation of the provisions of the Florida Antitrust Act of 1980, as amended;

6. Any crime involving, or resulting in, fraud or deceit upon any person;

7. Any violation of s. 847.0135, relating to computer pornography and child exploitation prevention, or any offense related to a violation of s. 847.0135;

8. Any violation of the provisions of chapter 815;

9. Any criminal violation of part I of chapter 499;

10. Any violation of the provisions of the Florida Motor Fuel Tax Relief Act of 2004; ~~or~~

11. Any criminal violation of s. 409.920 or s. 409.9201; or

12. Any crime involving voter registration, voting, or candidate or issue petition activities;

or any attempt, solicitation, or conspiracy to commit any of the crimes specifically enumerated above. The office shall have such power only when any such offense is occurring, or has occurred, in two or more judicial circuits as part of a related transaction, or when any such offense is connected with an organized criminal conspiracy affecting two or more judicial circuits.

(b) Upon request, cooperate with and assist state attorneys and state and local law enforcement officials in their efforts against organized crimes.

(c) Request and receive from any department, division, board, bureau, commission, or other agency of the state, or of any political subdivision thereof, cooperation and assistance in the performance of its duties.

Section 74. Subsection (5) of section 119.07, Florida Statutes, is amended to read:

119.07 Inspection and copying of records; photographing public records; fees; exemptions.--

(5) When ballots are produced under this section for inspection or examination, no persons other than the supervisor of elections or the supervisor's employees shall touch the ballots. If the ballots are being examined before the end of the contest period in s. 102.168, the supervisor of elections shall make a reasonable effort to notify all candidates by telephone or otherwise of the time and place of the inspection or examination. All such candidates, or their representatives, shall be allowed to be present during the inspection or examination.

Section 75. Subsection (3) of section 145.09, Florida Statutes, is amended to read:

145.09 Supervisor of elections.--

(3)(a) There shall be an additional $2,000 per year special qualification salary for each supervisor of elections who has met the certification requirements established by the Division of Elections of the Department of State. The Department of State shall adopt rules to establish the certification requirements. Any supervisor who is certified during a calendar year shall receive in that year a pro rata share of the special qualification salary based on the remaining period of the year.

(b) In order to qualify for the special qualification salary described in paragraph (a), the supervisor must complete the requirements established by the Division of Elections within 6 years after first taking office.

(c) After a supervisor meets the requirements of paragraph (a), in order to remain certified the supervisor shall thereafter be required to complete each year a course of continuing education as prescribed by the division.

Section 76. Effective July 1, 2005, section 104.0615, Florida Statutes, is created to read:

104.0615 Voter intimidation or suppression prohibited; criminal penalties.--

(1) This section may be cited as the "Voter Protection Act."

(2) A person may not directly or indirectly use or threaten to use force, violence, or intimidation or any tactic of coercion or intimidation to induce or compel an individual to:

(a) Vote or refrain from voting;

(b) Vote or refrain from voting for any particular individual or ballot measure;

(c) Refrain from registering to vote; or

(d) Refrain from acting as a legally authorized election official or poll watcher.

(3) A person may not knowingly use false information to:

(a) Challenge an individual's right to vote;

(b) Induce or attempt to induce an individual to refrain from voting or registering to vote; or

(c) Induce or attempt to induce an individual to refrain from acting as a legally authorized election official or poll watcher.

(4) A person may not knowingly destroy, mutilate, or deface a voter registration form or election ballot or obstruct or delay the delivery of a voter registration form or election ballot.

(5) A person who violates subsection (2), subsection (3), or subsection (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 77. Sections 98.095, 98.0979, 98.181, 98.481, 101.253, 101.635, 102.061, 106.085, and 106.144, Florida Statutes, are repealed.

Section 78. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 79. Except as otherwise expressly provided in this act and except for this section, which shall take effect July 1, 2005, this act shall take effect January 1, 2006.

Delete everything before the enacting clause

and insert:

A bill to be entitled

An act relating to elections; amending s. 97.012, F.S.; authorizing the Secretary of State to investigate voter fraud; authorizing the Department of State to adopt rules; amending s. 97.021, F.S.; defining the term "marksense ballots"; defining the terms "early voting area," "early voting site," and "third-party voter registration organization"; amending s. 97.051, F.S.; revising the oath required upon registering to vote; amending s. 97.052, F.S.; revising the contents of the uniform statewide voter registration application; amending s. 97.053, F.S.; revising provisions governing the acceptance of voter registration applications by the supervisor of elections; requiring that an applicant complete a registration application before the date of book closing in order to be eligible to vote in that election; revising the information required on the registration application; amending s. 97.055, F.S.; limiting the updates

that may be made to registration information following book closing; creating s. 97.0575, F.S.; providing requirements for third-party voter registration organizations that collect voter-registration applications; providing fines for failure to deliver applications as required; authorizing the Division of Elections to adopt rules to administer provisions governing third-party voter registration organizations; amending s. 97.071, F.S.; specifying the information to be included on the registration identification card; amending s. 98.045, F.S.; deleting a cross-reference; amending s. 98.077, F.S.; revising the procedures for updating a voter signature used to verify an absentee ballot or provisional ballot; amending s. 99.061, F.S.; providing for qualifying for nomination or election by the petition process; requiring the filing of statements of financial interest; requiring that a qualifying officer accept certain qualifying papers filed before the qualifying period; amending s. 99.063, F.S.; providing filing requirements for public officers; amending s. 99.092, F.S., relating to qualifying fees; clarifying provisions governing qualifying for nomination or election by the petition process to conform to changes made by the act; amending s. 99.095, F.S.; revising the requirements for qualifying as a candidate by a petition process in lieu of paying a qualifying fee and party assessment; providing requirements for submitting petitions and certifications; requiring that the division or supervisor of elections, as applicable, determine whether the required number of signatures has been obtained; amending s. 99.0955, F.S.; providing procedures for a candidate having no party affiliation to qualify by the petition process; amending s. 99.096, F.S.; revising the procedures for a minor political party to submit nominated candidates to be on the general election ballot; providing for candidates to qualify by the petition process; amending s. 99.09651, F.S., relating to signature requirements for ballot position; conforming provisions to changes made by the act; amending s. 100.011, F.S.; requiring that an elector in line at the time the polls close be allowed to vote; amending s. 100.101, F.S.; revising the circumstances under which a special election or primary is held; amending s. 100.111, F.S.; revising requirements for filling a vacancy in a nomination; requiring that ballots cast for a former nominee be counted for the person designated to replace the nominee under certain circumstances; amending s. 100.141, F.S., relating to the notice of a special election; conforming provisions to changes made by the act; amending s. 101.031, F.S.; revising the Voter's Bill of Rights to authorize a provisional ballot if a person's identity is in question; amending s. 101.043, F.S.; revising the procedures for a voter to provide identification when voting; amending s. 101.048, F.S.; providing for certain additional voters to cast provisional ballots; providing requirements for presenting evidence in support of a person's right to vote; requiring that the county canvassing board count such a ballot unless it determines by a preponderance of the evidence that the person was not entitled to vote; requiring that a person casting a provisional ballot be informed of certain rights; amending s. 101.049, F.S.; providing requirements for ballots for persons with disabilities; amending s. 101.051, F.S.; prohibiting certain solicitations to provide assistance to an elector; providing a penalty; authorizing an elector to request that a person other than an election official provide him or her with assistance in voting; providing for the form of the oath to be signed; amending s. 101.111, F.S.; revising the requirements for challenging an elector's right to vote; providing a penalty for filing a frivolous challenge; amending s. 101.131, F.S.; revising requirements for poll watchers; authorizing certain political committees to have poll watchers; prohibiting a poll watcher from interacting with a voter; providing for poll watchers at early voting areas; amending s. 101.151, F.S.; providing requirements for marksense ballots; amending s. 101.171, F.S.; requiring that a copy of a proposed constitutional amendment be available at voting locations; amending s. 101.294, F.S.; prohibiting a vendor of voting equipment from providing systems, components, or system upgrades to a local governing body or supervisor of elections which have not been certified by the Division of Elections; requiring that the vendor provide sworn certification of such equipment; amending s. 101.295, F.S.; providing a penalty for providing voting equipment in violation of ch. 101, F.S.; amending s. 101.49, F.S.; revising the procedures for verifying an elector's signature; amending s. 101.51, F.S.; requiring that an elector occupy a voting booth alone; amending s. 101.5606, F.S., relating to requirements for approval of voting systems, to conform; amending s. 101.5608, F.S., relating to voting by electronic or electromechanical methods, to conform; amending s. 101.5612, F.S.; providing requirements for testing voting equipment; amending s. 101.5614, F.S.; correcting a cross-reference; amending s. 101.572, F.S.; requiring that the supervisor of elections notify the candidates if ballots are examined before the end of the contest; amending s. 101.58, F.S.; authorizing employees of the department to have access to the premises, records, equipment, and staff of the supervisors of elections; amending s. 101.595, F.S.; requiring that certain overvotes and undervotes be reported to the department; amending s. 101.6103, F.S.; authorizing the canvassing board to begin canvassing before the election; prohibiting the release of results before election day; providing a penalty for any early release of results; requiring that a mail ballot that otherwise satisfies the requirements of law for mail ballots be counted even if the elector dies after mailing the ballot but before election day if certain conditions are met; amending s. 101.62, F.S.; revising the requirements for mailing absentee ballots to voters; amending s. 101.64, F.S.; providing for an oath to be provided to persons voting absentee under the Uniformed and Overseas Citizens Absentee Voting Act; amending s. 101.657, F.S.; revising requirements relating to early voting locations; revising the times to begin and end early voting and the times for opening and closing the early voting sites each day; providing for uniformity of county early voting sites; requiring any person in line at the closing of an early voting site to be allowed to vote; providing for early voting in municipal and special district elections; requiring supervisors to provide certain information in electronic format to the Division of Elections; requiring that an early voting ballot that otherwise satisfies the requirements of law for early voting ballots be counted even if the elector dies on or before election day; amending s. 101.663, F.S.; providing for certain persons to vote absentee after moving to another state; amending s. 101.68, F.S.; prohibiting changing a voter's certificate after the absentee ballot is received by the supervisor; providing that electors who die on or before election day and have cast an absentee ballot shall remain on the voter registration books until the election is certified; providing that the ballot of an elector who casts an absentee ballot shall be counted even if the elector dies on or before election day if certain conditions are met; amending s. 101.69, F.S.; prohibiting a voter from voting another ballot after casting an absentee ballot; providing for a provisional ballot under certain circumstances; amending s. 101.6923, F.S.; providing for the form of the printed instructions on an absentee ballot; amending s. 101.694, F.S.; providing requirements for absentee envelopes printed for voters voting under the Uniformed and Overseas Citizens Absentee Voting Act; amending s. 101.697, F.S.; requiring the Department of State to determine whether secure electronic ballots may be provided for overseas voters; requiring that the department adopt rules for accepting overseas ballots; amending s. 102.012, F.S.; requiring the supervisor of elections to appoint an election board before any election; providing duties of the board; amending s. 102.014, F.S.; requiring that the Division of Elections develop a uniform training curriculum for poll workers; amending s. 102.031, F.S.; providing requirements for maintaining order at early voting areas; requiring the designation of a no-solicitation zone; prohibiting photography in a polling room or early voting area; amending s. 102.071, F.S.; revising requirements for tabulating votes; amending s. 102.111, F.S.; providing for corrections to be made to the official election returns; amending s. 102.112, F.S.; requiring that a return contain a certification by the canvassing board; authorizing the Department of State to correct typographical errors; amending s. 102.141, F.S.; revising requirements for the canvassing boards in submitting returns to the department; providing requirements for the report filed by the canvassing board; requiring the department to adopt rules for filing results and statistical information; amending s. 102.166, F.S.; revising the circumstances under which a manual recount may be ordered; amending s. 102.168, F.S.; requiring that complaints be

filed with the board responsible for certifying the election results; specifying the parties to an action who may contest an election or nomination; amending s. 103.021, F.S.; providing for nomination of presidential electors by the state executive committee of each political party; defining the term "national party" for purposes of nominating a candidate for President and Vice President of the United States; amending ss. 103.051 and 103.061, F.S.; specifying duties of the presidential electors; amending s. 103.121, F.S.; revising powers and duties of executive committees to conform to changes made by the act; amending s. 105.031, F.S.; providing for public officers to file a statement of financial interests at the time of qualifying; requiring that a filing officer accept certain qualifying papers filed before the qualifying period; amending s. 105.035, F.S.; revising procedures for qualifying for certain judicial offices and the office of school board member; prohibiting a candidate from obtaining signatures until appointing a campaign treasurer and designating a campaign depository; revising the requirements for the supervisor of elections with respect to certifying signatures; creating s. 106.022, F.S.; requiring that a political committee, committee of continuous existence, or electioneering communications entity maintain a registered office and registered agent; providing requirements for the statement of appointment; prohibiting political parties from accepting certain in-kind contributions; amending s. 106.24, F.S.; clarifying the duties of the Secretary of State; amending s. 106.141, F.S., relating to the disposition of surplus funds; conforming provisions to changes made by the act; transferring and renumbering s. 98.122, F.S., relating to the use of closed captioning and descriptive narrative in television broadcasts; amending s. 106.22, F.S.; eliminating certain duties of the Division of Elections with respect to reports to the Legislature and preliminary investigations; amending s. 16.56, F.S.; authorizing the Office of Statewide Prosecution to investigate and prosecute crimes involving voter registration, voting, or certain petition activities; amending s. 119.07, F.S.; clarifying requirements of the supervisor of elections with respect to notifying candidates of the inspection of ballots; amending s. 145.09, F.S.; requiring that the Department of State adopt rules establishing certification requirements for supervisors of elections; creating s. 104.0615, F.S.; providing a short title; prohibiting a person from using or threatening to use force, violence, or intimidation to induce or compel an individual to vote or refrain from voting, to refrain from registering to vote, or to refrain from acting as an election official or poll watcher; prohibiting a person from knowingly using false information to challenge an individual's right to vote, to induce an individual to refrain from registering to vote, or to induce or attempt to induce an individual to refrain from acting as an election official or poll watcher; prohibiting a person from knowingly destroying, mutilating, or defacing a voter registration form or election ballot or obstructing or delaying the delivery of a voter registration form or election ballot; providing criminal penalties; repealing ss. 98.095, 98.0979, 98.181, 98.481, 101.253, 101.635, 102.061, 106.085, and 106.144, F.S., relating to inspections of county registers and the voter database, indexes and records, challenges to elections, the printing and distribution of ballots, duties of the election board, expenditures, and endorsements or opposition by certain groups; providing for severability; providing effective dates.

Further consideration of **HB 1567** was temporarily postponed.

Motion to Adjourn

Rep. Rubio moved that the House adjourn for the purpose of receiving reports, holding council and committee meetings, and conducting other House business, to reconvene at 9:00 a.m., Friday, May 6, or upon call of the Chair. The motion was agreed to.

Messages from the Senate

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 63.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 185 by the required Constitutional two-thirds vote of the members of the Senate.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 225.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 345.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 579.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 619.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 627 by the required Constitutional two-thirds vote of the members of the Senate.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 643.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HBs 669, 721, 723, 725, 733, 749, 753, 755, 765, 767, 777, 783, 801, 803, 857, 859, and 899.

Faye W. Blanton, Secretary

The above bills were ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 729 by the required Constitutional two-thirds vote of the members of the Senate.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 885.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HBs 923, 939, 957, 969, 987, 999, 1043, 1045, 1047, 1053, 1077, 1079, 1153, 1167, 1183, 1203, 1243, 1245, and 1253.

Faye W. Blanton, Secretary

The above bills were ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 937.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1025.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1031.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1089.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1091 by the required Constitutional two-thirds vote of the members of the Senate.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1099.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1159.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1189.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1231.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1267.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HBs 1291, 1309, 1321, 1329, 1335, 1355, 1359, 1361, 1381, 1419, 1421, 1423, 1425, 1429, 1433, 1477, 1487, 1515, 1537, 1555, 1657, 1677, 1685, 1705, 1707, 1793, and 1829.

Faye W. Blanton, Secretary

The above bills were ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1305.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1347.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1395.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1559.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1651.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1715.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1801 by the required Constitutional two-thirds vote of the members of the Senate.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1921.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1935.

Faye W. Blanton, Secretary

The above bill was ordered enrolled.

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has concurred in the House amendments and passed SB 166, as amended.

Faye W. Blanton, Secretary

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has concurred in the House amendments and passed CS for CS for SB 434, as amended.

Faye W. Blanton, Secretary

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has concurred in the House amendments and passed SB 908, as amended.

Faye W. Blanton, Secretary

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has concurred in the House amendments and passed CS for SB 1144, as amended.

Faye W. Blanton, Secretary

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has concurred in the House amendments and passed CS for CS for SB 1146, as amended.

Faye W. Blanton, Secretary

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has concurred in the House amendments and passed CS for CS for SB 1168, as amended.

Faye W. Blanton, Secretary

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has concurred in the House amendments and passed CS for SB 1180, as amended.

Faye W. Blanton, Secretary

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has concurred in the House amendments and passed CS for SB 1412, as amended.

Faye W. Blanton, Secretary

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has concurred in the House amendments and passed CS for CS for CS for SB 1476, as amended.

Faye W. Blanton, Secretary

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has concurred in the House amendments and passed CS for SJR 2144, as amended.

Faye W. Blanton, Secretary

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has concurred in the House amendments and passed SB 2574, as amended.

Faye W. Blanton, Secretary

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has concurred in the House amendments and passed CS for SB 2610, as amended.

Faye W. Blanton, Secretary

First Reading by Publication

The Honorable Allan Bense, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for CS for SB 778 and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Ways and Means and Senators Lawson, Argenziano, Campbell and Rich—

CS for CS for SB 778—A bill to be entitled An act relating to per diem and travel expenses; amending s. 112.061, F.S.; establishing per diem, subsistence, and mileage rates for travel expenses of public employees; conforming provisions and deleting obsolete provisions; providing legislative intent; requiring state agencies to submit certain information; providing an appropriation; requiring the Governor to recommend a budget amendment to distribute the appropriation; providing an effective date.

Referred to Fiscal Council.

Votes After Roll Call

[Date(s) of Vote(s) and Sequence Number(s)]

Rep. Arza:

Yeas—May 4: 470

Rep. Bean:

Yeas to Nays—April 22: 211

Rep. Brown:

Yeas to Nays—May 4: 479

Rep. Brummer:

Yeas to Nays—May 4: 479

Rep. Brutus:

Yeas—March 31: 68

Rep. Carroll:

Yeas—May 4: 514

Rep. Evers:

Yeas—May 4: 493, 522

Rep. Gardiner:

Yeas—May 2: 411; May 3: 455, 461, 466

Rep. Mahon:

Yeas—May 4: 501, 502, 503, 535

Rep. Pickens:

Yeas—May 4: 534

Rep. Quinones:

Nays to Yeas—April 28: 327

Rep. Richardson:

Yeas—May 3: 454

Rep. Roberson:

Yeas—May 4: 498

Cosponsors

HB 17—Quinones

HB 99—Altman, Cannon

HB 101—Quinones

HB 147—Quinones

HB 153—Quinones

HB 177—Quinones

HB 193—Quinones

HB 207—Meadows

HB 257—Quinones

HB 261—Quinones

HB 293—Quinones

HB 319—Quinones

HB 355—Quinones

HB 369—Goldstein

HB 375—Quinones

HB 481—Quinones

HB 509—Goldstein, Hasner, Meadows

HB 521—Roberson

HB 583—Legg

HB 847—Quinones

HB 911—Legg

HB 949—Legg

HB 1041—Quinones

HB 1233—Quinones

HB 1247—Quinones

HB 1559—Bendross-Mindingall

HR 9203—Anderson

House Resolutions Adopted by Publication

At the request of Rep. Kravitz—

HR 9195—A resolution commending the Nease High School girls' soccer team on winning the Class 4A State Championship.

WHEREAS, the Nease High School girls' soccer team defeated Tallahassee Chiles by a score of 2 to 1 on February 17, 2005, at Lockhart Stadium in Fort Lauderdale, earning them the Class 4A State Championship title after defeating Lithia Newsome by a score of 1 to 0 in the state semifinals the previous day, and

WHEREAS, Nease junior forward Ashley Hurley scored off her own rebound with 34 seconds left in the second overtime of the championship game after passes from Nikki Lombardo and Lauren Crossan set up Hurley's winning goal, and junior forward Maddie Leon scored the only goal the Panthers needed in the semifinals, and

WHEREAS, to earn the opportunity to play for the state championship, the team was successful in surviving elimination in both district and regional tournaments and in the state semifinal round and won matches against district foes St. Augustine, Seabreeze, Atlantic, Pedro Menendez, and Palatka to capture the district title and advance to the regional round where the Panthers faced 31 of the best teams in Florida, and

WHEREAS, only two of the five opposing teams scored a goal against the Panthers, a team that, led by coach Dave Silverberg, has developed a pattern of success, especially in post-season play, and has won two Florida state soccer championships in four years, NOW, THEREFORE,

Be It Resolved by the House of Representatives of the State of Florida:

That the Nease High School girls soccer team is commended on winning the Class 4A State Championship and is wished similar successes in upcoming seasons.

BE IT FURTHER RESOLVED that a copy of this resolution be presented to Athletic Director Glenn Aspinwall; Coach Dave Silverberg; and team members Alisha Barratt, Andres Bodniowycz, Lauren Crossan, Leondra Daniels, Ashley Delany, Christina Dos Santos, Nicole Eckensberger, Kasey Eckstein, Jessica Gambill, Natalie Gillespie, Alexandra Green, Lauren Groves, Stacey Hanbury, Brittany Hawkins, Erin Hoover, Kristen Hoover, Ashley Hurley, Madeline Leon, Nicole Lombardo, Hannah Marvin, Michelle Miller, Danielle Nelson, Lauren Pizzo, Elaine Sahs, Jamie Silverberg, Meagan Thomas, and Ensley Whidby as a tangible token of the sentiments expressed herein.

—was read and adopted by publication pursuant to Rule 10.16.

At the request of Rep. Meadows—

HR 9207—A resolution designating October 2005 as "Breast Cancer Awareness Month" in Florida.

WHEREAS, breast cancer is the most common cancer diagnosed in women in the United States, and all women are at risk for breast cancer, and

WHEREAS, breast cancer is the second most common cause of cancer death among white women and the number one cause of cancer death among African-American women, and

WHEREAS, the single biggest risk factor of breast cancer is age since breast cancer predominantly occurs in women 50 years of age and older, and the risk increases with age until the age of 80, and

WHEREAS, a woman living in Florida has a one-in-seven chance of developing breast cancer, and Florida ranks third in the nation for the total number of new breast cancer cases and deaths from the disease, and

WHEREAS, the American Cancer Society estimates that more than 13,430 new cases of invasive breast cancer will be diagnosed in Florida and that approximately 2,570 Florida women will die of the disease during the year 2005, and

WHEREAS, early detection through routine clinical exams and mammography screening beginning at age 40, in compliance with the American Cancer Society's recommended guidelines, is the key to detecting breast cancer in its earliest stages, and

WHEREAS, the 5-year survival rate for breast cancer, if the disease is found in its earliest stages, is 98 percent but drops to 26 percent if the cancer is detected late, in a stage of metastasis, and

WHEREAS, in conjunction with the promotion of October as "Breast Cancer Awareness Month," breast cancer awareness programs such as the American Cancer Society's "Reach to Recovery" program will promote early breast cancer detection through regular screening, NOW, THEREFORE,

Be It Resolved by the House of Representatives of the State of Florida:

That October 2005 is designated "Breast Cancer Awareness Month" in Florida, and all women are urged to understand the risks associated with breast cancer and to undergo early detection procedures such as mammography and comply with the American Cancer Society's recommended breast cancer screening guidelines as preventive steps toward minimizing the risks caused by breast cancer.

—was read and adopted by publication pursuant to Rule 10.16.

At the request of Rep. Goldstein—

HR 9211—A resolution recognizing Joshua Miller, a recipient of the 2005 Prudential Spirit of Community Award.

WHEREAS, Joshua Miller, an esteemed resident of Parkland and student at Marjory Stoneman Douglas High School, has received national recognition as a 2005 recipient of the prestigious Prudential Spirit of Community Award, and

WHEREAS, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, this award honors young volunteers across the nation who have demonstrated an extraordinary commitment to service in their communities, and

WHEREAS, giving generously of his time, Mr. Miller developed a reading and mentoring after-school program for third graders and recruited 45 high school students to participate in this highly successful effort that was made possible through funding received from Governor Jeb Bush, and

WHEREAS, the strength of our communities, the success of the State of Florida, and the overall vitality of American society depend in great measure upon the dedication of young people like Mr. Miller who use their considerable talents and resources to serve others, NOW, THEREFORE,

Be It Resolved by the House of Representatives of the State of Florida:

That the House of Representatives congratulates and honors Joshua Miller as a worthy recipient of a prestigious Prudential Spirit of Community Award for 2005, recognizes his outstanding record of volunteer service, community spirit, and peer leadership, and extends its best wishes for his continued success and happiness.

BE IT FURTHER RESOLVED that a copy of this resolution be presented to Joshua Miller, recipient of a 2005 Prudential Spirit of Community Award, as a tangible token of the sentiments expressed herein.

—was read and adopted by publication pursuant to Rule 10.16.

At the request of Rep. Bilirakis—

HR 9213—A resolution commending Lexington Homes, Inc.

WHEREAS, not only known throughout the Gulf Coast and Central Florida as one of the state's premier homebuilders, Lexington Homes, Inc., is gaining national recognition for its charitable community efforts made under the banner "Lexington's Legacy of Leadership," and

WHEREAS, enlisting the aid of other members of the building industry, Lexington Homes led in the construction of "Hunter's House," which resulted in a sizable contribution to a local child's organ transplant fund, and

WHEREAS, in partnership with "ABC's Extreme Makeover: Home Edition," and with the generous support of numerous businesses, Lexington remodeled the home of a husband and father blinded by a deranged gunman, not only affording the family spacious, energy-efficient, cost-saving living quarters, including a solar water heater contributed by Solar Source, TCT Solar, Healey and Associates, and Engineering Sunbuilt Program, but also providing "Lexie," a companion and guide dog, and

WHEREAS, since the completion of its first two projects, Lexington has arranged for "One More Makeover: Lexington Edition," in which businesses have provided an apartment, furniture, television and computer, and cable and internet service for two children of a crime victim and, as proven typical of the heart of the community, has received overwhelming support for a scholarship fund in the name of a young victim who was saving for college, and

WHEREAS, to date, Lexington has coordinated the gracious efforts of 145 companies and 1,100 volunteers in four endeavors to help meet the needs of members of the community, NOW, THEREFORE,

Be It Resolved by the House of Representatives of the State of Florida:

That Lexington Homes, Inc., its many willing partners in business, and thousands of skilled Floridians are commended for the outpouring of their means, talents, and time in their cooperative efforts to help neighbors in need and are cited as examples all Americans would do well to emulate.

BE IT FURTHER RESOLVED that a copy of this resolution be presented to Dan Bicz of Lexington Homes, Inc., as a tangible token of the sentiments expressed herein.

—was read and adopted by publication pursuant to Rule 10.16.

Enrolling Reports

HB 155, HB 157, HB 213, HB 281, HB 349, HB 411, HB 625, HB 655, and HB 727, have been enrolled, signed by the required constitutional officers, and presented to the Governor on May 5, 2005.

John B. Phelps, Clerk

Excused

Rep. Kravitz; Rep. Sorensen until 11:18 a.m.

The following Conference Committee Managers were excused from time to time:

CS for CS for CS for SB 360: Rep. Johnson, Chair; Reps. Goodlette, Henriquez, Russell

Adjourned

Pursuant to the motion previously agreed to, the House adjourned at 5:54 p.m., to reconvene at 9:00 a.m., Friday, May 6, or upon call of the Chair.