Journal of the Senate

Number 20 **Friday, March 13, 1992**

CALL TO ORDER

The Senate was called to order by the President at 9:00 a.m. A quorum present—34:

Madam President	Davis	Kirkpatrick	Souto
Bankhead	Diaz-Balart	Kurth	Thomas
Bruner	Dudley	Langley	Thurman
Burt	Forman	Malchon	Weinstein
Casas	Gardner	McKay	Weinstock
Childers	Grant	Meek	Wexler
Crenshaw	Grizzle	Myers	Yancey
Crotty	Jennings	Plummer	
Dantzler	Johnson	Scott	

PRAYER

The following prayer was offered by Dr. Warren Clark, Director of SHARE Tampa Bay, Tampa:

Three hundred years ago—near this very Senate Chamber was the center of a string of Spanish Missions that stretched back to St. Augustine. The Missions were a rich mix of cultures—Apalachee, Timucuana and Spanish. But they had been in decline for 100 years, primarily because the diseases brought over from Europe were slowly killing off the Native Americans. The leaders tried everything to stop the decline, but they didn't know what to do.

Finally, in 1704 an army of South Carolina militia and their allies from the Creek nation swooped down on the weakened Missions and carried from six to nine thousand people into slavery. For a long time after that, the woods were quiet of human noises—no drums, no mission bells, no singing, laughter or dancing.

The leaders knew they were in decline, but they did not know how to stop it.

Let us pray

We have struggled during this session, O God. It's not been easy. Many of us see signs of the beginning of decline in our own culture:

> You know Tom, loving God—a wonderful person, who fell back into drug addiction. Programs that can help him get his life together will have lean times this year.
>
> How you love Ted, O God—he just dropped out of school at 16. Programs to help him go back to school will be cut.
>
> And you feel Antonio's pain, Lord, when he goes to bed hungry. But funds to help his family are hard to come by.

Some of us in the Senate have been so frustrated, Lord. We see these signs of decline but we seem paralyzed to do anything about them.

And we have gotten angry, too—at the situation—and we confess with one another. And Lord, deep down inside many of us are alarmed by these signs of decline in our State of Florida.

We pray for wisdom, your wisdom, loving God, to see people as you do—of great value, worthy of investment and love. We pray for strength, O God, to face these signals of decline, to not hide from them or deny them. We pray for courage, Lord, to take actions that may not be popular.

For unlike the leaders in this area 300 years ago, we have some ideas what it will take to stop the decline of our culture. And we want our state to flower, Lord, not decline.

As we go home and reflect on this session, grant us your wisdom, strength and courage to lead your people so that our state may be a better place for all of us. Amen.

SENATOR CHILDERS PRESIDING

CONSIDERATION OF RESOLUTION

On motion by Senator Souto, the rules were waived by unanimous consent and the following resolution was introduced out of order:

By Senator Souto—

SR 2530—A resolution commemorating the 50th anniversary of Homestead Air Force Base.

WHEREAS, the Senate takes notice of the fact that the Homestead Air Force Base has played a vital role in the security of the United States and in the protection of our national interests, and

WHEREAS, the servicemen and employees of the base are an important part of the community and economy of this state, and

WHEREAS, the Senate desires to express its utmost and heartfelt gratitude to those who are serving their country at the base, NOW, THEREFORE,

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

That Homestead Air Force Base is recognized on its 50th anniversary for the long and loyal service given to the State of Florida.

On motion by Senator Souto, **SR 2530** was read by title and was read the second time in full and adopted.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Gardner, by two-thirds vote **HB 173** and **CS for HB 1485** were withdrawn from the Committee on Appropriations.

On motions by Senator Thomas, by two-thirds vote **CS for HB 497** was withdrawn from the Committees on Appropriations; and Rules and Calendar; **HB 2279** was withdrawn from the Committee on Professional Regulation; **HB 2339** was withdrawn from the Committees on Personnel, Retirement and Collective Bargaining; and Appropriations; and **HB 2453** was withdrawn from the Committees on Education and Appropriations.

On motion by Senator Weinstein, by two-thirds vote **CS for HB 1679** was withdrawn from the Committee on Judiciary.

On motions by Senator Thomas, the rules were waived and by two-thirds vote **CS for HB 1361** was withdrawn from the Committees on Transportation; and Finance, Taxation and Claims and placed on the Special Order Calendar; **CS for SB 1430** was placed on the Special Order Calendar to be considered following **CS for SB 2100**; and **CS for HB 1863** was withdrawn from the Committees on Natural Resources and Conservation; Finance, Taxation and Claims; and Appropriations and placed on the Special Order Calendar.

Senator Thomas moved that **CS for CS for CS for SB 1526** be withdrawn from the Committee on Natural Resources and Conservation and placed on the Special Order Calendar. The motion failed.

On motions by Senator Jenne, by two-thirds vote **CS for HB 937** and **HB 1859** were withdrawn from the Committee on Finance, Taxation and Claims.

MOTIONS

On motions by Senator Thomas, the rules were waived and by two-thirds vote **CS for CS for SB 2122** was placed on the Special Order Calendar to be considered following **SB 2524**.

On motions by Senator Thomas, the rules were waived and by two-thirds vote **CS for CS for SB 666** was placed on the Special Order Calendar; and **SB 300** was placed on the Special Order Calendar to be considered following **CS for HB 1753**.

SPECIAL ORDER

On motion by Senator Weinstock, by unanimous consent, the Senate resumed consideration of—

CS for SB 2264—A bill to be entitled An act relating to medical practice; creating ss. 455.251-455.256, F.S.; creating the "Patient Referral Act of 1992"; providing legislative intent; providing definitions; prohibiting certain financial arrangements between referring health care providers and providers of health care services; providing for grounds for disciplinary action; providing an exception for specified radiation therapy facilities; providing criminal, civil, and administrative penalties; transferring, renumbering, and amending s. 455.25, F.S.; providing for disclosure of ownership and alternative providers of health care services; providing that administrative action is additional to other remedies and penalties for violation of disclosure provisions; prohibiting kickbacks; prohibiting mark-ups on charges for services rendered by others; requiring licensure of health care services; requiring a license fee; providing prohibited acts; amending s. 407.02, F.S.; directing the Health Care Cost Containment Board to conduct an annual study of charges for radiation therapy procedures; empowering the Health Care Cost Containment Board to establish fees for radiation therapy procedures upon a finding that charges for such procedures exceed a specified amount; establishing a maximum fee schedule for radiation therapy procedures; providing penalties for exceeding a fee schedule; directing the Health Care Cost Containment Board to study other providers of health care services; providing for repeal; directing the Health Care Cost Containment Board to conduct studies relating to health care provider referral patterns; authorizing the Health Care Cost Containment Board to require submission of data; specifying data elements; requiring a report; providing an annual assessment against certain health care providers; repealing s. 458.331(1)(gg), F.S., relating to grounds for disciplinary action with respect to a health care provider who makes certain referrals; repealing s. 459.015(1)(k), F.S., relating to disciplinary grounds for osteopaths; repealing s. 460.413(1)(k), F.S., relating to disciplinary grounds for chiropractors; repealing s. 461.013(1)(j), F.S., relating to disciplinary grounds for podiatrists; repealing s. 463.016(1)(m), F.S., relating to disciplinary grounds for optometrists; repealing s. 466.028(1)(n), F.S., relating to disciplinary grounds for dentists; providing an effective date.

—which was taken up out of order having been considered March 12. Pending **Amendment 2,** by the Committee on Professional Regulation, failed.

The Committee on Appropriations recommended the following amendment which was moved by Senator Weinstock:

Amendment 3 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. Paragraph (gg) of subsection (1) of section 458.331, Florida Statutes, is repealed.

Section 2. Paragraph (k) of subsection (1) of section 459.015, Florida Statutes, is repealed.

Section 3. Paragraph (k) of subsection (1) of section 460.413, Florida Statutes, is repealed.

Section 4. Paragraph (j) of subsection (1) of section 461.013, Florida Statutes, is repealed.

Section 5. Paragraph (m) of subsection (1) of section 463.016, Florida Statutes, is repealed.

Section 6. Paragraph (n) of subsection (1) of section 466.028, Florida Statutes, is repealed.

Section 7. Financial arrangements between referring health care providers and providers of health care services.—

(1) SHORT TITLE.—This section shall be known and may be cited as the "Patient Self-Referral Act of 1992."

(2) LEGISLATIVE INTENT.—It is recognized by the Legislature that the referral of a patient by a health care provider to a provider of health care services in which the referring health care provider has an investment interest represents a potential conflict of interest. The Legislature finds these referral practices may limit or eliminate competitive alternatives in the health care services market, may result in overutilization of health care services, may increase costs to the health care system, and may adversely affect the quality of health care. The Legislature also recognizes, however, that it may be appropriate for providers to own entities providing health care services, and to refer patients to such entities, as long as certain safeguards are present in the arrangement. It is the intent of the Legislature to provide guidance to health care providers regarding prohibited patient referrals between health care providers and entities providing health care services and to protect the citizens of Florida from unnecessary and costly health care expenditures.

(3) DEFINITIONS.—For the purpose of this section, the word, phrase, or term:

(a) "Board" means any of the following boards relating to the respective professions: the Board of Medicine as created in section 458.307, Florida Statutes; the Board of Osteopathic Medical Examiners as created in section 459.004, Florida Statutes; the Board of Chiropractic as created in section 460.404, Florida Statutes; the Board of Podiatric Medicine as created in section 461.004, Florida Statutes; the Board of Optometry as created in section 463.003, Florida Statutes; the Board of Pharmacy as created in section 465.004, Florida Statutes; and the Board of Dentistry as created in section 466.004, Florida Statutes.

(b) "Comprehensive rehabilitation services" means physical therapy, occupational therapy, speech pathology, and work hardening.

(c) "Department" means the Department of Professional Regulation.

(d) "Designated health services" means, for purposes of this section, clinical laboratory services, physical therapy services, comprehensive rehabilitative services, diagnostic imaging services, and radiation therapy services.

(e) "Entity" means any individual, partnership, firm, corporation, or other business entity.

(f) "Fair market value" means value in arms length transactions, consistent with the general market value, and, with respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use, and, in the case of a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor where the lessor is a potential source of patient referrals to the lessee.

(g) "Group practice" means a group of two or more health care providers legally organized as a partnership, professional corporation, or similar association:

1. In which each health care provider who is a member of the group provides substantially the full range of services which the health care provider routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment, and personnel;

2. For which substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group; and

3. In which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(h) "HCCCB" means the Health Care Cost Containment Board as created in section 407.01, Florida Statutes.

(i) "Health care provider" means any physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461, Florida Statutes, or any health care provider licensed under chapter 463 or chapter 466, Florida Statutes.

(j) "Immediate family member" means a health care provider's spouse, child, child's spouse, grandchild, grandchild's spouse, parent, parent-in-law, or sibling.

(k) "Investment interest" means an equity or debt security issued by an entity, including, without limitation, shares of stock in a corporation, units or other interests in a partnership, bonds, debentures, notes, or other equity interests or debt instruments. Except for purposes of section 10 of this act, the following investment interests shall be excepted from this definition:

1. An investment interest in an entity that is the sole provider of designated health services in a rural area;

2. An investment interest in notes, bonds, debentures, or other debt instruments issued by an entity which provides designated health services, as an integral part of a plan by such entity to acquire such investor's equity investment interest in the entity, provided that the interest rate is consistent with fair market value, and that the maturity date of the notes, bonds, debentures, or other debt instruments issued by the entity to the investor is not later than October 1, 1996.

3. An investment interest in real property resulting in a landlord-tenant relationship between the health care provider and the entity in which the equity interest is held, unless the rent is determined, in whole or in part, by the business volume or profitability of the tenant or exceeds fair market value; or

4. An investment interest in an entity which owns or leases and operates a hospital licensed under chapter 395, Florida Statutes, or a nursing home facility licensed under chapter 400, Florida Statutes.

(l) "Investor" means a person or entity owning a legal or beneficial ownership or investment interest, directly or indirectly, including, without limitation, through an immediate family member, trust, or another entity related to the investor within the meaning of 42 C.F.R. subsection 413.17, in an entity.

(m) "Referral" means any referral of a patient for health care services, including, without limitation:

1. The forwarding of a patient by a health care provider to another health care provider or to an entity which provides or supplies designated health services or any other health care item or service; or

2. The request or establishment of a plan of care by a health care provider, which includes the provision of designated health services or other health care item or service.

3. Except for the purposes of section 10 of this act, the following orders, recommendations, or plans of care shall not constitute a referral by a health care provider:

a. By a radiologist for diagnostic imaging services;

b. By a physician specializing in the provision of radiation therapy services for such services;

c. By a medical oncologist for drugs and solutions to be prepared and administered intravenously to such oncologist's patient, as well as for the supplies and equipment used in connection therewith to treat such patient for cancer and the complications thereof;

d. By a cardiologist for cardiac catheterization services;

e. By a pathologist for diagnostic clinical laboratory tests and pathological examination services, if furnished by or under the supervision of such pathologist pursuant to a consultation requested by another physician; or

f. By a health care provider who is the sole provider or member of a group practice for designated health services or other health care items or services that are prescribed or provided solely for such referring health care provider's or group practice's own patients, and that are provided or performed by or under the direct supervision of such referring health care provider or group practice.

g. By a surgeon for professional surgical services performed by such surgeon or a member of such surgeon's group in an ambulatory surgical center licensed under chapter 395, Florida Statutes.

h. By a health care provider for diagnostic clinical laboratory services where such services are directly related to renal dialysis.

i. By a urologist for lithotripsy services.

j. By a dentist for dental services performed by an employee of or health care provider who is an independent contractor with the dentist or group practice of which the dentist is a member.

k. By a physician for infusion therapy services to a patient of that physician or a member of that physician's group practice.

(n) "Rural area" means a county with a population density of no greater than 100 persons per square mile, as defined by the United States Census.

(4) PROHIBITED REFERRALS AND CLAIMS FOR PAYMENT.—Except as provided in this section:

(a) A health care provider may not refer a patient for the provision of designated health services to an entity in which the health care provider is an investor.

(b) A health care provider may not refer a patient for the provision of any other health care item or service to an entity in which the health care provider is an investor unless:

1. The provider's investment interest is in registered securities purchased on a national exchange or over-the-counter market and issued by a publicly held corporation:

a. Whose shares are traded on a national exchange or on the over-the-counter market; and

b. Whose total assets at the end of the corporation's most recent fiscal quarter exceeded $50 million; or

2. With respect to an entity other than a publicly held corporation described in subparagraph 1., and a referring provider's investment interest in such entity, each of the following requirements are met:

a. No more than 50 percent of the value of the investment interests are held by investors who are in a position to make referrals to the entity.

b. The terms under which an investment interest is offered to an investor who is in a position to make referrals to the entity are no different from the terms offered to investors who are not in a position to make such referrals.

c. The terms under which an investment interest is offered to an investor who is in a position to make referrals to the entity are not related to the previous or expected volume of referrals from that investor to the entity.

d. There is no requirement that an investor make referrals or be in a position to make referrals to the entity as a condition for becoming or remaining an investor.

3. With respect to either such entity or publicly held corporation:

a. The entity or corporation does not loan funds to or guarantee a loan for an investor who is in a position to make referrals to the entity or corporation if the investor uses any part of such loan to obtain the investment interest.

b. The amount distributed to an investor representing a return on the investment interest is directly proportional to the amount of the capital investment, including the fair market value of any preoperational services rendered, invested in the entity or corporation by that investor.

4. Each board and, in the case of hospitals, the Department of Health and Rehabilitative Services, shall encourage the use by licensees of the declaratory statement procedure to determine the applicability of this section or any rule adopted pursuant to this section as it applies solely to the licensee. Boards shall submit to the Department of Health and Rehabilitative Services the name of any entity in which a provider investment interest has been approved pursuant to this section, and the Department of Health and Rehabilitative Services shall adopt rules providing for periodic quality assurance and utilization review of such entities.

(c) No claim for payment may be presented by an entity to any individual, third-party payor, or other entity for a service furnished pursuant to a referral prohibited under this section.

(d) If an entity collects any amount that was billed in violation of this section, the entity shall refund such amount on a timely basis to the payor or individual, whichever is applicable.

(e) Any person that presents or causes to be presented a bill or a claim for service that such person knows or should know is for a service for which payment may not be made under paragraph (c), or for which a refund has not been made under paragraph (d), shall be subject to a civil penalty of not more than $15,000 for each such service to be imposed and collected by the appropriate board.

(f) Any health care provider or other entity that enters into an arrangement or scheme, such as a cross-referral arrangement, which the physician or entity knows or should know has a principal purpose of assuring referrals by the physician to a particular entity which, if the physician directly made referrals to such entity, would be in violation of this section, shall be subject to a civil penalty of not more than $100,000 for each such circumvention arrangement or scheme to be imposed and collected by the appropriate board.

(g) A violation of this section by a health care provider shall constitute grounds for disciplinary action to be taken by the applicable board pursuant to section 458.331(2), section 459.015(2), section 460.413(2), section 461.013(2), section 463.016(2), or section 466.028(2), Florida Statutes. Any hospital licensed under chapter 395, Florida Statutes, found in violation of this section shall be subject to the rules adopted by the Department of Health and Rehabilitative Services pursuant to section 395.0185(2), Florida Statutes.

(h) Any hospital licensed under chapter 395, Florida Statutes, that discriminates against or otherwise penalizes a health care provider for referrals made to other facilities shall be in violation of this section.

(i) The provision of paragraph (a) shall not apply to referrals to the offices of radiation therapy centers managed by an entity or subsidiary or general partner thereof, which performed radiation therapy services at those same offices prior to April 1, 1991, and shall not apply also to referrals for radiation therapy to be performed at no more than one additional office of any entity qualifying for the foregoing exception which, prior to February 1, 1992, had a binding purchase contract on and a nonrefundable deposit paid for a linear accelerator to be used at the additional office. The physical site of the radiation treatment centers affected by this provision may be relocated as a result of the following factors: acts of God; fire; strike; accident; war; eminent domain actions by any governmental body; or refusal by the lessor to renew a lease. A relocation for the foregoing reasons is limited to relocation of an existing facility to a replacement location within the county of the existing facility upon written notification to the Office of Licensure and Certification.

Section 8. Kickbacks prohibited.—

(1) As used in this section, the term "kickback" means a remuneration or payment back pursuant to an investment interest, compensation arrangement, or otherwise, by a provider of health care services or items, of a portion of the charges for services rendered to a referring health care provider as an incentive or inducement to refer patients for future services or items, when the payment is not tax deductible as an ordinary and necessary expense.

(2) It is unlawful for any health care provider or any provider of health care services to offer, pay, solicit, or receive a kickback, directly or indirectly, overtly or covertly, in cash or in kind, for referring or soliciting patients.

Section 9. Markup on charges prohibited.—A health care provider or provider of health care services may not charge an additional amount for services rendered by another entity. However, a handling fee of no more than $2 may be charged as long as each charge is separately disclosed and itemized as part of the provider's bill for services.

Section 10. Designated health care services; licensure required.—

(1) An entity, as defined in section 7 of this act, which furnishes designated health care services may not operate in this state unless licensed by the Department of Health and Rehabilitative Services pursuant to subsection (2).

(2) The department shall adopt rules for licensing requirements for designated health care services including, but not limited to, rules providing for:

(a) A licensure fee of not less than $400 and not more than $1,500 to be assessed annually;

(b) Parameters of quality with respect to the provision of ancillary services by respective entities;

(c) Periodic inspection of the facilities of an entity for the purpose of evaluating the premises, operation, supervision, and procedures of the entity to ensure compliance with quality parameters as established in department rules; and

(d) The submission by an entity of information on its ownership, including identification of the owners who are health care providers, as defined in section 455.251, Florida Statutes, and each investor's percentage of ownership.

Section 11. Section 407.60, Florida Statutes, is created to read:

407.60 Health Care Cost Containment Board duties.—The Health Care Cost Containment Board is directed to annually conduct a study of charges associated with the provision of radiation therapy procedures by all radiation therapy providers, including professional and technical components (hereafter cumulatively "procedures"). If, at any time, the board determines that the average charge for radiation therapy procedures to persons who are not eligible for benefits under Title XVIII of the Social Security Act exceeds the Medicare limiting charge for radiation therapy procedures (20 percent above the fee schedule amount for nonparticipating physicians for calendar year 1992 and 15 percent above the fee schedule amount for nonparticipating physicians for calendar year 1993) as determined by the United States Secretary of the Department of Health and Human Services, the board is authorized to establish fee schedules for radiation therapy procedures as follows. The Health Care Cost Containment Board shall determine the schedule of professional and technical charges for radiation therapy procedures for nonparticipating physicians under the Medicare program in 1993 in each of the four charge regions of the Medicare program in the State of Florida. This determination shall be completed by December 31, 1992. The maximum fees to be charged for radiation therapy procedures by any provider of such service in any setting during 1993 shall not exceed 115 percent of the fee schedule for radiation therapy procedures for nonparticipating physicians as established by the Medicare program for 1993. The professional and technical charges for radiation therapy procedures shall be increased or decreased for each year thereafter on an annual basis in accordance with the percentage adjustments made by the Medicare program for these procedures for nonparticipating physicians. This fee schedule shall apply to the technical and professional components of radiation therapy procedures and shall be applicable to all persons who are not eligible for benefits under Title XVIII of the Social Security Act. Any person who charges more than the fees authorized by this section shall be subject to an administrative fine not to exceed $5,000 per violation, to be fixed, imposed, and collected by the board. This paragraph shall not apply to the not-for-profit research institute established by s. 240.4512 or to the not-for-profit teaching hospitals authorized to be insured pursuant to s. 240.213.

Section 12. Section 407.61, Florida Statutes, is created to read:

407.61 Board studies.—The board is empowered to conduct data based studies and evaluations and to make recommendations to the Legislature and the Governor concerning exemptions, the effectiveness of limitations of referrals, restrictions on investment interests and compensation arrangements, and effectiveness of public disclosure. Such analysis may include, but not be limited to, utilization of services, cost of care, quality of care, and access to care.

(1) The board may require the submission by health care facilities, health care providers, and health insurers data necessary to carry out the board's duties.

(a) Such data may include, but are not limited to, ownership, Medicare and Medicaid, charity care, types of services offered to patients, revenues and expenses, patient encounter data, and such other data that are reasonably necessary to study utilization patterns and to study the impact of health care provider ownership interests in health care related entities on the cost, quality, and accessibility of health care.

(b) The board may collect such data from any health facility as a special study.

(2) Each facility identified in subsection (1) shall submit an accounting report to the board on forms prescribed in a rule and furnished by the board. The report shall include:

(a) A balance sheet detailing the assets, liabilities, and net worth.

(b) A statement of income and expenses.

(c) A statement of cash flows.

(d) Utilization and staffing and standard units of measure as prescribed by rules.

(3) The board shall report its findings to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader by January 1, 1995. Such report shall include recommendations by the board regarding the need for additional legislation relating to health care provider self-referral practices.

(4) This section is repealed June 1, 1995.

Section 13. Section 455.25, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 455.25, F.S., for present text.)

455.25 Disclosure of financial interest by production.—

(1) A health care provider shall not refer a patient to an entity in which such provider is an investor unless, prior to the referral, the provider furnishes the patient with a written disclosure form, informing the patient of:

(a) The existence of the investment interest.

(b) The name and address of each applicable entity in which the referring health care provider is an investor.

(c) The patient's right to obtain the items or services for which the patient has been referred at the location or from the provider or supplier of the patient's choice, including the entity in which the referring provider is an investor.

(d) The names and addresses of at least two alternative sources of such items or services available to the patient.

(2) An entity may not provide items or services to a patient unless, before providing the item or service, the entity obtains the signature of the patient on a written disclosure form informing the patient of:

(a) The existence or nonexistence of any financial relationship with the health care provider who referred the patient;

(b) A schedule of typical fees for items or services usually provided by the entity or, if impracticable because of the nature of the treatment, a written estimate specific to the patient;

(c) The patient's right to obtain the items or services for which the patient has been referred at a location or from a supplier of the patient's choice, including an entity with which the referring health care provider may have a financial relationship; and

(d) The names, addresses, and telephone numbers of at least two reasonable alternative sources of such items or services available to the patient.

(3) The health care provider and the entity shall post a copy of their respective disclosure forms in conspicuous public places in the offices.

(4) A violation of this section shall constitute a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. In addition to any other penalties or remedies provided, a violation of this section shall be grounds for disciplinary action by the respective board.

(5) This section is repealed June 1, 1995.

Section 14. There is hereby appropriated to the Health Care Cost Containment Board 5 positions and $175,124 in recurring dollars and $66,478 in nonrecurring dollars from the Health Care Cost Containment Trust Fund in order to implement the provisions of sections 407.60 and 407.61, Florida Statutes, as created by this act.

Section 15. This act shall apply to referrals for designated health services and other health care items or services made on or after the effective date of this act, provided that with respect to an investment interest acquired by an investor before May 1, 1992, paragraphs (a)-(g) of subsection (4) of section 7 inclusive of this act shall not apply to referrals for designated health services and other health care items or services occurring before October 1, 1994, and provided, further, that with respect to a facility which is providing a designated health service or other health care items or service which received its certificate of occupancy and began providing that service at that facility after October 1, 1991, and before January 1, 1992, section 7(4)(a)-(g) inclusive of this act shall not apply to referrals for such designated health services and other items or service occurring before October 1, 1996.

Section 16. This act shall take effect upon becoming a law.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to medical practice; repealing s. 458.331(1)(gg), F.S., relating to grounds for disciplinary action with respect to a health care provider who makes certain referrals; repealing s. 459.015(1)(k), F.S., relating to disciplinary grounds for osteopaths; repealing s. 460.413(1)(k), F.S., relating to disciplinary grounds for chiropractors; repealing s. 461.013(1)(j), F.S., relating to disciplinary grounds for podiatrists; repealing s. 463.016(1)(m), F.S., relating to disciplinary grounds for optometrists; repealing s. 466.028(1)(n), F.S., relating to disciplinary grounds for dentists; creating the "Patient Self-Referral Act of 1992"; providing legislative intent; providing definitions; prohibiting certain financial arrangements between referring health care providers and providers of health care services; providing for grounds for disciplinary action; providing penalties; providing an exception for specified radiation therapy facilities; providing for repeal; prohibiting kickbacks; prohibiting markups on charges for services rendered by another entity; requiring licensure of health care services; creating s. 407.60, F.S.; directing the Health Care Cost Containment Board to conduct an annual study of charges for radiation therapy procedures; empowering the Health Care Cost Containment Board to establish fees for radiation therapy procedures upon a finding that charges for such procedures exceed a specified amount; establishing a maximum fee schedule for radiation therapy procedures; providing penalties for exceeding a fee schedule; creating s. 407.61, F.S.; empowering the Health Care Cost Containment Board to conduct studies relating to health care provider referral patterns and to make recommendations to the Legislature and the Governor; authorizing the Health Care Cost Containment Board to require submission of data; specifying data elements; requiring a report; providing for repeal; amending s. 455.25, F.S., relating to disclosure of financial interests; providing a penalty; providing for repeal; providing an appropriation; providing applicability; providing an effective date.

Senator Weinstock moved the following amendments to **Amendment 3** which were adopted:

Amendment 3A—On page 2, strike all of lines 30 and 31 and insert: services that are provided by health care professionals licensed under part I or part III of chapter 468 or chapter 486 to provide speech, occupational, or physical therapy services on an outpatient or ambulatory basis.

Amendment 3B—On page 5, line 17, after "patient" insert: by a health care provider

Amendment 3C—On page 7, between lines 5 and 6, insert:

l. By a nephrologist for renal dialysis services and supplies.

Amendment 3D—On page 7, line 13, after "is an investor" insert: or has an investment interest

Amendment 3E—On page 10, strike all of lines 9 and 10 and insert: health care provider for compliance with this act.

Amendment 3F—On page 10, between lines 29 and 30, insert:

(j) A health care provider who meets the requirements of paragraphs (b) and (i) must disclose his investment interest to his patients as provided in s. 455.25.

Amendment 3G—On page 11, strike all of lines 15-17, and insert: care provider may not charge an additional amount for services rendered by an entity outside of that provider's practice. However, a handling fee of no more than $2 may be

Amendment 3H—On page 12, line 14, through page 13, line 24, strike all of said lines and insert:

407.60 Health Care Cost Containment Board duties.—

(1) The Health Care Cost Containment Board is directed to annually conduct a study of charges associated with the provision of radiation therapy procedures by all radiation therapy health care providers, including professional and technical components (hereafter cumulatively "procedures").

(2) If, at any time, the board determines that the average charge for radiation therapy procedures to persons who are not eligible for benefits under Title XVIII or Title XIX of the Social Security Act exceeds the Medicare limiting charge for radiation therapy procedures (20 percent above the fee schedule amount for nonparticipating physicians for calendar year 1992 and 15 percent above the fee schedule amount for nonparticipating physicians for calendar year 1993) as determined by the United States Secretary of the Department of Health and Human Services, the board is authorized to establish fee schedules for radiation therapy procedures as follows. The Health Care Cost Containment Board shall determine the schedule of professional and technical charges for radiation therapy procedures for nonparticipating physicians under the Medicare program in 1993 in each of the four charge regions of the Medicare program in the State of Florida. This determination shall be completed by December 31, 1992. The maximum fees to be charged for radiation therapy procedures by any health care provider of such service in any setting during 1993 shall not exceed 115 percent of the fee schedule for radiation therapy procedures for nonparticipating physicians as established by the Medicare program for 1993. The professional and technical charges for radiation therapy procedures shall be increased or decreased for each year thereafter on an annual basis in accordance with the percentage adjustments made by the Medicare program for these procedures for nonparticipating physicians. This fee schedule shall apply to the technical and professional components of radiation therapy procedures and shall be applicable to all persons who are not eligible for benefits under Title XVIII or Title XIX of the Social Security Act.

(3) A radiation therapy health care provider, or applicant, may apply to the board for authority to charge a fee above the fee schedule set forth in subsection (2). The board may approve a fee schedule which is higher than the fee schedule established in subsection (2) upon a showing by an applicant that the applicant is an efficiently operated provider of radiation therapy services and that an increase in fees is needed in order for the applicant to achieve the following, in priority order from highest to lowest:

(a) To offset revenues lost due to the provision of documented charity care or Medicaid which exceeds the average level of such care provided by radiation therapy health care providers, or;

(b) To earn a reasonable rate of return as measured by the total margin, return on assets, return on equity, and debt service coverage;

The board may also set a fee schedule below the fee schedule established in subsection (2) if an applicant cannot justify to the satisfaction of the board that the fee schedule established in subsection (2) is needed in order to meet the review criteria of paragraphs (a) and (b). In no event shall the board approve a fee schedule which is higher than 125 percent of the fee schedule amount set for nonparticipating physicians by the United States Secretary of Health and Human Services.

(4) Any modification to an applicant's fee schedule established by the board pursuant to subsection (3) may be reviewed by the board upon the board's own initiative and revised effective 12 months after the effective date of the fee schedule approval.

(5) Any person who charges more than the fees authorized by this section shall be subject to an administrative fine not to exceed $5,000 per violation, to be fixed, imposed, and collected by the board. This section shall not apply to the not-for-profit research institute established by s. 240.512 or to the not-for-profit teaching hospitals authorized to be insured pursuant to s. 240.213.

Amendment 3I (with Title Amendment)—On page 15, line 3, and page 16, line 21, strike all of said lines

And the title is amended as follows:

In title, on page 19, line 13, strike "providing for repeal;"

Senators Myers and Burt offered the following amendments to **Amendment 3** which were moved by Senator Myers and adopted:

Amendment 3J—On page 17, line 13, insert a new Section 16:

Section 16. Effective July 1, 1992, a fee schedule is imposed on all providers of designated health services. The fee schedule shall apply to all persons who receive such services who are not elegible for benefits under Title XVIII or XIX of the Social Security Act, and shall be limited to no more than 115 percent of the Medicare limiting charge for nonparticipating physicians for such services, including technical and professional components, as determined by the Secretary of the United States Department of Health and Human Services. The professional and technical charges for such procedures shall be increased or decreased for each year thereafter on an annual basis in accordance with the percentage adjustments made by the Medicare program for these procedures for nonparticipating physicians. Any person who charges more than the fees authorized by this section shall be subject to an administrative fine not to exceed $5,000 per violation, to be fixed, imposed, and collected by the appropriate licensing board. The application of this provision shall not apply to group practices as defined in this act or hospitals licensed pursuant to chapter 395, Florida Statutes.

(Renumber subsequent sections.)

Amendment 3K—On page 16, lines 28-31, and on page 17, lines 1-12, strike all of said lines and insert: This act shall apply to referrals for designated health services made on or after the effective date of this act, provided that with respect to an investment interest acquired before May 1, 1992, paragraph (a) of subsection (4) of section 7 shall not apply to referrals for designated health services occurring before October 1, 1995, and provided, further, that paragraphs (b)-(g) of subsection (4) of section 7 shall be effective on July 1, 1992, and provided further, that respect to a facility which is providing a designated health service or other health care items or service which received its certificate of occupancy and began providing that service at that facility after May 1, 1991, and before January 1, 1992, section 7(4)(a)-(g) inclusive of this act shall not apply to referrals for such designated health services and other items or services occurring before October 1, 1996.

Senator Girardeau moved the following amendment to **Amendment 3** which failed:

Amendment 3L—On page 7, lines 19 and 20, strike "purchased on a national exchange or over-the-counter market and"

The vote was:

Yeas—8 Nays—29

Amendment 3 as amended was adopted.

THE PRESIDENT PRESIDING

Senator Crenshaw moved the following amendment which was adopted:

Amendment 4—On page 6, strike all of lines 21-24 and insert:

g. By a health care provider for services provided by an ambulatory surgical center licensed under chapter 395, Florida Statutes.

The vote was:

Yeas—17 Nays—13

On motion by Senator Weinstock, by two-thirds vote **CS for SB 2264** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

Consideration of **CS for SJR 2498, CS for SB 1974, CS for SB 1578, CS for SB 1186** and **CS for CS for SB 620** was deferred.

On motions by Senator Jenne, by two-thirds vote **CS for HB 1211** was withdrawn from the Committees on Natural Resources and Conservation; and Appropriations.

On motion by Senator Jenne—

CS for HB 1211—A bill to be entitled An act relating to beach and shore preservation; amending s. 161.053, F.S.; removing the requirement that the Department of Natural Resources file coastal construction control lines in the public records of affected municipalities; extending a deadline for the department to reestablish certain coastal construction control lines or notify the Legislature of its inability to do so by that time; providing a limited period of exemption from coastal construction and excavation requirements for those structures determined to be under construction at the time of establishment or reestablishment of the coastal construction control line and providing for extension of that period; providing an effective date.

—a companion measure, was substituted for **SB 1240** and read the second time by title. On motion by Senator Jenne, by two-thirds vote **CS for HB 1211** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

SB 846—A bill to be entitled An act relating to fines and court costs; amending s. 215.322, F.S.; providing for payment by credit card or bank debit card; providing for rules; amending s. 218.31, F.S.; conforming to the act; providing an effective date.

—was read the second time by title.

The Committee on Governmental Operations recommended the following amendment which was moved by Senator Weinstein and adopted:

Amendment 1 (with Title Amendment)—On page 1, lines 25-31, and on page 2, lines 1-7, strike all of said lines and insert: services. *A unit of local government shall verify the validity of a credit card or bank debit card and the existence of appropriate credit, for which actions the unit of local government shall be held harmless.*

And the title is amended as follows:

In title, on page 1, line 5, strike "providing for rules;"

Senator Weinstein moved the following amendment which was adopted:

Amendment 2 (with Title Amendment)—On page 1, line 10, insert:

Section 1. Section 218.39, Florida Statutes, is created to read:

218.39 Lease-purchase agreements by local governmental agencies; public hearing; open records and meetings; construction contract requirements.—

(1) As used in this section, "local governmental agency" means:

(a) A county or municipality or a department, agency, or other instrumentality thereof.

(b) A water management district or an instrumentality thereof.

(2) Any local governmental agency which proposes to enter into a lease-purchase agreement payable from public funds, which agreement contemplates that the lessor will either:

(a) Sell certificates of participation evidencing fractional undivided interests in the lease payments to be made by the local governmental agency; or

(b) Issue bonds or other evidences of indebtedness secured by the lease payments to be made by the local governmental agency;

shall hold a public hearing prior to approving execution of the lease-purchase agreement. Notice shall be published at least 14 days prior to the public hearing in a newspaper of general circulation within the county in which the facility is to be located and shall include, at a minimum, a general description of the facility and a statement that the local governmental agency is considering entering into a lease-purchase agreement relating to the facility.

(3) No lease-purchase agreement shall be approved unless the governing board of the local governmental agency shall, by resolution adopted at the public hearing required by subsection (2), determine that execution of the lease-purchase agreement is in the best interests of the local governmental agency. In the resolution approving execution of the lease-purchase agreement, the governing board of the local governmental agency shall provide specific findings as to the reasons for approving the lease-purchase agreement, including:

(a) A summary of the purpose of the lease-purchase agreement.

(b) The source of payment of the lease-purchase agreement.

(c) A schedule of the estimated annual lease payments to be made by the local governmental agency.

(d) An estimate of the total interest component of the annual lease payments.

(e) An estimate of the lessor's total cost of acquiring and constructing the facility to be leased, which shall include an estimate of the costs and expenses associated with the issuance of certificates of participation or bonds or other evidences of indebtedness.

(4) The meetings of any not-for-profit corporation or other entity acting as lessee of a facility to a local governmental agency pursuant to a lease-purchase agreement, which meetings pertain to the facility or the lease-purchase agreement, shall be subject to the provisions of s. 286.011. Records of the not-for-profit corporation or other entity that pertain to the facility or the lease-purchase agreement shall be public records, except that any records relating to the ownership of, or security interests in, certificates of participation, bonds, or other evidences of indebtedness are confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(5) The provisions of this section shall apply only to lease-purchase agreements pursuant to which the local governmental agency leases real property and with respect to which the principal amount of certificates of participation, bonds, or other evidences of indebtedness is equal to or greater than $5,000,000 for each local governmental agency participating in the agreement. The provisions of this section shall not apply to lease-purchase agreements involving the acquisition or construction of correctional facilities required to be acquired or constructed by a court order.

(6) Any contract for the construction of a facility by a lessee which is entered into pursuant to a lease-purchase agreement approved by a local governmental agency pursuant to this section must be awarded by competitive bid.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, lines 1 and 2, strike all of said lines and insert: A bill to be entitled An act relating to local government financial matters; creating s. 218.39, F.S.; defining "local governmental agency"; requiring local governmental agencies, prior to approving execution of certain types of lease-purchase agreements, to hold a public hearing; requiring such agencies to adopt resolutions pertaining to the approval of the execution of such agreements; providing that certain meetings and records of not-for-profit corporations participating in such agreements are subject to open meeting and public records requirements; providing an exemption from public records requirements for certain records of such corporations; providing for review and repeal; specifying the agreements to which the act applies; requiring that construction contracts entered into pursuant to such agreements be awarded by competitive bid;

On motion by Senator Weinstein, by two-thirds vote **SB 846** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35 Nays—None

RECONSIDERATION

On motion by Senator Weinstein, the Senate reconsidered the vote by which—

SB 846—A bill to be entitled An act relating to fines and court costs; amending s. 215.322, F.S.; providing for payment by credit card or bank debit card; providing for rules; amending s. 218.31, F.S.; conforming to the act; providing an effective date.

—passed as amended this day.

Senator Weinstein moved the following amendment which was adopted by two-thirds vote:

Amendment 3—On page 1, strike line 22 and insert: other ~~statutorily prescribed~~ revenues *prescribed by statute or local government ordinance* an amount sufficient to

On motion by Senator Weinstein, **SB 846** as amended was read by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

CS for SB 696—A bill to be entitled An act relating to the mental health of children; creating s. 394.490, F.S.; providing a short title; creating s. 394.491, F.S.; providing legislative intent; creating s. 394.492, F.S.; providing definitions; creating s. 394.493, F.S.; stating the mission of the children's mental health service system; creating s. 394.494, F.S.; providing for family service teams; providing requirements for the family service plan; creating s. 394.495, F.S.; providing for case management services; creating s. 394.496, F.S.; providing for a continuum of care, including nonresidential services, respite care services, and residential treatment; requiring each service district of the Department of Health and Rehabilitative Services to have a case review committee; providing for membership and duties of the committee; transferring and renumbering s. 394.4784, F.S., relating to minors' access to outpatient crises intervention services and treatment; creating s. 394.497, F.S.; providing for voluntary admission to residential treatment; providing for a determination of voluntariness; providing requirements for judicial hearings; requiring discharge in specified circumstances; requiring mental health facilities to develop discharge plans; providing for the rights of a child who is on voluntary status; directing the department to contract for services that meet clients' needs; requiring a report to the Legislature; amending s. 394.465, F.S.; deleting provisions relating to voluntary admission to mental health facilities of persons under 18 years of age; creating s. 394.498, F.S.; providing rights of children who have emotional disturbances; amending s. 394.459, F.S.; amending the right to express and informed patient consent; amending, for certain patients, the time period within which the restriction of a patient's right to communicate must be reviewed; creating s. 394.4990, F.S.; providing for rulemaking; creating s. 394.4991, F.S.; providing applicability of ss. 394.463, 394.467, and 394.469, F.S.; amending s. 395.002, F.S.; defining the term "intensive psychiatric residential treatment programs for children and adolescents"; amending s. 395.003, F.S.; requiring intensive psychiatric residential treatment programs for children and adolescents to be licensed as hospitals; requiring hospitals that treat emotionally disturbed children to be in compliance with s. 394.459, F.S.; creating s. 395.0085, F.S.; prohibiting misleading, unfair, or deceptive acts and practices by hospitals that provide care and treatment for certain emotionally disturbed persons; transferring, renumbering, and amending s. 394.4785, F.S.; deleting provisions relating to admitting a minor to a state mental hospital; amending s. 409.175, F.S.; requiring child-caring agencies that serve emotionally disturbed children to comply with s 394 459, F.S.; repealing s. 394.4781, F.S., relating to residential care for psychotic and emotionally disturbed children, and ss. 394.50, 394.56, 394.57, 394.58, 394.59, 394.60, 394.61, 394.62, F.S., relating to children's residential care and residential and day treatment centers; providing an effective date.

—was read the second time by title.

Senator Weinstock moved the following amendments which were adopted:

Amendment 1—On page 3, line 23, through page 6, line 5, strike all of said lines and insert:

(1) LEGISLATIVE GOALS.—It is the goal of the Legislature to encourage the establishment of a comprehensive children's mental health treatment system:

(a) That uses a prevention-oriented approach, emphasizing early diagnosis and intervention with timely and appropriate services, to avoid the harm that can come to children because of inadequate or inappropriate placements or services;

(b) That provides access to treatment services for children without regard to the child's legal status or his family's ability to pay for such services;

(c) That provides a full continuum of:

1. Nonresidential services including, but not limited to, case management, prevention and intervention, outpatient services, psychotherapy, intensive crisis counseling; medication, therapeutic overlay, respite care, day treatment, and

2. Residential services including, but not limited to, crisis stabilization units, therapeutic foster and group homes, psychiatric hospitals, and residential treatment centers;

(d) That coordinates all services with other community resources in order to promote continuity of care;

(e) That provides services in a way that supports the family and appropriately involves parents and other family members in the treatment process;

(f) That provides services on an outpatient basis whenever consistent with the goals of achieving stability and permanency for the child, preferably in the child's own home; achieving success in school; and achieving stability and self-sufficiency as an adult;

(g) That provides necessary residential or hospital treatment as close as possible to the child's home and with the goal of successfully returning the child to his family as expeditiously as possible; and

(h) That coordinates and integrates all treatment resources and modalities in a way that meets all of the child's needs.

(2) LEGISLATIVE INTENT.—It is the intent of the Legislature that the Department of Health and Rehabilitative Services use its available resources and planning and regulatory authority to encourage the establishment of a comprehensive children's mental health treatment system:

(a) That promotes the family as the basic family unit; promotes the parent-child relationship; and uses program admission procedures and criteria that reflect the social and psychological needs of children;

(b) That includes a range of appropriate residential treatment services, from intensive hospitalization to residential care in treatment facilities, therapeutic group homes and aftercare services;

(c) That includes an adequate range and number of cost-effective nonresidential treatment programs and services that can avoid or reduce the use of more expensive services for children;

(d) That provides families and children, including children adjudicated dependent under chapter 39, treatment options that avoid out-of-home placements whenever possible; and

(e) That includes a case management system that is capable of providing, at a minimum, assessment, daily monitoring, treatment planning, individual and family therapy interventions, and can clinically match the service needs of children with the professional capabilities of providers so as to optimize client outcomes and minimize long-term service costs that result from inappropriate placement of children.

Amendment 2—On page 7, strike all of lines 15-23 and insert:

(1) As part of the comprehensive children's mental health system, the department shall use its available resources and planning and regulatory authority to encourage the establishment of, and ongoing support for, a unified and accountable children's mental health system that:

(a) Identifies children who are in need of mental health services as early as possible;

(b) Makes preventive services available to children and families who are at risk of developing mental health problems;

(c) Provides access to a continuum of services that:

Amendment 3—On page 6, line 27, through page 7, line 3, strike all of said lines

Amendment 4—On page 18, line 22, through page 20, line 8, strike all of said lines and insert: explanation concerning the availability of a review of voluntariness of the admission, including a place for the child to mark "yes" or "no" for a review of voluntariness; a statement that the admission has not been forced upon the child; a statement that the child may request discharge at any time and that the parents or guardian will be notified of the child's request; and the child's signature.

c. Both the signed voluntariness statement and the statement that the child was informed concerning his rights under s. 394.459 must become a part of the child's clinical record.

2. If the child requests a review of voluntariness, the facility administrator must provide a copy of the statement of voluntariness form to the district alcohol, drug abuse, and mental health office within 24 hours of its execution or the next business day. Individual names and other information that could identify the child must be blocked out, and hospital or facility identification numbers must be used for tracking purposes.

3. If the district alcohol, drug abuse and mental health supervisor determines the child has not provided informed, voluntary consent for admission then within 3 days, the child must be discharged from the facility or a petition for involuntary placement filed pursuant to s. 394.467.

Amendment 5 (with Title Amendment)—On page 29, strike all of lines 18-23 and insert: of children. Prospective providers of assessment and case management services shall bear the cost of such services on a risk-bearing basis. The department shall reimburse the provider the cost of such services only if the savings in existing appropriations to the department are documented as a result of the services performed under the contract. The Auditor General is directed to determine, in conjunction with staff of the department, the cost savings resulting from the contract with the provider. The department shall provide available information on the programmatic effectiveness and cost-effectiveness of this concept in a report to the Legislature which the department must submit by December 1, 1993.

And the title is amended as follows:

In title, on page 3, line 4, after the semicolon (;) insert: requiring a report to the Legislature on results of contracting for certain services;

Amendment 6—On page 1, lines 26 and 27, strike "providing requirements for judicial hearings;" and insert: ; providing for a review of voluntariness by the district alcohol, drug abuse and mental health office;

On motion by Senator Weinstock, by two-thirds vote **CS for SB 696** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37 Nays—None

The Senate resumed consideration of—

CS for SB 1578—A bill to be entitled An act relating to public school crossing guards; creating s. 234.302, F.S.; requiring certain local governmental entities to provide training programs for crossing guards; requiring adoption of training guidelines; requiring successful completion of program; amending s. 318.21, F.S.; providing for the funding of crossing guard training programs from civil penalties for certain traffic infractions; providing an effective date.

—which was considered and amended March 9.

Pending further consideration of **CS for SB 1578** as amended, on motions by Senator Wexler, by two-thirds vote **CS for HB 1401** was withdrawn from the Committees on Education and Appropriations.

On motion by Senator Wexler—

CS for HB 1401—A bill to be entitled An act relating to public school crossing guards; creating s. 234.302, F.S.; requiring certain local governmental entities to provide training programs for crossing guards; requiring adoption of training guidelines; requiring successful completion of program; providing exemptions; amending s. 316.660, F.S.; authorizing a surcharge for funding school crossing guard programs; providing for a trust fund; amending s. 318.21, F.S.; providing for the funding of crossing guard training programs from civil penalties for certain traffic infractions; providing an effective date.

—a companion measure, was substituted for **CS for SB 1578** and read the second time by title. On motion by Senator Wexler, by two-thirds vote **CS for HB 1401** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—20 Nays—13

MATTERS ON RECONSIDERATION

The Senate resumed consideration of—

CS for CS for SB 1134—A bill to be entitled An act relating to the Florida Mutual Aid Act; amending s. 23.12, F.S.; clarifying the short title; amending s. 23.121, F.S.; specifying that the purpose of the act is to prepare law enforcement agencies to deal with natural or manmade disasters or emergencies; authorizing a law enforcement agency to enter a mutual aid agreement; amending s. 23.1225, F.S.; specifying terms and conditions to be included in a mutual aid agreement; deleting obsolete provisions; requiring filing of a copy of the agreement with the Department of Law Enforcement within a specified time period; authorizing certain persons to enter such an agreement; amending s. 23.127, F.S.; granting to an employee of a law enforcement agency the same powers, duties, rights, privileges, and immunities when performing extraterritorially; clarifying financial responsibility for equipment and employees; granting to employees of an agency their usual rights, privileges, and immunities when performing extraterritorially; providing for real parties in interest, recoupment of damages, and liability actions; amending s. 23.1231, F.S.; deleting a reference to administration of the Florida Mutual Aid Plan by the Division of Local Law Enforcement Assistance; deleting the authority of the executive director of the Department of Law Enforcement to maintain certain lists and otherwise revising the powers and duties of the executive director; deleting the reference to the deadline for filing a mutual aid agreement; clarifying the duties of the department; providing an effective date.

—which passed as amended and was reconsidered March 12.

On motion by Senator Yancey, **CS for CS for SB 1134** passed as amended, and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—30 Nays—6

MOTIONS

On motions by Senator Thomas, by two-thirds vote the following bills were set as the Special and Continuing Order Calendar for March 13, 1992: **CS for HB 497, CS for HB 1817, CS for CS for SB 2412, CS for SB 404, CS for SB 1268, SB 1422, CS for SB 2318, SB 1838, CS for CS for SB 1304, CS for CS for CS for SB 2288, CS for SB 1936, CS for SB 490, SB 1154, CS for HB 1753, HB 1397, CS for SB 1882, CS for SB 2100, CS for SB 894, CS for SB 540, CS for SB 918, CS for SB 1262, CS for SB 2254, House Bills 2453, 2339, 2279, SB 2040, CS for SB 2184, CS for SB 1706, CS for SB 1352, CS for SB 1988, Senate Bills 2512, 2524, HM 129, CS for SB 1998, CS for SB 1232, CS for HB 1299, CS for SB 2124, SB 766, CS for HB 861, CS for SB 690, CS for SB 1636, CS for SB 1992, HB 245, Senate Bills 228, 1256, CS for HB 289, CS for SB 990, SB 1390, CS for SB 270, HB 173, Senate Bills 764, 2268, 2336, 1372, CS for SB 134, CS for HB 1485, CS for CS for SB 598, CS for SB 1768, CS for SB 924, CS for SB 398, Senate Bills 1626, 480, CS for SB 510, CS for SB 262, CS for SB 1924, CS for SB 462, CS for SB 994** and **CS for SB 1222.**

RECESS

On motion by Senator Thomas, the Senate recessed at 12:06 p.m. to reconvene at 1:15 p.m.

AFTERNOON SESSION

CALL TO ORDER

The Senate was called to order by the President at 1:20 p.m. A quorum present—36:

Madam President	Diaz-Balart	Jennings	Plummer
Bankhead	Dudley	Johnson	Scott
Beard	Forman	Kirkpatrick	Souto
Bruner	Gardner	Kiser	Thomas
Burt	Girardeau	Kurth	Thurman
Casas	Gordon	Langley	Walker
Childers	Grant	Malchon	Weinstein
Crotty	Grizzle	Meek	Wexler
Dantzler	Jenne	Myers	Yancey

SPECIAL ORDER, continued

SENATOR CHILDERS PRESIDING

Consideration of **CS for HB 497, CS for HB 1817, CS for CS for SB 2412, CS for SB 404, CS for SB 1268, SB 1422** and **CS for SB 2318** was deferred.

SENATOR THOMAS PRESIDING

CS for SB 980—A bill to be entitled An act relating to DNA analysis; creating s. 760.40, F.S.; defining the term "DNA analysis"; requiring informed consent for DNA analysis; providing that records of DNA analysis are confidential and may not be disclosed without the consent of the person tested; providing exceptions to informed consent and confidentiality requirements for persons involved in certain criminal prosecutions or in proceedings to determine paternity; providing a penalty; requiring that certain notice be given to persons tested by persons who perform tests or receive records, results, or findings of tests; requiring a repeat of an analysis that resulted in the denial of insurance, employment, financing, or educational opportunity based on test information; requiring a review of a denial under certain circumstances; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote **CS for SB 980** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33 Nays—None

SENATOR CHILDERS PRESIDING

SB 1422—A bill to be entitled An act relating to bingo; repealing s. 3, ch. 91-421, Laws of Florida, relating to future legislative review and repeal of s. 849.093, F.S., which permits the conduct of bingo under certain circumstances, providing an effective date.

—was read the second time by title.

Senator Bruner moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 1, between lines 10 and 11, insert:

Section 1. Paragraph (c) of subsection (1) of section 849.093, Florida Statutes, as amended by section 1 of chapter 91-421, Laws of Florida, is amended to read:

849.093 Charitable, nonprofit, or veterans' organizations; certain endeavors permitted.—

(1) As used in this section:

(c) "Charitable, nonprofit, or veterans' organization" means an organization which has qualified for exemption from federal income tax as an exempt organization under the provisions of s. 501(c) of the Internal Revenue Code of 1954 or s. 528 of the Internal Revenue Code of 1986, as amended, *or an organization that was established by state legislative action and is exempt from federal income under the provisions of s. 115 of the Internal Revenue Code*; which is engaged in charitable, civic, community, benevolent, religious, or scholastic works or other similar activities; and which has been in existence and active for a period of 3 years or more.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 6, following the semicolon (;) insert: amending s. 849.093, F S , redefining the term "charitable, nonprofit, or veterans' organization" for purposes of conducting bingo games;

On motion by Senator Langley, by two-thirds vote **SB 1422** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34 Nays—1

CS for SB 2318—A bill to be entitled An act relating to agricultural promotion and protection; amending s. 535.01, F.S., relating to licensing for the public sale of thoroughbred horses; amending s. 535.02, F.S.; providing for minimum requirements; amending s. 535.05, F.S., relating to license fees; amending s. 550.267, F.S., relating to the Florida-bred stallion award program; providing eligibility requirements; providing duties of the Department of Agriculture and Consumer Services; increasing registration fees; changing the name of an advisory council; amending s. 561.221, F.S.; providing that certified Florida Farm Wineries may apply for permits to conduct tastings and bottle sales of Florida products; amending s. 570.07, F.S., relating to regulatory and inspection services; clarifying duties of the department; providing authority to accept grants, gifts, and donations; creating s. 570.075, F.S.; providing for a direct-support organization; creating s. 570.481, F.S.; providing for fees for fruit and vegetable inspection; providing for termination of inspection services for nonpayment of fees; creating s. 570.901, F.S.; establishing the Florida Agricultural Museum; creating s. 570.902, F.S.; providing definitions; creating s. 570.903, F.S.; providing for a direct-support organization; providing for archival procedures; creating s. 570.904, F.S.; providing for the disposal or restoration of objects; providing for the disposition of funds; providing for contracts and fundraising; providing for audits; providing an exemption from public records requirements and providing for review; creating s. 570.905, F.S.; providing for contract agreements and insurance for collections; creating s. 570.906, F.S.; providing prohibited acts by a trustee or employee; amending s. 573.114, F.S.; providing for subjects of marketing orders; amending s. 573.118, F.S.; providing for deposit of marketing order assessments in the General Inspection Trust Fund; creating s. 599.004, F.S.; establishing the Florida Farm Winery Program; providing qualification and registration requirements; designating certified Florida Farm Wineries as tourist attractions; providing for logo signs on certain roads and highways; providing for costs and fees; amending s. 601.29, F.S.; revising provisions relating to the department's survey authority under the Florida Citrus Code; limiting liability of property owners; amending s. 604.19, F.S.; providing for automatic expiration of an agricultural products dealer's license if the bond or certificate of deposit is canceled; amending s. 604.25, F.S.; providing additional grounds for refusing to grant or for suspending or revoking an agricultural products dealer's license; providing severability; amending ss. 327.28 and 370.07, F.S.; revising funds deposited into the Florida Saltwater Products Promotion Trust Fund; transferring administration of the trust fund from the Department of Natural Resources to the Department of Agriculture and Consumer Services; specifying use of funds; transferring powers, duties, functions, and funding of the Bureau of Marketing and Extension Services of the Division of Marine Resources of the Department of Natural Resources to the Division of Marketing of the Department of Agriculture and Consumer Services; providing for effect on pending judicial and administrative proceedings; providing for effect of subsequent legislative enactments; repealing ss. 573.50, 573.51, 573.52, 573.53, 573.54, 573.55, 573.56, 573.57, 573.58, 573.59, 573.60, 573.61, 573.62, 573.63, 573.64, 573.65, 573.66, 573.67, 573.68, 573.69, 573.70, 573.71, 573.72, 573.73, 573.74, 573.75, and 573.76, F.S., the Florida Foliage Plant Marketing Law; repealing ss. 573.801, 573.802, 573.803, 573.804, 573.805, 573.806, 573.807, 573.808, 573.809, 573.810, 573.811, 573.812, 573.813, 573.814, 573.815, 573.816, 573.817, 573.818, 573.819. 573.820, 573.821, 573.822, 573.823, 573.824, 573.825, 573.826, and 573.827, F.S., the Florida Watermelon Marketing Law; repealing ss. 573 830, 573.831, 573.832, 573.833, 573.834, 573.835, 573.836, 573.837, 573.838, 573.839, 573.840, 573.841, 573.842, 573.843, 573.844, 573.845, 573.846, 573.847, 573.848, 573.849, 573.850, 573.851, 573.852, 573.853, 573.854, 573.855, and 573.856, F.S., the Florida Soybean Marketing Law; repealing ss. 573.857, 573.858, 573.859, 573.860, 573.861, 573.862, 573.863, 573.864, 573.865, 573.866, 573.867, 573.868, 573.869, 573.870, 573.871, 573.872, 573.873, 573 874, 573.875, 573.876, 573.877, 573.878, 573.879, 573.880, 573.881, and 573.882, F.S., the Florida Flue-cured Tobacco Marketing Law; repealing ss 573.883, 573.884, 573.885, 573.886, 573.887, 573.888, 573.889, 573.89, 573.891, 573.892, 573.893, 573.894, 573.895, 573.896, 573.897, 573.898, 573.899, 573.90, 573.901, 573.902, 573.903, 573.904, 573.905, 573.906, 573.907, and 573.908, F.S., the Florida Peanut Marketing Law; providing an effective date.

—was read the second time by title.

One amendment was adopted to **CS for SB 2318** to conform the bill to **CS for HB 2363**.

Pending further consideration of **CS for SB 2318** as amended, on motions by Senator Gardner, by two-thirds vote **CS for HB 2363** was withdrawn from the Committees on Agriculture; Finance, Taxation and Claims; and Appropriations.

On motion by Senator Gardner—

CS for HB 2363—A bill to be entitled An act relating to agricultural promotion and protection; amending s. 450.021, F.S.; expanding circumstances in which minors may be employed in domestic or farm work; providing a definition; limiting civil liability for certain farmers who gratuitously allow certain persons to enter upon their land to remove crops remaining in the fields following harvesting; providing an exception; amending s. 535.01, F.S., relating to licensing for the public sale of thoroughbred horses; amending s. 535.02, F.S.; providing for minimum requirements; amending s. 535.05, F.S., relating to license fees; amending s. 550.267, F.S., relating to the Florida-bred stallion award program; providing eligibility requirements; providing duties of the Department of

Agriculture and Consumer Services; increasing registration fees; changing the name of an advisory council; amending s. 561.221, F.S.; providing that certified Florida Farm Wineries may apply for permits to conduct tastings and bottle sales of Florida products; amending s. 570.07, F.S., relating to regulatory and inspection services; clarifying duties of the department; providing authority to accept grants, gifts, and donations; authorizing appointment of advisory committees; requiring an annual report to the Legislature; providing for reimbursement of expenses; creating s. 570.481, F.S.; providing for fees for fruit and vegetable inspection; providing for termination of inspection services for nonpayment of fees; creating s. 570.901, F.S.; establishing the Florida Agricultural Museum; creating s. 570.902, F.S.; providing definitions; creating s. 570.903, F.S.; providing for a direct-support organization; providing for archival procedures; creating s. 570.904, F.S.; providing for the disposal or restoration of objects; providing for the disposition of funds; providing for contracts and fundraising; providing for audits; providing an exemption from public records requirements and providing for review; creating s. 570.905, F.S.; providing for contract agreements and insurance for collections; creating s. 570.906, F.S.; providing prohibited acts by a trustee or employee; creating s. 570.91, F.S.; establishing the Florida agriculture in the classroom program; creating s. 570.911, F.S.; providing definitions; creating s. 570.912, F.S.; providing for a direct-support organization; creating s. 570.913, F.S.; providing for ownership of property; providing for contracts; providing for disposition of funds; providing for audits; providing an exemption from public records requirements; providing for review; creating s. 570.914, F.S.; providing for insurance; providing liability; creating s. 570.915, F.S.; providing prohibitions; amending s. 573.118, F.S.; providing for deposit of marketing order assessments in the General Inspection Trust Fund; creating s. 590.61, F.S.; establishing the forestry arson alert program; creating s. 590.611, F.S.; providing definitions; creating s. 590.612, F.S.; providing for a direct-support organization; creating s. 590.613, F.S.; providing for ownership of property; providing for contracts; providing for disposition of funds; providing for audits; providing an exemption from public records requirements; providing for review; creating s. 590.614, F.S.; providing for insurance; providing liability; creating s. 590.615, F.S.; providing prohibitions; creating s. 599.004, F.S.; establishing the Florida Farm Winery Program; providing qualification and registration requirements; designating certified Florida Farm Wineries as tourist attractions; providing for logo signs on certain roads and highways; providing for costs and fees; amending s. 601.29, F.S.; revising provisions relating to the department's survey authority under the Florida Citrus Code; limiting liability of property owners; amending s. 604.19, F.S.; providing for automatic expiration of an agricultural products dealer's license if the bond or certificate of deposit is canceled; amending s. 604.25, F.S.; providing additional grounds for refusing to grant or for suspending or revoking an agricultural products dealer's license; providing severability; amending ss. 327.28 and 370.07, F.S.; revising funds deposited into the Florida Saltwater Products Promotion Trust Fund; transferring administration of the trust fund from the Department of Natural Resources to the Department of Agriculture and Consumer Services; specifying use of funds; providing for a joint recommendation relating to collected funds; transferring powers, duties, functions, and funding of the Bureau of Marketing and Extension Services of the Division of Marine Resources of the Department of Natural Resources to the Division of Marketing of the Department of Agriculture and Consumer Services; providing for effect on pending judicial and administrative proceedings; providing for effect of subsequent legislative enactments; repealing ss. 573.50, 573.51, 573.52, 573.53, 573.54, 573.55, 573.56, 573.57, 573.58, 573.59, 573.60, 573.61, 573.62, 573.63, 573.64, 573.65, 573.66, 573.67, 573.68, 573.69, 573.70, 573.71, 573.72, 573.73, 573.74, 573.75, and 573.76, F.S., the Florida Foliage Plant Marketing Law; repealing ss. 573.801, 573.802, 573.803, 573.804, 573.805, 573.806, 573.807, 573.808, 573.809, 573.810, 573.811, 573.812, 573.813, 573.814, 573.815, 573.816, 573.817, 573.818, 573.819, 573.820, 573.821, 573.822, 573.823, 573.824, 573.825, 573.826, and 573.827, F.S., the Florida Watermelon Marketing Law; repealing ss. 573.830, 573.831, 573.832, 573.833, 573.834, 573.835, 573.836, 573.837, 573.838, 573.839, 573.840, 573.841, 573.842, 573.843, 573.844, 573.845, 573.846, 573.847, 573.848, 573.849, 573.850, 573.851, 573.852, 573.853, 573.854, 573.855, and 573.856, F.S., the Florida Soybean Marketing Law; repealing ss. 573.857, 573.858, 573.859, 573.860, 573.861, 573.862, 573.863, 573.864, 573.865, 573.866, 573.867, 573.868, 573.869, 573.870, 573.871, 573.872, 573.873, 573.874, 573.875, 573.876, 573.877, 573.878, 573.879, 573.880, 573.881, and 573.882, F.S., the Florida Fluecured Tobacco Marketing Law; repealing ss. 573.883, 573.884, 573.885, 573.886, 573.887, 573.888, 573.889, 573.89, 573.891, 573.892, 573.893, 573.894, 573.895, 573.896, 573.897, 573.898, 573.899, 573.90, 573.901, 573.902, 573.903, 573.904, 573.905, 573.906, 573.907, and 573.908, F.S., the Florida Peanut Marketing Law; providing an effective date.

—a companion measure, was substituted for **CS for SB 2318** and read the second time by title. On motion by Senator Gardner, by two-thirds vote **CS for HB 2363** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

Consideration of **SB 1838** was deferred.

CS for CS for SB 1304—A bill to be entitled An act relating to pollution discharge; amending s. 376.031, F.S.; providing definitions; amending s. 376.121, F.S.; providing a schedule of payments for compensating the state for damage to natural resources; designating the Department of Natural Resources as the responsible agency for conducting natural resource damage assessments; providing for disposition of moneys collected for damage to natural resources; providing intent that there be no double recovery for damages resulting from a discharge; amending s. 212.08, F.S.; providing a sales tax exemption for sales of machinery and equipment for nonprofit marine discharge response corporations; amending ss. 376.011, 376.051, 376.065, 376.07, 376.0705, 376.071, 376.163, F.S.; changing the term "spill" to the term "discharge"; providing an effective date.

—was read the second time by title.

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 1—On page 9, line 16, strike *"(12)"* and insert: *(14)*

On motion by Senator Kirkpatrick, by two-thirds vote **CS for CS for SB 1304** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33 Nays—None

On motion by Senator Thomas, by two-thirds vote **CS for HB 1817** was withdrawn from the Committee on Criminal Justice.

CS for HB 1817—A bill to be entitled An act relating to weapons and firearms; amending s. 790.06, F.S.; revising provisions relating to concealed weapons licensure and exemption from licensure, and reenacting s. 790.0655(2)(a), F.S., relating to mandatory waiting period, to incorporate said amendment in a reference thereto; reenacting and amending s. 790.01(3), F.S., relating to carrying concealed weapons, to incorporate the amendment to s. 790.06, F.S., in a reference thereto and to correct a reference; repealing s. 790.06(13), F.S., relating to county concealed weapon ordinances; amending s. 790.065, F.S.; revising requirements relating to sale and delivery of firearms and providing certain exemptions, and reenacting s. 493.6121(6), F.S., relating to enforcement, to incorporate said amendment in a reference thereto; providing an effective date.

—was read the second time by title. On motion by Senator Thomas, by two-thirds vote **CS for HB 1817** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—17 Nays—14

THE PRESIDENT PRESIDING

On motions by Senator Weinstock, by two-thirds vote **CS for HB 2379** was withdrawn from the Committees on Health and Rehabilitative Services; Governmental Operations; and Appropriations.

On motion by Senator Weinstock—

CS for HB 2379—A bill to be entitled An act relating to governmental operation and reorganization; amending s. 20.19, F.S.; creating the "Health and Rehabilitative Services Reorganization Act of 1992"; expanding purposes of the department; expanding powers and duties of the department and department administrators; deleting authority of the secretary to create a fund by assessing budget entities; providing for the issuance of health advisories by the State Health Officer; providing for an Assistant Secretary for Delinquency Services and a Delinquency Services Program Office, and providing powers and duties; renaming the Children, Youth, and Families Program Office and removing delinquency services therefrom; establishing a Medicaid Program Office; requiring advisory boards to civil mental health and developmental services institutions; reorganizing service districts; creating district health and human services boards and providing membership, powers, and duties; requiring reports; abolishing alcohol, drug abuse and mental health planning councils; creating district nominee qualifications review committees and providing for

membership, powers, and duties; providing for a district administrator and providing powers and duties; creating a statewide health and human services board; revising departmental budget provisions, including fiscal year phase-in requirements for program office unit cost data-based budgeting, and adding an Information Resource Management budget entity; revising provisions relating to information systems; requiring functional organization of the services delivery system, and requiring development and submission of a plan; providing for purchase-of-services contracts between the department and for-profit and not-for-profit corporations; authorizing establishment of innovation zones and providing procedure; limiting the number of such zones; clarifying language; amending s. 39.025, F.S.; revising provisions relating to juvenile delinquency and gang prevention councils; requiring councils to coordinate activities with district administrators; establishing duties and responsibilities for gang prevention councils; authorizing gang prevention councils to obtain funding and to hold public hearings; amending ss. 39.056, 393.11, and 409.146, F.S., relating to early delinquency intervention programs, involuntary admission to residential developmental services programs, and client and management information systems; requiring provision of information and services for purposes of provision of delinquency services; amending s. 402.165, F.S.; revising membership of the Statewide Human Rights Advocacy Committee; amending ss. 381.702, 394.67, 396.1818, 397.217, 410.023, 410.603, 415.602, and 420.621, F.S., relating to health services, juvenile substance abuse prevention and early intervention councils, mental health, community care services, health maintenance services, domestic violence services, and social services, to conform; creating s. 409.152, F.S.; providing definitions; requiring family-centered services integration plans at statewide and district levels and requiring submission of such plans prior to implementation; creating s. 415.525, F.S.; authorizing the establishment of family support and family preservation programs; repealing s. 394.715, F.S., relating to alcohol, drug abuse and mental health planning councils; requiring budget entity designations to conform with the six distinct budget entities of the department; requiring the establishment of an electronic benefit transfer program; amending s. 316.1938, F.S.; transferring duties related to the certification of ignition interlock devices; amending s. 409.029, F.S.; authorizing the department to contract for services required by the Florida Employment Opportunity Act; establishing a Study Commission on Employment Opportunities and Self-Sufficiency and providing for membership and duties; requiring submission of findings and recommendations as to comprehensive welfare reform; providing for transfer of the department's Office of Disability Determinations to the Department of Labor and Employment Security; amending s. 240.512, F.S.; adding physicians to the representation on the council of scientific advisors for the center director; allowing council member to be reappointed; amending and renumbering s. 385.201, F.S.; providing for transfer of the Florida Cancer Control and Research Advisory Council from the department to the H. Lee Moffitt Cancer Center and Research Institute; adding a member to the council; providing for physical location of the council; providing legislative intent to preserve the mission of the council; repealing ss. 119.07(7)(d), 415.107(3), and 415.51(3), F.S.; removing exemptions from public records requirements for reports of abuse, neglect, or exploitation of aged persons or disabled adults and of child abuse or neglect which are the subject of an active criminal investigation, and for quality assurance reports promulgated by the Department of Health and Rehabilitative Services; amending ss. 110.1127, 119.07, 400.414, 415.107, and 415.51, F.S.; correcting references; establishing a State Agency Evaluation and Review Committee and providing membership, powers, and duties; providing for staffing; providing for procedure; requiring reports and recommendations; providing certain exceptions from the act relating to health care system management for District 3 and District 13; requiring the development of a child protection system strategic plan; providing legislative findings and intent; providing criteria; requiring a report; providing a directive to the Division of Statutory Revision; amending ss. 483.021, 483.031, 483.051, 483.172, and 483.23, F.S.; deleting provisions relating to the licensing and regulation of clinical laboratory personnel by the Department of Health and Rehabilitative Services; creating part IV of chapter 483, F.S.; providing for regulation of clinical laboratory personnel by the Board of Clinical Laboratory Personnel in the Department of Professional Regulation; providing purpose, exemptions, and definitions; creating the board; providing for fees, licensing, approval of laboratory personnel training programs, inactive license status, demonstration of competency, grounds for disciplinary action, and penalties; amending s. 395.1015, F.S.; conforming a cross reference; providing saving clauses; amending s. 20.30, F.S.; including the Board of Clinical Laboratory Personnel under the Department of Professional Regulation; providing for transfer of funds and programs; repealing ss. 483.041(2) and (4), 483.053, 483.071, 483.141, 483.151, 483.152, 483.153, 483.154, 483.161, and 483.21, F.S., relating to clinical laboratory personnel and an advisory council; providing for review and repeal of part IV of chapter 483, F.S.; amending s. 39.453, F.S.; revising provisions relating to the use of citizen review panels in reviewing the status of a child; revising provisions relating to information provided to a panel; amending s. 39.4531, F.S.; revising provisions relating to citizen review panels; providing for the establishment, composition, and administration of such panels; providing duties of independent not-for-profit agencies administering such panels; amending ss. 316.1932, 316.1933, 316.1934, 322.63, F.S., relating to alcohol and drug testing; transferring the duties and functions of the Department of Health and Rehabilitative Services in approving methods and tests to determine the presence of alcohol and controlled substances and in issuing permits authorizing persons to conduct such tests to the Department of Law Enforcement; providing an appropriation; amending s. 420.627, F.S.; revising the form of payments under the emergency financial assistance program; providing for certain eligibility determinations by rule of the Department of Health and Rehabilitative Services; specifying conditions for denial of eligibility; authorizing contracts with local service providers for administration of the program, upon approval of a federal waiver; providing effective dates.

—a companion measure, was substituted for **CS for CS for CS for SB 2412** and read the second time by title.

Senator Weinstock moved the following amendment:

Amendment 1 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. Short title.—This act may be cited as the "Health and Rehabilitative Services Reorganization Act of 1992."

Section 2. Functional organization of department programs; intent; plan required.—

(1) The Legislature recognizes that the current system of delivering social services often addresses the symptoms rather than the origins of a problem. Counselors are often limited in their intervention strategies by rigidly defined program criteria that lack the flexibility to individualize the intervention strategies and rigid budget categories that sometimes force the recipients of services or their families to fit the program rather than having the ability to make a program fit the identified needs. It is the intent of the Legislature to functionally organize the services and programs of the Department of Health and Rehabilitative Services to allow for the development of a more logical alignment of programs, services, and budget structure to more effectively integrate the client needs and address the problems of any person who receives the department's services across program lines. In pursuing this intent, it is the goal of the Legislature to establish prevention and early intervention services that efficiently address the problems of individuals receiving services from the department. This objective includes, but is not limited to, preventing the unnecessary fragmentation of families, reducing the inappropriate placement of children in out-of-home settings, reducing the institutionalization of adults, and minimizing the reliance of the public on government programs and services.

(2) The Department of Health and Rehabilitative Services shall develop a functional organization plan for programs and services. The plan shall address the reorganization, consolidation, or division of programs and services currently under the structure of the various program offices delineated in section 20.19, Florida Statutes, into logical functional areas.

(3) The functional organization plan must include, but need not be limited to, the following:

(a) Identification of the fundamental program components of the various program offices than can be organized into a logical functional services continuum based upon needs and the problems of clients.

(b) Delineation of the operational and policy issues that may arise regarding functional organization of the department's program and services.

(c) Strategies for development and implementation of the functional services continuum.

(d) Proposed changes to the current organizational structure of the department to facilitate the functional services continuum.

(e) Proposed changes to laws, policies, and the budget necessary to facilitate the implementation of the functional services continuum.

(f) Procedures for determining the effectiveness of the proposed system.

(4) In developing the functional organization plan, the department shall solicit participation by a broad spectrum of groups including, but not limited to, the district human services boards, advocates, the judiciary, members of the legal community, members of the service provider community, and other persons interested in activities of the department.

(5) On or before December 1, 1992, the Department of Health and Rehabilitative Services shall submit a copy of the statewide functional organization plan to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the appropriations committees and appropriate substantive committees of the Senate and the House of Representatives.

(6) In addition to completing the functional organization plan, the department shall implement in one district by January 1, 1993, a pilot project to test the feasibility of a functional, integrated system of children's services. Funding for the pilot project shall be subject to the provisions of chapter 216, Florida Statutes. The pilot project should be a collaborative effort between state and local governments and private agencies. The district pilot project must be designed to reduce fragmentation of client service delivery systems by implementing an integrated services system to uniformly assess children's and families' service needs, identify appropriate community-based services, monitor the effectiveness of each child's service plan, and evaluate program and client outcomes through follow-up. The pilot project shall include, but not be limited to, the following:

(a) Services should be based on objectively and uniformly assessed needs of the child and his or her family.

(b) The needs assessment, case plan, and services should focus primarily on the family.

(c) Children's services should be community-based and locally responsive.

(d) Implementation of a client-based, management information system that accurately collects and reports data on every phase of the service system, from client assessment to post-program outcomes, should ensure accountability for all expenditures and allow flexibility precluded by rigid categorical funding.

(e) Prospective providers of the client-based management information system shall bear the cost of such services on a risk-bearing basis. The department shall reimburse the provider the cost of such services only if the savings in existing appropriations to the department are documented as a result of the services performed under the contract. The Auditor General shall determine, in conjunction with the department, the cost savings resulting from the contract with the provider.

(7) The department shall submit a status report on the pilot project by October 1, 1993, to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the appropriations committees and appropriate substantive committees of the Senate and the House of Representatives.

(8) The department shall, in addition to the report required in subsection (7), submit a first-year evaluation report by January 1, 1994, to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the appropriations committees and appropriate substantive committees of the Senate and the House of Representatives. The evaluation criteria should include out-of-home and out-of-community placements rates and post-placement client outcome variables.

Section 3. Section 20.19, Florida Statutes, is amended to read:

20.19 Department of Health and Rehabilitative Services.—There is created a Department of Health and Rehabilitative Services.

(1) PURPOSE.—

(a) The purposes of the Department of Health and Rehabilitative Services are to deliver, or provide for the delivery of, all health, social, and rehabilitative services offered by the state to its citizens and include, but *are* ~~shall~~ not ~~be~~ limited to:

1. Integrating the delivery of all health, social, and rehabilitative services offered by the state to those citizens in need of assistance.

2. Providing such assistance as is authorized to all eligible clients in order that they might achieve or maintain economic self-support and self-sufficiency to prevent, reduce, or eliminate dependency.

3. Preventing or remedying the neglect, abuse, or exploitation of children and of adults unable to protect their own interests.

4. Aiding in the preservation, rehabilitation, and reuniting of families.

5. Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care.

6. Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions when necessary.

7. Preventing the occurrence and spread of communicable diseases and other physical and mental diseases and disabilities to the maximum degree possible.

8. Conducting public health surveillance and investigative activities to protect citizens and visitors in the state from environmentally related disease.

9. ~~8.~~ Promoting the maintenance and improvement of health and mental health.

10. ~~9.~~ Disseminating health information to the public with recommendations for self-help aimed at the prevention of disease and the maintenance and improvement of the health of all residents of and visitors in this state.

11. Providing preventive and primary health care services through county public health units to ensure access to such services to facilitate a healthy start for children and to help prevent long-term disabling conditions.

12. ~~10.~~ Planning and developing health resources to assure effective and efficient delivery of high quality health services fully accessible to all citizens.

13. ~~11.~~ Paying for health care and medical care in the most reasonably expeditious fashion while promoting cost-effectiveness, quality, and patient dignity in those medical payment programs authorized by the Legislature.

14. Participating as a partner in the improvement of schools through the support of families in the community.

(b) In fulfillment of these purposes, the department shall create a 5-year strategic plan *which reflects.* ~~The plan shall reflect~~ broad societal outcomes, *sets* ~~set~~ forth a broad framework within which the district plans *are* ~~shall be~~ developed, and *establishes* ~~establish~~ a set of measurable goals and objectives and operational performance standards.

(c) The secretary, deputy secretaries, district administrators, and assistant secretaries are authorized to appoint ad hoc advisory committees when necessary. The problem or issue that an ad hoc committee is asked to address, and the timeframe within which the committee is to complete its work, shall be specified at the time of the initial appointment of the committee. Such ad hoc advisory committees shall include representatives of individuals, groups, associations, or institutions that may be affected by the issue or problem that the ad hoc advisory committee *is* ~~will be~~ asked to examine. Members of ad hoc advisory committees shall receive no compensation, but may, within existing resources of the department, be reimbursed for travel expenses as provided for in s. 112.061. The department may adopt a rule which establishes the general operating procedures for any ad hoc advisory committees that may be created pursuant to this paragraph.

(2) SECRETARY OF HEALTH AND REHABILITATIVE SERVICES; DEPUTY SECRETARY.—

(a) The head of the department is the Secretary of Health and Rehabilitative Services. The secretary *is* ~~shall be~~ appointed by the Governor subject to confirmation by the Senate. The secretary *serves* ~~shall serve~~ at the pleasure of the Governor.

(b) The secretary shall appoint a deputy secretary who shall act in the absence of the secretary. The deputy secretary *is* ~~shall be~~ directly responsible to the secretary, *performs* ~~and shall perform~~ such duties as are assigned to him by the secretary, *and serves.* ~~He shall serve~~ at the pleasure of the secretary.

(c) In accordance with the provisions of s. 20.055, the chief internal auditor *reports* ~~shall report~~ directly to the secretary.

(d)~~1.~~ There is created under the Secretary of Health and Rehabilitative Services the Office of Evaluation. The Office of Evaluation *has* ~~shall have~~ the following responsibilities:

1.~~a.~~ Technical support and coordinated management of the department's outcome evaluation and program effectiveness efforts within each program office.

2.~~b.~~ Development of policies and procedures to ensure the validity, reliability, and utility of the department's evaluations.

3.~~c.~~ Ensuring the integrity and quality of program evaluations conducted by the department.

4.~~d.~~ Development of procedures for the competitive procurement of external evaluations, including detailed specifications for all evaluation contracts.

5.~~e.~~ Development of the budget for the department's evaluation efforts and identification of future evaluation needs, including infrastructure needs to support the outcome evaluation function.

6.~~f.~~ Such other duties relating to evaluation *as* ~~that~~ may be assigned to the Office of Evaluation by the secretary.

~~2. The secretary is authorized to annually assess the budgets of each budget entity an amount not to exceed 0.5 percent for the purpose of creating a fund from which the outcome evaluation and program effectiveness activities of the Office of Evaluation can be financed. The expenses of the department for independent contracting or consultation, and the expenses associated with such~~ staff ~~as are authorized in the general appropriations act for outcome evaluation and program effectiveness functions, shall be paid for from the fund created by this assessment.~~

(e) The secretary shall ensure the establishment of statewide needs assessment methodologies for all departmental client service programs, ~~to. These methodologies shall~~ be applied uniformly across the state *in order* to identify the total statewide need for each service and ~~to~~ ensure comparability of data from one service district to another. As appropriate, these methodologies shall include health, economic, and sociodemographic indicators of need and shall ensure the use of uniform waiting list criteria.

(f) The secretary *has* ~~shall have~~ the authority and responsibility to ensure that the purpose of the department is fulfilled in accordance with state and federal laws, rules, and regulations.

(g) In addition to his other duties, the secretary *is* ~~shall be~~ responsible for evaluation, departmental legal services, *inspector general,* and internal audit functions. The secretary may assign performance of evaluation functions or departmental legal services to any appropriate unit within the department but shall maintain internal auditing as the secretary's responsibility.

(h) The secretary may establish offices to provide selected administrative functions designed to support multiple districts. These offices may not have line authority over district offices and may not be interposed between district management and the secretary. These offices may be created, consolidated, restructured, or rearranged by the secretary, within the limitations provided for in chapter 216, in order to achieve more effective and efficient performance of service delivery and support functions to multiple districts. In the establishment of any administrative processing centers pursuant to this paragraph, the department is directed to avoid consolidation of functions that support service-delivery decisionmaking such as budgetary functions; discretionary decisions regarding procurement of goods and services; and decisions regarding recruitment, hiring, and evaluation of staff. This paragraph does not restrict local decisionmaking by supervisors or managers regarding discretionary functions. Any consolidation of administrative functions under this paragraph shall be designed to minimize any adverse impact on service districts or institutions.

~~(3) DEPUTY SECRETARY FOR MANAGEMENT SYSTEMS.—The secretary shall appoint a Deputy Secretary for Management Systems who shall be responsible for automated information systems and communications systems. The Deputy Secretary for Management Systems shall be responsible directly to, and shall serve at the pleasure of, the secretary.~~

(3)~~(4)~~ DEPUTY SECRETARY FOR HEALTH.—The secretary shall appoint a Deputy Secretary for Health who *is* ~~shall be~~ the State Health Officer and *serves* ~~shall serve~~ at the pleasure of, and *is* ~~be~~ directly responsible to, the secretary. The Deputy Secretary for Health *is* ~~shall be~~ responsible for all programs, activities, and functions of the department relating to public health matters, including environmental health. *The State Health Officer is responsible for declaring public health emergencies and issuing public health advisories.* The State Health Officer must be a physician licensed under chapter 458 or chapter 459 who has specialized training or experience in public health programming and administration.

(a) The Deputy Secretary for Health *has* ~~shall have~~ the following responsibilities:

1. Ensuring that public health programs are implemented according to legislative intent and as provided in state and federal laws, rules, and regulations.

2. Program planning and interprogram planning and development.

3. Departmental health planning and health statistics and information functions.

4. Ensuring that county public health units plan with schools for the development of supplemental school health programs to meet the needs of children and their families.

5.~~4.~~ Reviewing, monitoring, and ensuring compliance with statewide program standards and performance objectives.

6.~~5.~~ Conducting outcome evaluations and ensuring program effectiveness.

7.~~6.~~ Monitoring district spending plans as they relate to public health.

8. Issuing any health advisory which is intended to warn the public of any situation that is potentially hazardous to public health and to protect the health and safety of the public.

9.~~7.~~ Other duties as are assigned to him by the secretary.

(b) *The secretary* ~~There~~ may *appoint* ~~be appointed~~ Assistant Health Officers, as deemed appropriate, to assist the State Health Officer, ~~who shall be appointed by the secretary~~ at the request of the State Health Officer. Each Assistant Health Officer *serves* ~~shall serve~~ at the pleasure of the secretary and *is* ~~shall be~~ directly responsible to the State Health Officer. The offices of the assistant health officers shall operate in a staff capacity to the State Health Officer, and the responsibilities of the offices include needs identification, program and service monitoring, and technical assistance to the State Health Officer.

(c) State health institutions *are* ~~shall be~~ managed as components of *continuums* ~~continuum~~ of care. To that end, it is the intent of the Legislature that institutional resources and community-based resources be managed in a coordinated and flexible manner to facilitate maximum development of community-based *continuums* ~~continuum~~ of care and minimum use of institutional services. Further, it is the intent of the Legislature that budget management of state health institutions include mechanisms to transfer institutional funds to service districts in order to successfully reduce the use by each district of its share of institutional resources.

(d) Prior to issuing any health advisory, the State Health Officer must consult with any state or local agency the areas of responsibility of which may be affected by such advisory. Upon determining that issuing a health advisory is necessary to protect the public health and safety, and prior to issuing the advisory, the State Health Officer must notify each county public health unit within the area which is affected by the advisory of his intent to issue the advisory. The State Health Officer is authorized to take any action appropriate to enforce any health advisory.

(4)~~(5)~~ DEPUTY SECRETARY FOR HUMAN SERVICES.—The secretary shall appoint a Deputy Secretary for Human Services who *serves* ~~shall serve~~ at the pleasure of, and *is* ~~be~~ directly responsible to, the

secretary. The secretary shall appoint an Assistant Deputy Secretary for Human Services who *serves* ~~shall serve~~ at the pleasure of the secretary and *is* ~~shall be~~ directly responsible to the Deputy Secretary for Human Services.

(a) The Deputy Secretary for Human Services *has* ~~shall have~~ the following responsibilities:

1. Ensuring that human services programs are implemented according to legislative intent and as provided in state and federal laws, rules, and regulations.

2. Program planning, interprogram planning, and development.

3. Reviewing, monitoring, and ensuring compliance with statewide goals, objectives, and operational performance standards.

4. Conducting outcome evaluations and ensuring program effectiveness.

5. Monitoring of district human services programs and spending plans.

6. Interprogram policy development, short-term and long-term planning, standards setting, monitoring, quality control, staff development, training, and technical assistance.

7. Ensuring the continued interagency collaboration with the Department of Education for the development and integration of effective programs to serve children and their families.

8. Ensuring the development and implementation of a client-oriented, case management system in the service programs of the department.

9. ~~7.~~ Other duties as are assigned to him by the secretary.

(b)1. Program offices ~~shall~~ operate in a staff capacity to the Deputy Secretary for Human Services. Each program office *is* ~~shall be~~ headed by an assistant secretary who *is* ~~shall be~~ appointed by, and *serves* ~~serve~~ at the pleasure of, the secretary and *is* ~~be~~ directly responsible to the Deputy Secretary for Human Services. The Assistant Secretary for Children's Medical Services *is* ~~shall be~~ responsible for all programs, activities, and functions of the department relating to all children's medical services programs operated by the department. The Assistant Secretary for Children's Medical Services must be a physician licensed under chapter 458 or chapter 459, and must have specialized training and experience in child health as defined in s. 391.051. *The Assistant Secretary for Delinquency Services is responsible for all programs, activities, and functions of the department relating to all delinquency services operated by the department.* The secretary shall appoint a Deputy Assistant Secretary for Alcohol and Drug Abuse and a Deputy Assistant Secretary for Mental Health, who ~~shall~~ both report directly to the Assistant Secretary for Alcohol, Drug Abuse, and Mental Health. The Deputy Secretary for Human Services shall delegate to the program offices the following responsibilities, which ~~shall~~ include, but are not limited to:

a. Establishment of program standards and performance objectives.

b. Development of program policies and rules, and provision of policy interpretations in order to achieve statewide consistency.

c. The review and monitoring of programs and the provision of technical assistance to programs in order to ensure compliance and accountability with statewide program standards, performance objectives, and state and federal laws, rules, and regulations.

d. Outcome evaluation and program effectiveness.

e. Development of staffing and workload standards.

f. Development of budget and resource allocation methodologies and strategies.

g. Compilation of reports, analyses, and assessments of client needs and services on a statewide basis.

h. Staff development and training.

i. General statewide supervision of the administration of service programs.

j. Any other program planning and development duties assigned by the secretary.

2. The following program offices are established and may be consolidated, restructured, or rearranged by the secretary; provided any such consolidation, restructuring, or rearranging *is* ~~shall be~~ for the purpose of encouraging service integration through more effective and efficient performance of the program offices or parts thereof:

a. Child Support Enforcement Program Office.—The responsibilities of this program office encompass the administration of the child support enforcement program established in Title IV-D of the Social Security Act, 42 U.S.C. s. 1302, in accordance with the provisions of ss. 409.2551-409.2597.

b. Children's Medical Services Program Office.—The responsibilities of this office encompass all children's medical services programs operated by the department.

c. Economic Services Program Office.—The responsibilities of this office encompass all income support programs within the department, such as aid to families with dependent children (AFDC), food stamps, and state supplementation of the supplemental security income (SSI) program.

d. Developmental Services Program Office.—The responsibilities of this office encompass programs operated by the department for developmentally disabled persons. Developmental disabilities include any disability defined in s. 393.063.

e. Medicaid Program Office.—The responsibilities of this office include planning and development of policies and programs, program and provider monitoring, provider relations, interprogram planning, and program surveillance and utilization review.

f. ~~e.~~ Aging and Adult Services Program Office.—The responsibilities of this office encompass all aging and adult programs operated by the department, *including SSI-related program eligibility determinations.*

g. ~~f.~~ Children, Youth, and Families Program Office.—The responsibilities of this program office encompass intake services for delinquent children, families-in-need-of-services and children-in-need-of-services programs; protective investigation services for abandoned, abused, and neglected children; interstate compact on the placement of children programs; children's protective services; adoption; child care; foster care programs; specialized services to families; programs serving children through the Menninger Foundation, including the CHARLEE Program, the Eckerd Family Youth Alternatives, Inc., and the Elaine Gordon Treatment Center; and all programs operated by the department relating to delinquent children.

h. ~~g.~~ Alcohol, Drug Abuse, and Mental Health Program Office.—The responsibilities of this office encompass all alcohol, drug abuse, and mental health programs operated by the department. In addition, the responsibility for adult forensic programs and children's mental health programs and services, except programs serving children through the Menninger Foundation, including the CHARLEE Program, the Eckerd Family Youth Alternatives, Inc., and the Elaine Gordon Treatment Center *are*~~, shall be~~ located within this office.

i. Delinquency Services Program Office.—The responsibilities of this office encompass all delinquency programs and services operated by the department.

3. State institutions, other than health institutions, *are* ~~shall be~~ managed as components of related *continuums* ~~continuum~~ of care. To that end, it is the intent of the Legislature that institutional resources and community-based resources be managed in a coordinated and flexible manner to facilitate maximum development of community-based *continuums* ~~continuum~~ of care and minimum use of institutional services. Further, it is the intent of the Legislature that budget management of state institutions include mechanisms to transfer institutional funds to service districts in order to successfully reduce the use by the district of its share of institutional resources. *Each civil mental health and developmental services institution must have an advisory board that includes representatives selected by each district served by that institution. The advisory board shall assist in policy development, participate in the institution's quality assurance process, and coordinate the delivery of services provided by the community and the institution.*

(c) An Assistant Secretary for Regulation and Health Facilities *is* ~~shall be~~ appointed by, and *serves* ~~serve~~ at the pleasure of, the secretary and *is* ~~be~~ directly responsible to the Deputy Secretary for Human Services. The responsibilities of the Assistant Secretary for Regulation and

Health Facilities ~~shall~~ include, but are not limited to, certificate-of-need determinations, Hill-Burton programs, and licensure and certification of programs external to the department for which the department has a major regulatory responsibility. The deputy secretary may assign or delegate other responsibilities of this office in keeping with the intent of this *section* ~~act~~.

~~(d) An Assistant Secretary for Medicaid shall be appointed by, and serve at the pleasure of, the secretary and be directly responsible to the Deputy Secretary for Human Services. The responsibilities of the Assistant Secretary for Medicaid shall encompass all Medicaid planning and development functions, including, but not limited to, policy and program development, program and provider monitoring, provider relations, inter-program planning, and program surveillance and utilization review.~~

(5)~~(6)~~ DEPUTY SECRETARY FOR ADMINISTRATION.—

(a) The secretary shall appoint a Deputy Secretary for Administration who *serves* ~~shall serve~~ at the pleasure of, and *is* ~~be~~ directly responsible to, the secretary. The Deputy Secretary for Administration *is* ~~shall be~~ responsible for:

1. Supervising all of the budget management activities of the department and serving as the chief budget officer of the department.

2. Providing administrative and management support services above the district level.

3. Monitoring administrative and management support services in the districts.

4. Developing and implementing uniform policies, procedures, and guidelines with respect to personnel administration, finance and accounting, budget, grants management and disbursement, contract administration, procurement, information and communications systems, management evaluation and improvement, and general services, including housekeeping, maintenance, and leasing of facilities.

5. Performing such other administrative duties as are assigned to him by the secretary.

(b) The Deputy Secretary for Administration may establish regional administration centers to manage those administrative functions which can be managed at a regional level more efficiently and cost effectively than at the district level.

(c) If reductions in a district's operating budget become necessary during any fiscal year, the department shall develop a formula to be used in its recommendations to the Governor and Legislature which equitably treats counties that have voluntarily appropriated funds to department programs and does not disproportionately reduce a district's operating budget because of such county appropriations.

(6)~~(7)~~ SERVICE DISTRICTS.—

~~(a)~~ The department shall plan and administer its programs of health, social, and rehabilitative services through service districts and subdistricts composed of the following counties:

District 1.—Escambia, Santa Rosa, Okaloosa, and Walton Counties;

District 2, Subdistrict A.—Holmes, Washington, Bay, Jackson, *Calhoun* ~~Franklin~~, and Gulf Counties;

District 2, Subdistrict B.—Gadsden, Liberty, *Franklin* ~~Calhoun~~, Leon, Wakulla, Jefferson, Madison, and Taylor Counties;

District 3~~, Subdistrict A.~~—Hamilton, Suwannee, Lafayette, Dixie, Columbia, Gilchrist, Levy, Union, Bradford, Putnam, and Alachua Counties;

~~District 3, Subdistrict B.—Marion, Citrus, Hernando, Sumter, and Lake Counties;~~

District 4~~, Subdistrict A.~~—Baker, Nassau, Duval, Clay, and St. Johns Counties;

~~District 4, Subdistrict B.—Flagler and Volusia Counties;~~

District 5.—Pasco and Pinellas Counties;

District 6~~, Subdistrict A.~~—Hillsborough and Manatee Counties;

~~District 6, Subdistrict B.—Polk, Hardee, and Highlands Counties;~~

District 7, Subdistrict A.—Seminole, Orange, and Osceola Counties;

District 7, Subdistrict B.—Brevard County;

District 8, Subdistrict A.—Sarasota and DeSoto Counties;

District 8, Subdistrict B.—Charlotte, Lee, Glades, Hendry, and Collier Counties;

District 9.—~~Indian River, Okeechobee, St. Lucie, Martin, and~~ Palm Beach *County* ~~Counties~~;

District 10.—Broward County; ~~and~~

District 11, *Subdistrict A.*—Dade *County;* ~~and Monroe Counties.~~

District 11, Subdistrict B.—Monroe County;

District 12.—Flagler and Volusia Counties;

District 13.—Marion, Citrus, Hernando, Sumter, and Lake Counties;

District 14.—Polk, Hardee, and Highlands Counties; and

District 15.—Indian River, Okeechobee, St. Lucie, and Martin Counties.

(7) HEALTH AND HUMAN SERVICES BOARDS.—

(a) There is created a health and human services board in each service district or subdistrict. The initial membership and the authority to appoint the members shall be allocated among the counties of each district or subdistrict as follows:

1. District 1 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Escambia County, 6 members; Okaloosa County, 3 members; Santa Rosa County, 2 members; and Walton County, 1 member.

2. District 2 has a board composed of 23 members, with 5 at-large members to be appointed by the Governor, and 18 members to be appointed by the boards of county commissioners in the respective counties, as follows: Holmes County, 1 member; Washington County, 1 member; Bay County, 2 members; Jackson County, 1 member; Calhoun County, 1 member; Gulf County, 1 member; Gadsden County, 1 member; Franklin County, 1 member; Liberty County, 1 member; Leon County, 4 members; Wakulla County, 1 member; Jefferson County, 1 member; Madison County, 1 member; and Taylor County, 1 member.

3. District 3 has a board composed of 19 members, with 4 at-large members to be appointed by the Governor, and 15 members to be appointed by the boards of county commissioners of the respective counties, as follows: Hamilton County, 1 member; Suwannee County, 1 member; Lafayette County, 1 member; Dixie County, 1 member; Columbia County, 1 member; Gilchrist County, 1 member; Levy County, 1 member; Union County, 1 member; Bradford County, 1 member; Putnam County, 1 member; and Alachua County, 5 members.

4. District 4 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Baker County, 1 member; Nassau County, 1 member; Duval County, 7 members; Clay County, 2 members; and St. Johns County, 1 member.

5. District 5 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Pasco County, 3 members; and Pinellas County, 9 members.

6. District 6 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Hillsborough County, 9 members; and Manatee County, 3 members.

7. District 7 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners in the respective counties, as follows: Seminole County, 3 members; Orange County, 5 members; Osceola County, 1 member; and Brevard County, 3 members.

8. District 8 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners in the respective counties, as follows: Sarasota County, 3 members; DeSoto County, 1 member; Charlotte County, 1 member; Lee County, 3 members; Glades County, 1 member; Hendry County, 1 member; and Collier County, 2 members.

9. District 9 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the Board of County Commissioners of Palm Beach County.

10. District 10 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the Board of County Commissioners of Broward County.

11. District 11, Subdistrict A, and Subdistrict B, each have a board composed of 15 members, with 3 at-large members to be appointed to each board by the Governor, and 12 members to be appointed by each of the respective boards of county commissioners.

12. District 12 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Flagler County, 1 member; and Volusia County, 11 members.

13. District 13 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Marion County, 4 members; Citrus County, 2 members; Hernando County, 2 members; Sumter County, 1 member; and Lake County, 3 members.

14. District 14 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Polk County, 9 members; Highlands County, 2 members; and Hardee County, 1 member.

15. District 15 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Indian River County, 3 members; Okeechobee County, 1 member; St. Lucie County, 5 members; and Martin County, 3 members.

Notwithstanding any other provisions of this subsection, in districts or subdistricts consisting of two counties, the number of members to be appointed by any one board of county commissioners may not be fewer than 3 nor more than 9.

(b) At any time after the adoption of initial bylaws pursuant to paragraph (o), a district or subdistrict health and human services board may adopt a bylaw that enlarges the size of the board up to a maximum of 23 members, or otherwise adjusts the size or composition of the board, including a decision to change from a district board to subdistrict boards, or from a subdistrict board to a district board, if in the judgment of the board, such change is necessary to adequately represent the diversity of the population within the district or subdistrict. In the creation of subdistrict boards, the bylaws shall set the size of the board, not to exceed 15 members, and shall set the number of appointments to be made by the Governor and the respective boards of county commissioners in the subdistrict. The Governor shall be given the authority to appoint no fewer than one-fifth of the members. Current members of the district board shall become members of the subdistrict board in the subdistrict where they reside. Vacancies on a newly created subdistrict board shall be filled from among the list of nominees submitted to the subdistrict nominee qualifications review committee pursuant to subsection (8).

(c) The appointments by the Governor and the boards of county commissioners are from nominees selected by the appropriate district or subdistrict nominee qualifications review committee pursuant to subsection (8). Membership of each board must be representative of its district or subdistrict with respect to age, gender, and ethnicity. For boards having 15 members or fewer, at least two members must be consumers of the department's services. For boards having more than 15 members, there must be at least three consumers on the board. Members must have demonstrated their interest and commitment to, and have appropriate expertise for meeting, the health and human services needs of the community. The Governor shall appoint nominees whose presence on the health and human services board will help assure that the board reflects the demographic characteristics and consumer perspective of each of the service districts.

(d)1. Board members shall submit annually a disclosure statement of health and human services interests to the department's inspector general and the board. Any member who has an interest in a matter under consideration by the board must abstain from voting. Board members are subject to the provisions of s. 112.3145, relating to disclosure of financial interests.

2. Employees of provider agencies, other than employees of units of local or state government, may not serve as health and human services board members but may serve in an advisory capacity to the board. Salaried employees of units of local or state government occupying positions providing services under contract with the department may not serve as members of the board. Elected officials who have authority to appoint members to a health and human services board may not serve as a member of a board. The district administrator shall serve as a nonvoting ex officio member of the board. A department employee may not be a member of the board.

(e)1. In order to establish staggered terms for members of the board, all initial appointments by the boards of county commissioners of Escambia, Walton, Bay, Gadsden, Jackson, Leon, Alachua, Putnam, Marion, Lake, Duval, Brevard, Orange, Charlotte, Lee, Sarasota, Martin, and St. Lucie Counties are for 2-year terms. In addition, the boards of county commissioners of Volusia, Pinellas, Polk, Hillsborough, Palm Beach, Broward, and Dade Counties are to designate seven of their respective initial appointments to the board to have 2-year terms. Thereafter, all appointments to each board shall be for 4-year terms.

2. Appointments to fill vacancies created by the death, resignation, or removal of a member are for the unexpired term. A member may not serve more than two full consecutive terms.

3. A member who is absent from three meetings within any 12-month period, without having been excused by the chairperson, is deemed to have resigned, and the board shall immediately declare the seat vacant. Members may be suspended or removed for cause by a majority vote of the board members or by the Governor.

(f) Members of the health and human services boards shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses as provided in s 112 061. Payment may also be authorized for preapproved child care expenses or lost wages for members who are consumers of the department's services and for preapproved child care expenses for other members who demonstrate hardship.

(g) Appointees to the health and human services board are subject to the provisions of chapter 112, part III, Code of Ethics for Public Officers and Employees.

(h) Actions taken by the board must be consistent with departmental policy and state and federal laws, rules, and regulations.

(i) The department shall provide comprehensive orientation and training to the members of the boards to enable them to fulfill their responsibilities.

(j) Each health and human services board, and each of its subcommittees, shall hold periodic public meetings and hearings throughout the district to receive input on the development of the district service delivery plan, the legislative budget request, and the performance of the department.

(k) Responsibility and accountability for local human services planning rests with the health and human services boards. All local health-and-human-services-related planning or advisory councils under the jurisdiction of the department shall submit their plans to the health and human services boards. The health and human services boards may establish subcouncils or technical advisory committees.

(l) It is the policy of the state to provide a family-centered constellation of services. The primary goal of these services is the preservation of families. District goals and objectives must be consistent with this statewide policy.

(m) The health and human services boards shall operate through an annual agreement negotiated between the secretary and the board. Such agreements must include expected outcomes and provide for periodic reports and evaluations of district and board performance and must also include a core set of service elements to be developed by the secretary and used by the boards in district needs assessments to ensure consistency in the development of district legislative budget requests.

(n) The annual agreement between the secretary and the board must include provisions that specify the procedures to be used by the parties to resolve differences in the interpretation of the agreement or disputes as to the adequacy of the parties' compliance with their respective obligations under the agreement.

(o) Health and human services boards have the following responsibilities as developed jointly with the district administrator:

1. Establish district goals and objectives consistent with statewide policy parameters.

2. Conduct district needs assessments using methodologies consistent with those established by the secretary pursuant to paragraph (2)(e).

3. Develop and approve a district service delivery plan that:

a. Identifies current resources and services available;

b. Identifies unmet needs and gaps in services;

c. Establishes service and funding priorities; and

d. Recommends new services or deletion of existing services.

4. Provide budget oversight, including development and approval of the district's legislative budget request.

5. Provide policy oversight, including development and approval of district policies and procedures.

6. Act as a focal point for community participation in department activities such as:

a. Assisting in the integration of all health and social services within the community;

b. Assisting in the development of community resources;

c. Advocating for community programs and services;

d. Receiving and addressing concerns of consumers and others; and

e. Advising the district administrator on the administration of service programs throughout the district or subdistrict.

7. Immediately upon appointment of the membership, develop bylaws that clearly identify and describe operating procedures for the board. The bylaws may authorize the chairpersons of subdistrict boards to designate one or more committees composed of members of both subdistrict boards to act on districtwide issues. At a minimum, the bylaws must specify notice requirements for all regular and special meetings of the board, the number of members required to constitute a quorum, and the number of affirmative votes of members present and voting that are required to take official and final action on a matter before the board.

8. Determine the board's internal organizational structure, including the designation of standing committees. In order to foster the coordinated and integrated delivery of human services in its community, a local board shall use a committee structure that is based on issues, such as children, housing, transportation, or health care. Each such committee must include consumers, advocates, providers, and department staff from every appropriate program area. In addition, each board and district administrator shall jointly identify community entities, including, but not limited to, the Area Agency on Aging, and resources outside the department to be represented on the committees of the board.

9. Participate with the secretary in the selection of a district administrator according to the provisions of paragraph (9)(b).

10. Complete an annual evaluation of the district or subdistrict and review the evaluation at a meeting of the board at which the public has an opportunity to comment.

11. Provide input to the secretary on the annual evaluation of the district administrator. The board may request that the secretary submit a written report on the actions to be taken to address negative aspects of the evaluation. At any time, the board may recommend to the secretary that the district administrator be discharged. Upon receipt of such a recommendation, the secretary shall make a formal reply to the board stating the action to be taken with respect to the board's recommendation.

12. Elect a chair and other officers, as specified in the bylaws, from among the members of the board.

(8) DISTRICT NOMINEE QUALIFICATIONS REVIEW COMMITTEES.—

(a) There is created a nominee qualifications review committee in each service district or subdistrict for the purpose of screening and evaluating applicants and recommending nominees for the health and human services board of the district or subdistrict. A member of a nominee qualifications review committee must be a resident of the district or subdistrict and is not eligible to be nominated for appointment to a health and human services board.

(b) The appointments to a nominee qualifications review committee are made as follows:

1. In a district or subdistrict composed of one county, the Governor shall appoint two members, the board of county commissioners shall appoint two members, the district school board shall appoint one member, the chief judge of the circuit shall appoint one member, and these appointees shall appoint three additional members.

2. In a district or subdistrict composed of two counties, the Governor shall appoint two members, each board of county commissioners shall appoint two members, each district school board shall appoint one member, the chief judge of the circuit containing the most populous county shall appoint one member, and these appointees shall appoint three additional members.

3. In a district or subdistrict composed of three counties, the Governor shall appoint two members, each board of county commissioners shall appoint two members, each district school board shall appoint one member, the chief judge of the circuit containing the most populous county shall appoint one member, and these appointees shall appoint four additional members.

4. In a district or subdistrict composed of four counties, the Governor shall appoint two members, each board of county commissioners shall appoint one member, except that the board of county commissioners of the most populous county shall appoint two members, each district school board shall appoint one member, the chief judge of the circuit containing the most populous county shall appoint one member, and these appointees shall appoint four additional members.

5. In a district or subdistrict composed of five counties, the Governor shall appoint three members, each board of county commissioners shall appoint one member, except that the board of county commissioners of the most populous county shall appoint two members, each district school board shall appoint one member, the chief judge of the circuit containing the most populous county shall appoint one member, and these appointees shall appoint five additional members.

6. In a district or subdistrict composed of six counties, the Governor shall appoint three members, each board of county commissioners shall appoint one member, except that the board of county commissioners of the most populous county shall appoint two members, each district school board shall appoint one member, the chief judge of the circuit containing the most populous county shall appoint one member, and these appointees shall appoint three additional members.

7. In a district or subdistrict composed of eight counties, the Governor shall appoint three members, each board of county commissioners shall appoint one member, except that the board of county commissioners of the most populous county shall appoint two members, each district school board shall appoint one member, the chief judge of the circuit containing the most populous county shall appoint one member, and these appointees shall appoint three additional members.

8. In a district or subdistrict composed of 11 counties, the Governor shall appoint two members, each board of county commissioners shall appoint one member, except that the board of county commissioners of

the most populous county shall appoint two members, each district school board shall appoint one member, the chief judge of the circuit containing the most populous county shall appoint one member, and these appointees shall appoint three additional members.

(c) Appointees to a district nominee qualifications review committee must have substantial professional or volunteer experience in planning, delivering, or evaluating health and human services within their communities. In addition to these qualifications, it is the intent of the Legislature that nominee qualifications review committees represent the diversity of their respective districts or subdistricts by the inclusion of representation of such groups as:

1. County government;

2. District school systems;

3. The judiciary;

4. Law enforcement;

5. Consumers of departmental services;

6. Advocates for persons receiving or eligible to receive services provided or funded by the department;

7. Funders of health and human services in the community;

8. The medical community;

9. Chambers of commerce;

10. Major cities; and

11. Universities and community colleges.

(d) The initial terms of persons appointed by the Governor or board of county commissioners are for 2 years. Persons initially appointed by other appointing authorities have 4-year terms. Thereafter, the terms of all appointees are 4 years. A person who, at the expiration of his term, has served on a nominee qualifications review committee for more than 5 years is not eligible for reappointment.

(e) Members of a nominee qualifications review committee shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061. Payment may also be authorized for preapproved child care expenses or lost wages for members who are consumers of the department and for preapproved child care expenses for other members who demonstrate hardship.

(f) Each district nominee qualifications review committee shall conduct its business according to the following procedures:

1. The public shall be provided reasonable advance notice of regular and special meetings;

2. A majority of the members, plus one, is necessary to constitute a quorum, and the affirmative vote of a majority of those present is necessary to take official action;

3. All meetings and records shall be open to the public pursuant to s. 286.011;

4. The deadline for submission of nominee applications may not be less than 30 days after the date of publication of a notice of vacancy and solicitation of nominee applications from interested persons; and

5. A person may not be nominated for appointment to a district health and human services board except by submission of a standard nominee application form, which shall be developed by the department and distributed to all nominee qualifications review committees.

(g) Each district nominee qualifications review committee shall submit to the appointing authorities in its respective district a pool of nominees equal to three times the number of vacancies on the district or subdistrict health and human services board. The pool of nominees submitted by each district nominee qualifications review committee must be balanced with respect to age, gender, ethnicity, and other demographic characteristics so that the appointees to the district health and human services board reflect the diversity of the population within its service district. It is the further intent of the Legislature that the Governor appoint nominees whose presence on the health and human services board will help assure that the board reflects the demographic characteristics and consumer perspectives of each of the service districts or subdistricts. If, following the appointments by the boards of county commissioners, the remaining nominees in the pool do not, in the judgment of the Governor, provide sufficient diversity to effectuate the intent of this paragraph, the Governor may request that the district or subdistrict nominee qualifications review committee submit the names of three additional nominees for each vacant position on the board.

(9) DISTRICT ADMINISTRATOR.—

(a)~~(b)~~ The secretary shall appoint a district administrator for each of the service districts, *pursuant to paragraph (b)* ~~who shall have the same standing within the department as an assistant secretary~~. Each district administrator *serves* ~~shall serve~~ at the pleasure of the secretary, *is* ~~and shall be~~ directly responsible to the secretary, *has the same standing within the department as an assistant secretary.* Each district administrator *has* ~~shall have~~ direct line authority over all departmental programs assigned to the district. In addition to those responsibilities assigned by law, the district administrator shall carry out those duties delegated to him by the secretary.

(b) Upon the resignation or removal of a district administrator, the secretary shall notify the chairperson of the health and human services board in the district and shall advertise the position in accordance with departmental policy. The board, or a designated committee of the board, shall solicit applications for the position of district administrator, screen applicants, and submit the names of not more than five nor fewer than three qualified candidates to the secretary. The secretary shall appoint the district administrator from among the nominees submitted by the health and human services board. If the secretary determines that none of the nominees should be appointed, the secretary shall notify the board and request that additional recruitment efforts be initiated and that, following such efforts, the names of additional qualified nominees be submitted. Applications for the position of district administrator are public records; and meetings of the board or a committee of the board for the purpose of screening, evaluating, or interviewing an applicant for the position of district administrator are open to the public.

(c) The duties of the district administrator include, but are not limited to:

1. Ensuring *jointly with the health and human services board* that the administration of all service programs is carried out in conformity with state and federal laws, rules, and regulations, statewide service plans, and any other policies, procedures, and guidelines established by the secretary.

2. Administering the offices of the department within the district and directing and coordinating all personnel, facilities, and programs of the department located in that district, except as otherwise provided herein.

3. Applying standard information, referral, intake, diagnostic and evaluation, and case management procedures established by the secretary. Such procedures shall include, but are not limited to, an intake system for delinquency, families-in-need-of-services and children-in-need-of-services programs, and a protective investigation system for dependency programs serving abandoned, abused, and neglected children.

4. Centralizing to the greatest extent possible the administrative functions associated with the provision of services of the department within the district.

5. Coordinating the services provided by the department in the district with those of other *districts and* public and private agencies which provide health, social, educational, or rehabilitative services within the district.

~~6. Ensuring the effective use of the district advisory council for the purpose of obtaining a community analysis of client needs.~~

6.~~7.~~ Appointing district program managers, program supervisors, and the superintendent of each institution within the district and approving all other personnel appointments within the district.

7.~~8.~~ Establishing, *with the approval of the health and human services board,* such policies and procedures as may be required to discharge his duties and implement and conform the policies, procedures, and guidelines established by the secretary to the needs of the district.

~~8.9.~~ Transferring up to 10 percent of the total district budget, with the approval of the secretary, to maximize effective program delivery, the provisions of ss. 216.292 and 216.351 notwithstanding.

(d) To assist him in the discharge of his duties, each district administrator may appoint, in consultation with the Deputy Secretary for Health, a deputy district administrator for health, and may also appoint a district program manager for social services. The deputy district administrator for health may have line authority over all district programs, activities, and functions relating to public health, including environmental health matters, and other programs as may be assigned by the district administrator. Each district administrator may appoint a district manager for administrative services. Each deputy district administrator for health, district program manager, and the district manager for administrative services *serves* ~~shall serve~~ at the pleasure of the district administrator.

(e) There may be program supervisors in each district who ~~shall~~ serve in a line capacity to the district administrator and report directly to the district administrator or his designee. Program supervisors *are* ~~shall be~~ appointed by the district administrator in conformity with qualifications established through state personnel system procedures. Program supervisors may be employed on a full-time, part-time, or fee-for-service contractual basis. The duties of a program supervisor ~~shall~~ include, but are not limited to:

1. Administering district service programs in conformity with statewide policies, procedures, and guidelines established by the secretary.

2. Recommending changes in district program policy.

3. Identifying and developing community resources.

4. Identifying district needs.

5. Serving as program spokesman in educating the public as to the availability of programs and the needs of clients.

6. Serving as primary staff development adviser in assessing the needs of staff and developing training and staff development programs.

(f) ~~There shall be~~ Programs at the district level *are* in the following areas: aging and adult services; children's medical services; health; alcohol, drug abuse, and mental health; developmental services; economic services; and children, youth, and family services. There may be a program supervisor for each program, or the district administrator may combine programs including children, youth, and families under a program manager or program supervisor if such arrangement is approved by the secretary.

(g) The district manager for administrative services shall provide the following administrative and management support services to the district in accordance with the uniform policies, procedures, and guidelines established by the Deputy Secretary for Administration:

1. Finance and accounting.

2. Grants management and disbursement.

3. Personnel administration.

4. Purchasing and procurement.

5. General services, including housekeeping and maintenance of facilities.

6. Assisting the district administrator in preparation of the district budget request and administration of the approved operating budget.

7. The district manager for administrative services *is* ~~shall be~~ the chief budget officer of the district.

8. Other administrative duties as assigned by the district administrator.

(10) STATEWIDE HEALTH AND HUMAN SERVICES BOARD.—There is created the Statewide Health and Human Services Board consisting of the chairs of the health and human services boards or their designees. The statewide board shall meet at least twice annually and as needed, upon the call of the secretary, to advise the secretary on statewide issues and identify barriers to effective and efficient local service delivery. Each member attending these meetings is entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061.

~~(8) DISTRICT ADVISORY COUNCILS.—~~

~~(a) Within each service district there is created a district advisory council. Each district advisory council shall assist in the coordination and integration of the health, social, and rehabilitative services provided by the department with those provided in the district by other public and private agencies and shall afford citizen input into departmental policy development. The duties of each district advisory council include, but are not limited to:~~

~~1. Advising the district administrator with respect to the administration of the service programs of the department within the district and the improvement of coordination and integration of the programs and services of the department with those provided within the district by other public and private agencies.~~

~~2. Assisting the department in the evaluation of its operations.~~

~~3. Interpreting to the community, through the personal contacts and involvements of its members, the various services provided by the department.~~

~~4. Serving as a liaison with the community for the purpose of advocating on behalf of the services needed for clients of the department.~~

~~5. Providing a forum for receiving citizen complaints on general problems relating to the department.~~

~~6. Advising on the coordination of service delivery within the district.~~

~~(b) Each district advisory council shall consist of 11 regular members and 1 ex officio member. No employee of the department shall serve as a member of a council, except that the district administrator shall serve as a nonvoting ex officio member of the council in his district. The council shall be composed of 11 regular members, as follows:~~

~~1. One licensed physician or osteopathic physician who practices medicine or osteopathic medicine within the district.~~

~~2. One member of a board of county commissioners of a county within the district.~~

~~3. One member of a district school board of a school district within the district.~~

~~4. One attorney who practices law within the district.~~

~~5. Five local representatives of public and private agencies or organizations which provide health, social, rehabilitative, or legal services within the district.~~

~~6. Two persons who are either clients of the department within the district or who have been such clients during the year previous to appointment.~~

~~(c) Upon expiration of a term and in case of a vacancy for any other reason, the council by majority vote shall appoint a replacement subject to the approval of the Governor. If no action is taken by the Governor to approve or disapprove the replacement of a member within 30 days after the council has notified the Governor of the appointment, the appointment of the replacement shall be considered approved. Each member of a district advisory council shall be appointed for a term of 2 years. A member may be reappointed to no more than two consecutive terms.~~

~~(d) Each district advisory council shall elect a chairman, a vice chairman, and a secretary, each of whose terms shall be for 1 year. The district administrator shall not be eligible to serve as chairman.~~

~~(e) Each district advisory council shall hold bimonthly meetings. Additional meetings shall be held upon the call of the chairman or upon the petition of a majority of the members to the chairman. The district administrator or his designee shall attend each meeting. The secretary or the deputy secretary shall attend at least one meeting of each district advisory council during each fiscal year.~~

~~(f) A member of a district advisory council shall receive no compensation but shall be reimbursed for travel expenses as provided for in s. 112.061.~~

~~(g) The department shall make a separate and distinct request for an appropriation for all expenses for district advisory councils, which shall indicate the proposed distribution of such expenses among districts. Such request may be combined into a specific appropriation for advisory coun-~~

~~cil expenses, or included in a specific appropriation with other expenses in the Governor's recommended budget or in the appropriations acts. If a legislative appropriation for expenses is made, the department shall reimburse expenses for individual advisory councils in strict accordance with the appropriations and intent of the Legislature. The provisions of s. 216.292 notwithstanding, no transfer of appropriations shall be made which increases the appropriation made by the Legislature for advisory council expenses.~~

~~(h) Each district advisory council may designate a subcouncil from its membership for each subdistrict within the district.~~

~~(i) Each district advisory council shall designate one of its members to serve on a District Advisory Council Statewide Coordinating Council. The council shall meet at least quarterly for the purposes of analyzing client needs statewide, identifying and proposing responsive program policies to the department, and integrating and expressing the views of the 11 district advisory councils on interdistrict service delivery matters. The council is responsible for advising the Deputy Secretary for Human Services, the Deputy Secretary for Health, and the assistant secretaries of the program offices with respect to client needs within each district. The council may serve as a liaison with the community for the purpose of advocating on behalf of the services needed for clients of the department. The secretary or one or more deputy secretaries shall attend each meeting of the council. At one or more of the council's meetings, the secretary shall present for discussion the budget request and recommendations of the department to the Legislature prior to the submission of the budget to the Governor's office. Each member attending such council meetings shall be entitled to reimbursement for travel expenses pursuant to s. 112.061.~~

(11)~~(9)~~ DEPARTMENTAL BUDGET.—

(a) The secretary shall develop and submit annually to the Legislature a comprehensive departmental summary budget document which *arrays* ~~shall array~~ each district budget request along program lines *and.* ~~This summary document shall~~, for the purpose of legislative appropriation, *consists* ~~consist~~ of *five* ~~six~~ distinct budget entities:

1. *Department Administration* ~~Office of the Secretary~~.

2. *Statewide Services* ~~Office of the Deputy Secretary for Administration~~.

3. *Multidistrict* ~~Office of the Deputy Secretary for Human~~ Services.

4. *Entitlement Benefits and Services* ~~Office of the Deputy Secretary for Health~~.

5. *District Services* ~~Office of the Deputy Secretary for Management Systems~~.

The department shall revise its budget entity designations to conform with the five distinct budget entities. The department, in accordance with chapter 216, shall transfer, as necessary, funds and positions among budget entities to realign appropriations with the revised budget entity designations. Such authorized revisions must be consistent with the intent of the approved operating budget. The various district budget requests developed pursuant to paragraph (d) shall be included in the comprehensive departmental summary budget document. The department shall periodically review the appropriateness of the budget entity designations and the adequacy of its delegated authority to transfer funds between entities *and submit.* the reviews ~~shall be submitted~~ to the Speaker of the House of Representatives and the President of the Senate.

(b) To fulfill this responsibility, the secretary *may* ~~shall have the authority to~~ review, amend, and approve the annual budget request of all departmental activities pursuant to s. 216.023.

(c) It is the responsibility of the Deputy Secretary for Administration to promulgate the necessary budget timetables, formats, and data requirements for all departmental budget requests. ~~This shall be done~~ in accordance with the statewide budget requirements of the Executive Office of the Governor.

(d) It is the responsibility of the district administrator, *jointly with the health and human services board,* to develop an annual budget request to be reviewed, amended, and approved by the secretary. *Annual* ~~These~~ budget requests *are* ~~shall be~~ based on units of service and the costs of those services.

(e)1. The department's program planning, budgeting, and information systems capabilities *are required to* ~~shall~~ be linked. Identification of resource requirements and legislative appropriations *are* ~~shall be~~ based upon systematic identification of client needs and appropriate service arrays, defined units of measurement and data captured for unit costing purposes, and tracking services delivered in a manner so that program outcomes can be determined. The department shall implement an integrated, unit cost based budgeting system across program areas pursuant to the schedule in paragraph (f).

2. Pursuant to program budgets in the General Appropriations Act, the Letter of Intent, and the resources appropriated to fund this process and considering district requests submitted in accordance with paragraph (d), the secretary shall, to the maximum extent possible, contract with each district administrator for the maximum units of service possible. These contracts *are* ~~shall be~~ translated into district budgets, and both the contracts and the district budgets *are* ~~shall be~~ submitted to the Executive Office of the Governor and the legislative appropriations committees. All amendments to the contracts and district budgets pursuant to contract amendments must be provided to the Executive Office of the Governor and the legislative appropriations committees at least 7 days before the effective date of the change.

3. Funds may be made available to the districts only for actual services provided pursuant to the contracts. This does not preclude the advancement of funds if reconciliations based on actual units of service provided are made within 15 days after each quarter.

(f)1. The use of unit cost data as the basis for the department's budget *is* ~~shall be~~ phased in beginning during the 1991-1992 fiscal year and shall be completed by the 1996-1997 fiscal year.

2. The programs of the department shall begin using this budget process on the following timetable:

a. Fiscal year 1991-1992: Alcohol, drug abuse, and mental health programs and developmental services programs.

b. Fiscal year 1992-1993: Economic services programs and aging and adult services programs.

c. Fiscal year 1993-1994: *Medicaid programs* ~~Children, youth, and families programs~~ and children's medical services programs.

d. Fiscal year 1994-1995: *Children, youth, and families programs,* health programs, and all other programs.

3. For the first 2 years after each program begins using this budget process, subparagraph (e)3. *does* ~~shall~~ not apply to the program.

(g) The units of service *are* ~~shall be~~ developed by the program offices from data provided pursuant to subsection *(14)*~~(11)~~. The department shall prepare legislation to incorporate these units of service into the respective statutes not later than the legislative session 1 year after the fiscal year in which unit cost data is used as the basis for the program's budget.

(12)~~(10)~~ CONFORMITY WITH FEDERAL STATUTES AND REGULATIONS.—It is the intent of the Legislature that this *section* ~~act~~ ~~shall~~ not conflict with any federal statute or implementing regulation governing federal grant-in-aid programs administered by the department. Whenever such a conflict is asserted by the applicable agency of the Federal Government, the secretary of the department shall submit to the United States Department of Health and Human Services, or other applicable federal agency, a request for a favorable policy response or a waiver of the conflicting portions. If such request is approved, as certified in writing by the Secretary of the United States Department of Health and Human Services or head of the other applicable federal agency, the secretary of the department is authorized to make the adjustments in the organization and state service plan prescribed by this *section* ~~act~~ which are necessary for conformity to federal statutes and regulations. Prior to making such adjustments, the secretary shall provide to the Speaker of the House of Representatives and the President of the Senate an explanation and justification of the position of the department and shall outline all feasible alternatives consistent with the provisions of this section. These alternatives may include the state supervision of local service agencies by the department ~~of Health and Rehabilitative Services~~ if such agencies are designated by the Governor. The Governor is hereby authorized to designate local agencies of county governments to provide services pursuant to federally required state plans administered by the department ~~of Health and Rehabilitative Services~~. These local agencies shall

provide services for and on behalf of the county governments included within the geographic boundaries of the local agency. The board of commissioners of each county within the local agency shall annually approve the service plan to be provided by the local service agency. In order to assure coordination with other health and rehabilitation services provided to citizens within each county, local service agencies designated by the Governor pursuant to this section shall correspond to the service districts created pursuant to subsection *(6)*~~(7)~~. The district administrator of each service district *is* ~~shall be~~ designated the head of the local service agency. As head of the local service agency, the district administrator shall administer the service programs in conformity with statewide policies, procedures, and guidelines established by the department ~~of Health and Rehabilitative Services~~. The local agency shall administer its program pursuant to a written agreement with the department *which* ~~of Health and Rehabilitative Services. The written agreement will~~:

(a) *Indicates* ~~Indicate~~ that the local agency will conduct its program under the supervision of the department ~~of Health and Rehabilitative Services~~ in accordance with the state plan and in compliance with statewide standards as established by the department, including standards of organization and administration.

(b) *Sets* ~~Set~~ forth the methods to be followed by the department in its supervision of the local agency, including an evaluation of the effectiveness of the program of the local agency.

(c) *Sets* ~~Set~~ forth the basis on which the department participates financially in its locally administered programs.

(d) *Indicates* ~~Indicate~~ whether the local agency will utilize another local public or nonprofit agency in the provision of services and the arrangements for such utilization.

The local agency *is* ~~shall be~~ responsible for the administration of all aspects of the program within the political subdivisions which it serves. In order to assure uniformity of personnel standards, the local agency shall utilize the state personnel rules and regulations, including provisions related to tenure, selection, appointment, and qualifications of personnel.

(13)~~(11)~~ INFORMATION SYSTEMS.—

(a) The secretary shall appoint a Chief Management Information Officer to serve as the department's information resource manager with the authority for agency development and management information systems maintenance, policies, and procedures as provided for in s. 282.311. The Chief Management Information Officer shall direct and promote information as a strategic asset and facilitate integration of data systems and agency and interagency resource sharing as allowed by applicable statutes. The Chief Management Information Officer serves at the pleasure of the secretary.

(b) The Chief Management Information Officer is directly responsible for the management of the management information systems service center that provides primary information systems support for all entities within the department and maintains fee-for-service provisions for use by other agencies. The Chief Management Information Officer shall negotiate service-level agreements between the management information systems service center and users and shall facilitate integrated information systems practices and procedures throughout the service districts and with local service providers.

(c)~~(a)~~ The secretary of the department shall implement a priority program aimed at the design, testing, and integration of automated information systems necessary for effective and efficient management of the department *and clients*. These systems shall contain, minimally, management data, client data, and program data deemed essential for the ongoing administration of service delivery, as well as for the purpose of management decisions. It is the intent of the Legislature that these systems be developed with the idea of providing maximum administrative support to *the delivery of services and to allow for the development of a more logical alignment of programs, services, and budget structures to effectively address the problems of any person who receives the services of the department* ~~service delivery~~. It is also essential that these systems comply with federal program requirements and ensure confidentiality of individual client information.

(d)~~(b)~~ The department's information systems *are* ~~shall be~~ developed to support *a client* ~~an~~ outcome-based budget and management system. At a minimum, these systems must use a unit of service basis to measure contract performance, integrate client demographic and unit cost information, and provide for program outcome measurement.

(e)~~(c)~~ For the purpose of funding this effort, the department shall include in its annual budget request a comprehensive summary of costs involved, as well as manpower saved, *and the availability of costs for private-sector systems* in the establishment of these automated systems. Such budget request shall also include a complete inventory of current staff, equipment, and facility resources available for completion of the desired systems. The department shall review all forms for duplicative content and, to the maximum extent possible, reduce, consolidate, and eliminate such duplication to provide for a uniform, *integrated,* and concise management information collection system.

(14)~~(12)~~ ELIGIBILITY REQUIREMENTS.—The department shall review the eligibility requirements of its various programs and, to the maximum extent possible, consolidate them into a single eligibility system.

(15)~~(13)~~ PURCHASE OF SERVICES.—Whenever possible, the department, in accordance with the established program objectives and performance criteria, shall contract for the provision of services by counties, municipalities, *not-for-profit corporations, for profit* ~~nonprofit~~ corporations, and other entities capable of providing needed services, if services so provided are more cost-efficient than those provided by the department.

(16)~~(14)~~ HEADQUARTERS; SERVICE FACILITIES.—

(a) The department shall maintain its headquarters and all offices above the district office level in Tallahassee.

(b) Within each of its service districts, the department shall locate its service facilities in the same place when it is possible to do so without removing service facilities from proximity to the clients they serve. The department shall implement a plan by which all or substantially all services within a district are moved, as existing leases expire, to centers located close to prospective users or clients. These centers may be shared with other public users and may be designated as community service centers.

(17)~~(15)~~ PROCUREMENT OF HEALTH SERVICES.—Nothing contained in chapter 287 *requires* ~~shall be construed as requiring~~ competitive bids for health services involving examination, diagnosis, or treatment.

(18)~~(16)~~ CONSULTATION WITH COUNTIES ON MANDATED PROGRAMS.—It is the intent of the Legislature that when county governments are required by law to participate in the funding of programs, the department shall consult with designated representatives of county governments in developing policies and service delivery plans for those programs.

~~(17) DEPARTMENTAL MONITORING REQUIREMENTS.—~~

~~(a) The department shall complete, by January 1, 1992, an analysis of monitoring requirements for all programs of the department. This analysis shall consider the requirements imposed upon the department and contract service providers and shall include, but is not limited to, requirements imposed by statute, administrative rules, regulations, and policies. The department shall ensure that contract service providers are provided an opportunity to participate in the analysis. The purpose of the analysis is to identify duplicative or unnecessary requirements.~~

~~(b) The analysis of monitoring requirements shall include, but is not limited to, the following activities:~~

~~1. Licensure, certification, and other regulatory surveys.~~

~~2. Contract monitoring.~~

~~3. Financial auditing and compliance monitoring.~~

~~4. Outcome evaluation and program effectiveness.~~

~~5. Court-ordered compliance monitoring.~~

~~(c) The department shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairpersons of appropriate House and Senate committees, by January 1, 1992, a report of the analysis of monitoring requirements and a plan for the elimination or reduction of duplicative or unnecessary requirements. The plan shall include recommendations for statutory changes, if needed.~~

(19)~~(18)~~ OUTCOME EVALUATION AND PROGRAM EFFECTIVENESS.—

(a) It is the intent of the Legislature to:

1. Ensure that information be provided to decisionmakers so that resources are allocated to programs of the department ~~of Health and Rehabilitative Services~~ under the Children, Youth, and Families Program; Aging and Adult Services Program; Alcohol, Drug Abuse, and Mental Health Program; Developmental Services Program; Economic Services Program; Children's Medical Services Program; and Health Program that achieve desired performance levels.

2. Provide information about the cost of such programs and their differential effectiveness so that the quality of such programs can be compared and improvements made continually.

3. Provide information to aid in the development of related policy issues and concerns.

4. Provide information to the public about the effectiveness of such programs in meeting established goals and objectives.

5. Provide a basis for a system of accountability so that each client is afforded the best programs to meet his needs.

6. Improve service delivery to clients.

7. Modify or eliminate activities that are not effective.

(b) As used in this subsection, the term:

1. "Client" means any person who is being provided treatment or services by the department or by a provider under contract with the department.

2. "Outcome" means the condition or circumstances of the client after services or treatment have been provided and the extent of change in modifying or stabilizing the original condition or need that led to client services or treatment.

3. "Program component" means an aggregation of generally related objectives which, because of their special character, related workload, and interrelated output, can logically be considered an entity for purposes of organization, management, accounting, reporting, and budgeting.

4. "Program effectiveness" means the ability of the program to achieve desired client outcomes, goals, and objectives.

5. "Program office" means any program office under the Deputy Secretary for Human Services and all programs under the Deputy Secretary for Health.

(c) The department ~~of Health and Rehabilitative Services~~ shall:

1. Establish within the Children, Youth, and Families Program; Aging and Adult Services Program; Alcohol, Drug Abuse, and Mental Health Program; Developmental Services Program; Economic Services Program; Children's Medical Services Program; and Health Program a comprehensive system to annually measure and report client outcome and program effectiveness for each program that each program office operates or contracts. Client-outcome measures *are* ~~shall be~~ a required provision of all contracts entered into by the department with respect to the provision of services under the jurisdiction of the programs.

2.a. Provide operational definitions of and criteria for client outcome and program effectiveness for each specific program component, to include, but not be limited to, a definition of successful program completion.

b. The Children, Youth, and Families Program Office shall define and report recidivism in addition to the requirements of this section.

c. As appropriate, program offices under this section shall report clients who reenter services and treatment within 1 year *after* ~~of~~ release, discharge, or successful completion of a program.

3. Establish goals and objectives for each specific program component.

4. Establish the information and specific data elements required for the management of client-outcome measures.

5. Develop a program office-specific, standardized terminology and procedures manual to be followed by each program. The procedures shall include standard formats for the collection of data from the various program components with clearly defined documentation requirements.

6. Establish procedures for the continuous flow of client-outcome information.

7. Develop procedures to analyze client-outcome data in relation to program process.

8. Implement continuous longitudinal studies to determine the long-range effects of programs. The longitudinal studies shall track a cohort representative sample of clients at 5 years after their initial completion of a program. Whenever possible, longitudinal studies shall compare a representative sample of clients completing the program with a comparable cohort group that did not enter the program.

a. The Children, Youth, and Families Program Office shall determine the long-range effect of prevention, residential and nonresidential delinquency commitment programs, programs for dependent children, and programs for children in need of services and families in need of services.

b. The Aging and Adult Services Program Office shall determine the long-range effects of programs, including, but not limited to, programs that provide community services, in-home care, and other nonresidential services, to determine their effect in preventing residential placement.

c. The Alcohol, Drug Abuse, and Mental Health Program Office shall determine the long-range effects of programs, including, but not limited to, prevention, community-based programs, outpatient programs, inpatient programs, and nonresidential and residential programs for children and adults.

d. The Children's Medical Services Program Office shall determine the long-range effects of programs, including, but not limited to, prevention and early intervention programs, including infant metabolic screening, developmental evaluation, inpatient programs, and outpatient programs.

e. The Developmental Services Program Office shall determine the long-range effects of programs, including, but not limited to, prevention, early intervention, family support services, developmental training programs, community-based supported employment, and community residential programs.

f. The Economic Services Program Office shall determine the long-range effects of programs, including, but not limited to, programs that implement the provisions of the Family Support Act of 1988, Pub. L. No. 100-485, pursuant to s. 409.029.

g. The State Health Office shall determine the long-range effects of programs, including, but not limited to, maternal and child health; family planning; the Special Supplemental Food Program for Women, Infants, and Children; primary health care; dental health; communicable diseases; and environmental health.

9. Establish appropriate methodology and statistical analysis to ensure the reliability, validity, and utility of client-outcome data.

10. Establish appropriate interdistrict evaluation teams using private-sector experts to evaluate the quality of the services delivered by each program.

Each program office under this subsection shall submit an annual report to the Speaker of the House of Representatives, the President of the Senate, the Minority Leader of each house of the Legislature, the appropriate substantive and appropriations committees of each house of the Legislature, and the Governor, no later than December 31 of each calendar year, beginning December 31, 1992. The annual program-outcome report shall contain, at a minimum, for each specific program component, a comprehensive description of the population served by the program, a specific description of the services provided by the program, client-outcome measures, an assessment of program effectiveness, cost, a comparison of expenditures to federal and state funding, immediate and long-range concerns, the status or results of the longitudinal studies, and recommendations to maintain, expand, improve, modify, or eliminate each program component so that changes in services lead to enhancement in program quality. The department's Inspector General shall ensure the reliability and validity of the information contained in the report.

(d) The Auditor General shall periodically evaluate the client-outcome and program-effectiveness system to determine if the process is achieving the legislative intent of this section and shall prepare a report thereof, the initial report *to* ~~shall~~ be submitted on December 31, 1993, and a report *to* ~~shall~~ be submitted every 5 years thereafter to the persons specified in paragraph (c).

(20) INNOVATION ZONES.—The health and human services board may propose designation of an innovation zone for any experimental, pilot, or demonstration project that furthers the legislatively established goals of the department. An innovation zone is a defined geographic area such as a district, county, municipality, service delivery area, school campus, or neighborhood providing a laboratory for the research, development, and testing of the applicability and efficacy of model programs, policy options, and new technologies for the department.

(a)1. The district administrator shall submit a proposal for an innovation zone to the secretary. If the purpose of the proposed innovation zone is to demonstrate that specific statutory goals can be achieved more effectively by using procedures that require modification of existing rules, policies, or procedures, the proposal may request the secretary to waive or to otherwise authorize use of alternative procedures or practices. Such waivers must comply with applicable state or federal law.

2. For innovation zone proposals that the secretary determines require changes to state law, the secretary may submit proposed changes to state law to the chairmen of the appropriate legislative committees for consideration.

3. For innovation zone proposals that the secretary determines require waiver of federal law, the secretary may submit such waivers to the applicable federal agency.

(b) An innovation zone project may not have a duration of more than 2 years, but the secretary may grant an extension.

(c) The Statewide Health and Human Services Board, in conjunction with the secretary, shall develop a health and human services innovation transfer network for the purpose of providing information on innovation zone research and projects or other effective initiatives in health and human services to the health and human services boards established under subsection (7).

(d) Prior to implementing an innovation zone pursuant to the requirements of this subsection and chapter 216, the secretary shall, in conjunction with the Auditor General, develop measurable and valid objectives for such zone within a negotiated reasonable period of time. No more than fifteen innovative zones shall be in operation at any one time.

Section 4. (1) It is the intent of the Legislature, during the 1995 Regular Legislative Session, to review the extent to which the responsibilities listed in section 20.19(7), Florida Statutes, provide the health and human services boards with sufficient authority to ensure effective service integration within their communities. Additionally, it is the intent of the Legislature to increase the managerial authority of the boards to the maximum extent considered appropriate by the Legislature. Each district health and human services board shall submit a report to the Secretary of Health and Rehabilitative Services and the Legislature by August 1, 1994, containing at a minimum:

(a) The board's assessment of the adequacy of the current level of authority in providing the board the ability to ensure effective integration of service delivery in the district;

(b) The board's recommendations, if any, for increased responsibility or authority to direct and manage the service delivery operation of the district, including authority to appoint and terminate the district administrator and to execute contracts on behalf of the district;

(c) The board's assessment of the capacity of the board to perform the recommended responsibilities;

(d) The board's recommendations for any additional statutory changes that will improve or enhance the ability of the board to carry out its assigned or proposed duties; and

(e) The board's recommendations for the creation of additional districts including the designation of single populous counties as districts.

(2) Each district's report and recommendations shall also be submitted to each board of county commissioners and district school board in the district by August 1, 1994. The boards of county commissioners and district school boards may submit their assessments or recommendations concerning the report to the Secretary of Health and Rehabilitative Services and the Legislature.

(3) By November 15, 1994, the Secretary of Health and Rehabilitative Services and the Statewide Health and Human Services Board shall submit recommendations and proposed legislation to the Legislature for implementation of the proposals from the district and subdistrict health and human services boards. The report must include, but need not be limited to, an assessment of the capacity of the boards to assume the recommended level of management responsibility.

Section 5. Section 39.025, Florida Statutes, is amended to read:

39.025 Juvenile delinquency and gang prevention.—

(1) SHORT TITLE.—This section may be cited as the "Juvenile Delinquency and Gang Prevention Act of *1992* ~~1990~~."

(2) INTENT.—The Legislature recognizes that, despite the large investment of resources committed to address the needs of the criminal justice system of this state, the crime rate continues to increase, overcrowding the state's juvenile detention centers, jails, and prisons and placing the state in jeopardy of being unable to effectively manage these facilities. The economic cost of crime to the state continues to drain existing resources, and the cost to victims, both economic and psychological, is traumatic and tragic. The Legislature further recognizes that many adults in the criminal justice system were once delinquents in the juvenile justice system. The Legislature also recognizes that the most effective juvenile delinquency programs are programs that not only prevent children from entering the juvenile justice system, but also meet local community needs and have substantial community involvement and support. Therefore, it is the belief of the Legislature that one of the best investments of the scarce resources available to combat crime is in the prevention of delinquency with special emphasis on youth and street gang prevention. Juvenile involvement in gang activity is becoming more prevalent in certain areas of this state and continues to break down family and community support systems. The Legislature recognizes that youth and street gangs may best be viewed as a symptom of underlying social and economic problems that reach far beyond the usual alienation found in youth subcultures in urban areas. The existence of an urban underclass, with its attendant socially disorganized and fragmented living conditions, gives rise to many social pathologies, of which the gang problem is just one. Youth and street gangs are symptomatic of many of the same social and economic problems as adult crime: substance abuse, alcoholism, mental illness, homelessness, unemployment, and multigeneration "welfare families" living in hopelessness and despair. The lure of juveniles into gangs stems from many factors, including extensive geographic mobility, rapid urbanization and population growth, substantial pockets of poverty, unemployment, increasing rates of dropouts and expulsions, a rich racial and ethnic mix, and a transient population of youth. Consequently, it is the intent of the Legislature to authorize each of the twenty judicial circuits throughout the state to establish a comprehensive delinquency prevention plan, including gang prevention where appropriate. It is further the intent of the Legislature that cooperative agreements be developed among counties within those circuits and public and private agencies to implement such plans through effective local programs aimed at reducing juvenile crime and gangs and increasing the number of juveniles engaged in positive alternatives to crime.

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

(a) "Delinquency prevention programs" means programs designed for the purpose of reducing delinquent acts, including youth and street gang activity, and juvenile arrests. The term *includes* ~~excludes~~ diversionary or mediation programs and community service work or other treatment available subsequent to the *commission* ~~commitment~~ of a delinquent act.

(b) "Department" means the Department of Health and Rehabilitative Services.

(c) "District administrator" includes each district administrator of a district within a circuit.

(d)~~(c)~~ "Circuit" means any of the twenty judicial circuits as set forth in s. 26.021.

(4) JUVENILE DELINQUENCY AND GANG PREVENTION COUNCILS.—

(a) Each circuit may establish a juvenile delinquency and gang prevention council composed of at least 10 members, at least three of whom shall be minorities; provided, however, that more than one council may be designated in circuits in which one or more counties designate an existing body as this council. *The term "minorities," as used in this section, means members of socially or economically disadvantaged groups*

including blacks, Hispanics, and Native Americans. In such a case, each designated body shall be eligible for grants and available funding for support staff. The Department of Health and Rehabilitative Services district administrator or his designee, who shall be a supervisory level employee of the department, shall serve as a member and shall appoint members representing child advocates in the community, business leaders, parents, and a student attending high school. The council shall also include the following representatives: a law enforcement official appointed by the police chief or sheriff, *an assistant* a state attorney *assigned to juvenile court* appointed by the *state attorney* ~~Prosecuting Attorneys Association~~, *an assistant* a public defender *assigned to juvenile court* appointed by the *public defender* ~~Public Defenders Association~~, *two persons employed by a local school district appointed by the district administrator,* and a circuit judge appointed by the chief judge of the circuit. ~~Each council shall organize immediately after the members are appointed to elect one of its members as chairman and one of its members as vice chairman, and to elect other officers as deemed necessary by the council. Each such council shall establish bylaws providing for the length of term of its members.~~ However, those circuits which already have in operation a council of similar composition may designate the existing body as the juvenile delinquency and gang prevention council for the purpose of this section.

(b) The purposes of each juvenile delinquency and gang prevention council are to develop a delinquency prevention plan which meets the needs of each of the local communities in the circuit, *to advise the district administrator and the health and human services board on prevention and diversion programs in the circuit,* to approve juvenile delinquency and gang prevention program grant applications, and to act in an advisory capacity to each of the juvenile delinquency and gang prevention programs under such plan. The councils shall consult and coordinate efforts with the Governor's Juvenile Justice and Delinquency Prevention Advisory Committee. *Any council in a circuit which includes more than one district shall consult and coordinate efforts with each of the district administrators and the appropriate health and human services board.*

(c) Each gang prevention council has the following powers and duties:

1. Develop and implement a delinquency prevention plan and an advisory plan for the provision and coordination of delinquency programs and services to meet the needs of the communities represented in the judicial circuit.

2. Advise and assist the district administrator in the provision of optional, innovative delinquency services in the judicial circuit to meet the unique needs of delinquent children.

3. Develop, in consultation with the district administrator, funding sources external to the department for the provision and maintenance of additional programs and services in the circuit for delinquent children and their families. The gang prevention council may apply for and receive funds, under contract or other funding arrangement, from federal, state, county, city, and other public agencies, and from public and private foundations, agencies, and charities for the purpose of funding optional, innovative prevention, diversion, or treatment services in the circuit to meet the unique needs of delinquent children.

4. Contract with city, county, or other public agencies or private entities for the provision and maintenance of optional, innovative additional prevention and diversion programs and services in the circuit for delinquent children and their families, in consultation with the district administrator. In contracting with public and private entities, the gang prevention council may use any funds available to it, including, but not limited to, funds raised external to the department. Departmental funds available to the gang prevention council shall be coordinated with and subject to the health and human services board. The gang prevention council shall actively solicit proposals for new contract and purchase of service programs and services from community organizations, associations, and groups representing the racial and ethnic mix of the community which is being served.

5. Make, through the office of the district administrator, annual financial audits of the records and accounts, and annual performance audits of the operations, of each grant, contract, and purchase of service agreement entered into between the gang prevention council and any public or private entity to carry out any purpose or responsibility of the department, and of each juvenile delinquency and gang prevention program grant awarded by the department.

6. Collect information and statistical data helpful in assessing the need for delinquent children services in the circuit.

7. Consult and coordinate with other circuits and agencies dedicated to the provision of delinquent children services in order to ensure availability of sufficient services and prevent overlapping of services.

8. Review the annual budget for the circuit and make recommendations to the district administrator and the health and human services board concerning the budget for prevention, diversion, and treatment services in the circuit.

9. Meet at least quarterly and convene special meetings at the call of the chair or the district administrator.

10. Advise, assist, and approve juvenile delinquency and gang prevention program grants submitted by the local public or private entities for department funds. The council shall send a letter from the chair to the department confirming that the grant application meets the circuit council delinquency prevention plan.

(d) Each gang prevention council is an agency of the state and serves the department. Each gang prevention council is subject to chapter 120.

(e) Each gang prevention council shall:

1. Immediately after the members are appointed, elect a chair and a vice chair from among its members, and elect other officers as deemed necessary by the council. The district administrator or his designee may not serve as the chair, vice chair, or other officer.

2. Immediately after the members are appointed and officers are elected, identify and assess the needs of delinquent children and their families in the circuit served by the council and submit to the district administrator a written description of:

a. The services to be provided; the anticipated schedule for providing those services; the manner in which the services are to be provided, including a description of arrangements and agreements to be made with community organizations, state and local educational agencies, federal agencies, public assistance agencies, the juvenile courts, foster care agencies, and other applicable public and private agencies and organizations.

b. The strategy to be used for interagency coordination to maximize existing human and fiscal resources.

3. Make and adopt bylaws and rules for the operation of the council, provided such bylaws and rules are not inconsistent with federal or state laws or county ordinances. The bylaws and rules must be submitted to the district administrator for approval.

4. Provide an annual written report to the district administrator and the health and human services board no later than October 1. The annual report must contain, but is not limited to, the following information: information on the effectiveness of delinquent children services in the circuit, including cost-effectiveness; detailed information on the various programs, services, and activities available in the circuit and the degree to which the programs, services, and activities have been successfully used; information on programs, services, and activities that should be eliminated, continued, or added with respect to services in the circuit for delinquent children and their families.

(f) Members of each gang prevention council shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061.

(5) DELINQUENCY PREVENTION PLAN; PROGRAMS; GRANTS.—

(a) A delinquency prevention plan is authorized in each circuit for the purpose of reducing delinquent acts, juvenile arrests, and gang activity. Juvenile delinquency and gang prevention programs under such plan shall be administered by the Department of Health and Rehabilitative Services in cooperation with other appropriate governmental organizations and public and private agencies. A juvenile delinquency and gang prevention program under this section may be planned, implemented, and conducted in any circuit pursuant to a proposal developed and approved as specified in subsection (6).

(b) Delinquency prevention plans that include youth and street gang

prevention should be developed from a proactive policy stance regarding juveniles involved in gangs. Law enforcement must be active and aggressive against gang leaders and hard-core gang members by utilizing special gang units, centralized efforts, and statewide intelligence. Intervention programs must be used to initiate prevention efforts directed at marginal and potential gang members through the public school system, community centers, and a variety of outreach projects and other programs. Florida needs a well-balanced and well-coordinated approach to effectively discourage gang activity and disband youth and street gangs in this state. Youth and street gang prevention requires the centralization of four major gang control functions: intelligence, prevention, enforcement, and investigation. Special law enforcement units shall initiate close cooperation with the schools, the courts, the state attorney offices, state agencies, and community programs. School boards must develop clear policies illustrating that their first obligation is to ensure an environment conducive to learning and free from intimidation and assault. Urban communities must reestablish strong neighborhood-based centers and programs to tie the residents of inner city areas together in the pursuit of their common concerns and rebuild a sense of community and collective responsibility. Primary prevention efforts must address economic opportunity as well as neighborhood and family social structure.

(c) The gang prevention council may use public hearings and other appropriate processes to solicit input regarding the development and updating of the delinquency prevention plan. Input may be provided by parties which include, but are not limited to:

1. Local level public and private service providers, advocacy organizations, and other organizations working with delinquent children.

2. County and municipal governments.

3. State agencies that provide services to delinquent children.

4. University youth centers.

5. Judges, state attorneys, public defenders, and The Florida Bar.

6. Victims of crimes committed by children.

7. Law enforcement.

8. Delinquent children and their families and caregivers.

The gang prevention council must develop its delinquency prevention plan in close cooperation with the health and human services board, local school districts, and with local law enforcement in order to maximize services for delinquent children. The gang prevention council must update the delinquency prevention plan for delinquent children policies and programs every year.

(d)~~(c)~~ Beginning with the 1990-1991 fiscal year, from funds specifically appropriated by the Legislature for this purpose, the Department of Health and Rehabilitative Services is authorized and directed to award grants on a competitive basis to local public or private entities interested in implementing juvenile delinquency and gang prevention programs. Such grants shall be awarded pursuant to subsection (6).

(6) GRANT APPLICATION PROCEDURES.—

(a) Each entity wishing to apply for an annual juvenile delinquency and gang prevention program grant, which may be renewed for up to 2 additional years, shall submit a grant proposal for funding or continued funding to the Department of Health and Rehabilitative Services by December 1, 1990, and by May 1 every year thereafter. The department shall establish the grant application procedures, giving priority consideration to proposals which include a youth and street gang prevention component. In order to be considered for funding, the grant proposal shall include the following assurances and information:

1. A letter from the chairman of the juvenile delinquency and gang prevention council of the circuit confirming that the grant application has been reviewed and approved and that it conforms to the circuit's delinquency prevention plan as developed by the council.

2. A rationale and description of the program and the services to be provided, including goals and objectives.

3. A method for identification of the juveniles at risk of involvement in the juvenile justice system who will be the focus of the program.

4. Provisions for the participation of parents and guardians in the program.

5. Coordination with other community-based and social service prevention efforts such as drug and alcohol abuse prevention, dropout prevention, and child abuse prevention, including hot lines and volunteers that serve the target neighborhood.

6. An evaluation component to measure the effectiveness of the program in accordance with the provisions of s. 20.19.

7. A program budget, including the amount of local resources committed to the budget.

8. The necessary program staff.

(b) The department shall consider the following in awarding such grants:

1. The number of juvenile arrests within the geographical area to be served by the program. Those geographical areas with the highest number of juvenile arrests shall have priority for selection.

2. The extent to which the program targets high juvenile crime neighborhoods and those public schools serving juveniles from high crime neighborhoods.

3. The validity and cost-effectiveness of the program.

4. The degree to which the program is located in and managed by local leaders of the target neighborhoods and public schools serving the target neighborhoods.

5. The extent to which the program complements any project approved for funding under the Safe Neighborhoods Act pursuant to chapter 87-243, Laws of Florida.

(c) The department shall make available to anyone wishing to apply for such a grant information on all of the criteria to be used by the department in the selection of the proposals for funding pursuant to the provisions of this subsection.

(d) The department shall review all program proposals submitted. Entities submitting proposals shall be notified of approval by March 2, 1991, for the 1990-1991 fiscal year and by September 1 of every fiscal year thereafter.

(e) Each entity which is awarded a grant as provided for in this section shall submit an annual evaluation report to the *district administrator, the health and human services board,* ~~department~~ and the chairman of the juvenile delinquency and gang prevention council, by a date subsequent to the end of the contract period established by the department, documenting the extent to which the program objectives have been met, the effect of the program on the juvenile arrest rate, and any other information required by the department. The department shall coordinate and incorporate all such annual evaluation reports with the provisions of s. 20.19. *Each entity is also subject, pursuant to subparagraph (4)(c)5., to a financial audit and a performance audit.*

(f) The department is authorized to establish rules and policy provisions necessary to implement the provisions of this section.

(7) RESTRICTIONS.—Nothing in this section shall be construed to prevent a program initiated under a delinquency prevention plan established pursuant to this section from continuing to operate beyond the 3-year maximum funding period if it can find other funding sources. Likewise, nothing in this section shall be construed to restrict the number of programs an entity may apply for or operate.

Section 6. Subsection (1) of section 39.056, Florida Statutes, is amended to read:

39.056 Early delinquency intervention program criteria.—

(1) A copy of the arrest report of any child 14 years of age or younger who is taken into custody for committing a delinquent act or any violation of law shall be forwarded to the local *Delinquency Services* ~~Children, Youth, and Families~~ Program Office of the department. Upon receiving the second arrest report of any such child from the judicial circuit in which the program is located, the department shall initiate an intensive review of the child's social and educational history to determine the likelihood of further significant delinquent behavior. In making this determination, the department shall consider, without limitation, the following factors:

(a) Any prior allegation that the child is dependent or a child in need of services.

(b) The physical, emotional, and intellectual status and developmental level of the child.

(c) The child's academic history, including school attendance, school achievements, grade level, and involvement in school-sponsored activities.

(d) The nature and quality of the child's peer group relationships.

(e) The child's history of substance abuse or behavioral problems.

(f) The child's family status, including the capability of the child's family members to participate in a family-centered intervention program.

(g) The child's family history of substance abuse or criminal activity.

(h) The supervision that is available in the child's home.

(i) The nature of the relationship between the parents and the child and any siblings and the child.

Section 7. Subsection (1) of section 393.11, Florida Statutes, is amended to read:

393.11 Involuntary admission to residential services.—

(1) JURISDICTION.—When a person is mentally retarded and requires involuntary admission to residential services provided by the developmental services program of the Department of Health and Rehabilitative Services, the circuit court of the county in which the person resides shall have jurisdiction to conduct a hearing and enter an order involuntarily admitting the person in order that the person may receive the care, treatment, habilitation, and rehabilitation which the person needs. For the purpose of identifying mental retardation, diagnostic capability shall be established in every program function of the department in the districts, including, but not limited to, programs provided by children~~, youth,~~ and families; *delinquency services;* alcohol, drug abuse, and mental health; and economic services, and by the Division of Vocational Rehabilitation of the Department of Labor and Employment Security. Except as otherwise specified, the proceedings under this section shall be governed by the Florida Rules of Civil Procedure.

Section 8. Section 409.146, Florida Statutes, is amended to read:

409.146 Children~~, youth,~~ and families *and delinquency services* client and management information system.—

(1) The Department of Health and Rehabilitative Services shall establish a children~~, youth,~~ and families *and delinquency services* client and management information system which shall provide information concerning children served by the department's children~~, youth,~~ and families *and delinquency services* programs.

(2) The children~~, youth,~~ and families *and delinquency services* client and management information system shall provide, at a minimum, an integrated service delivery information system to implement comprehensive screening, uniform assessment, case planning, monitoring, resource matching, and outcome evaluations for all of the following program services categories and related program components as defined in s. 20.19:

(a) Prevention and diversion services.

(b) Families in need of services and children in need of services.

(c) Child welfare services.

(d) Delinquency services.

(e) Child care services.

(3) The system shall be designed to promote efficient and effective use of resources and accountability designed to provide the most appropriate, least restrictive services for all clients in the department's children~~, youth,~~ and families *and delinquency services* programs. It shall contain, at a minimum, that information deemed to be essential for ongoing administration of service delivery and outcome evaluation systems, as well as for the purpose of management decisions.

(4) The system shall be operated in such a manner as to facilitate the service delivery goals of the children receiving the children~~, youth,~~ and families *and delinquency services* programs and services.

(5) The department shall employ accepted current system development methodology to determine the appropriate design and contents of the system, as well as the most rapid feasible implementation schedule as outlined in the department's information resources management operational plan.

(6) The department shall aggregate, on a quarterly and an annual basis, the information and statistical data of the children~~, youth,~~ and families *and delinquency services* client and management information system into a descriptive report and shall disseminate the quarterly and annual reports to interested parties, including substantive committees of the House of Representatives and the Senate.

(7) Whenever feasible, the system shall have on-line computers and shall be available for data entry and retrieval at the department's unit level of organization by program component counselors.

(8) Children~~, youth,~~ and families *and delinquency services* program staff responsible for services shall be trained in the use of the system.

(9) The department shall expedite the completion of all phases of planning, development, and operation of the children~~, youth,~~ and families *and delinquency services* client and management information system. ~~The planning phase shall be completed no later than July 1, 1991.~~ The development phase shall be completed no later than July 1, 1993. The operational phase shall be completed no later than July 1, 1994. The children~~, youth,~~ and families *and delinquency services* client and management information system shall be in place and operational no later than July 1, 1994. The department shall provide an annual report to the Joint Information Technology Resources Committee. The committee shall review the report and shall forward the report, along with its comments, to the appropriate substantive and appropriations committees of the House of Representatives and the Senate delineating the development status of the system and other information necessary for funding and policy formulation. In developing the system, the department shall consider and report on the availability of, and the costs associated with using, existing software and systems, including, but not limited to, those that are operational in other states, to meet the requirements of this section. The department shall also consider and report on the compatibility of such existing software and systems with the department's integrated management information system. The report shall be submitted no later than December 1 of each year.

Section 9. Section 409.152, Florida Statutes, is created to read:

409.152 Service integration and family preservation.—

(1) The Legislature intends to further the goal of family preservation through a family-centered services constellation. District goals and objectives must be consistent with this statewide policy.

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

(a) "Family preservation service integration plan" means a plan that integrates the duties, responsibilities, and programs for meeting the needs of families and children in a manner designed to strengthen families before more intrusive services are required. The plan shall be designed to prevent family dissolution, reduce inappropriate and lengthy placement of children in out-of-home settings, and reduce dependency of a family on intrusive government programs and services.

(b) "Family-centered services constellation" means a delivery system in which the needs of the child and family are at its core and which integrates services and programs offered by various program offices of the department, other departments of state government, units of local government, and public and private agencies.

(3) Each service district of the department shall develop a family preservation service integration plan that identifies various programs that can be organized at the point of service delivery into a logical and cohesive family-centered services constellation. The plan shall include:

(a) Goals and objectives for integrating services for families and avoiding barriers to service intergration, procedures for centralized intake and assessment, a comprehensive service plan for each family, and an evaluation method of program outcome.

(b) Recommendations for proposed changes to fiscal and substantive policies, regulations, and laws at local, district, and state delivery levels, including budget and personnel policies; purchasing flexibility and workforce incentives; discretionary resources; and incentives to reduce dependency on government programs and services.

(c) Strategies for creating partnerships with the community, clients, and consumers of services which establish, maintain, and preserve family units.

(4) Based on the district plans, the department shall develop a statewide family preservation integration plan.

(5) In developing the state and district plans, the department shall encourage the participation of a broad spectrum of groups and individuals including clients and consumers.

(6) District health and human services boards are encouraged to designate family preservation programs within their district which provide a laboratory for demonstrating the provision of a family-centered constellation of services in a coordinated, cohesive, family-friendly, and integrated manner. The programs shall be funded out of existing resources. In order to encourage expermentation and inovation, the health and human services board may apply to the secretary for waiver of or modification of any policy or procedure, including a budget, personnel, and purchasing policy, which impedes implementation of services, if the waiver or modification does not interfere with the substantive or procedural rights of clients or violate federal or state law.

(7) On or before September 1, 1993, and annually thereafter, the department shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the appropriate substantive committees of the Senate and the House of Representatives a copy of the state and district plans described in this section and the results or accomplishments of any district family preservation programs established by the health and human services boards.

Section 10. Subsection (5) of section 381.702, Florida Statutes, is amended to read:

381.702 Definitions.—As used in ss. 381.701-381.715, the term:

(5) "District" means a *health* service *planning* district *composed of the following counties:* ~~of the department as established in s. 20.19(7).~~

District 1.—Escambia, Santa Rosa, Okaloosa, and Walton Counties.

District 2.—Holmes, Washington, Bay, Jackson, Franklin, Gulf, Gadsden, Liberty, Calhoun, Leon, Wakulla, Jefferson, Madison, and Taylor Counties.

District 3.—Hamilton, Suwannee, Lafayette, Dixie, Columbia, Gilchrist, Levy, Union, Bradford, Putnam, Alachua, Marion, Citrus, Hernando, Sumter, and Lake Counties.

District 4.—Baker, Nassau, Duval, Clay, St. Johns, Flagler, and Volusia Counties.

District 5.—Pasco and Pinellas Counties.

District 6.—Hillsborough, Manatee, Polk, Hardee, and Highlands Counties.

District 7.—Seminole, Orange, Osceola, and Brevard Counties.

District 8.—Sarasota, DeSoto, Charlotte, Lee, Glades, Hendry, and Collier Counties.

District 9.—Indian River, Okeechobee, St. Lucie, Martin, and Palm Beach Counties.

District 10.—Broward County.

District 11.—Dade and Monroe Counties.

Section 11. Subsections (1) and (11) of section 394.67, Florida Statutes, are amended to read:

394.67 Definitions.—When used in this part, unless the context clearly requires otherwise, the term:

(1) "Advisory council" means a district advisory council ~~as created by s. 20.19(8)~~.

(11) "Service district" means a community service district as established by the department pursuant to s. 20.19*(6)*~~(7)(a)~~ for the purpose of providing community alcohol, drug abuse, and mental health services.

Section 12. Subsection (1) of section 396.1818, Florida Statutes, is amended to read:

396.1818 Juvenile substance abuse prevention and early intervention councils.—

(1) Each judicial circuit as set forth in s. 26.021 may establish a juvenile substance abuse prevention and early intervention council composed of at least 12 members to include representatives from law enforcement, the Department of Health and Rehabilitative Services, school districts, state attorney and public defender offices, the circuit court, the religious community, alcohol and drug abuse treatment professionals, child advocates from the community, business leaders, parents, and a child attending high school. However, those circuits which already have in operation a council of similar composition may designate the existing body as the juvenile substance abuse prevention and early intervention council for the purpose of this section. Each such council shall establish bylaws providing for the length of term of its members. The district administrator as defined in s. 20.19*(9)*~~(7)(b)~~ and the chief judge of the circuit court shall each appoint six members of the council. The district administrator shall appoint a representative from the Department of Health and Rehabilitative Services, a school district representative, an alcohol or drug abuse treatment professional, a child advocate, a parent, and a high school student. The chief judge of the circuit court shall appoint a business leader and representatives from the state attorney's office, the public defender's office, the religious community, the circuit court, and law enforcement.

Section 13. Subsection (1) of section 397.217, Florida Statutes, is amended to read:

397.217 Juvenile substance abuse prevention and early intervention councils.—

(1) Each judicial circuit as set forth in s. 26.021 may establish a juvenile substance abuse prevention and early intervention council composed of at least 12 members to include representatives from law enforcement, the Department of Health and Rehabilitative Services, school districts, state attorney and public defender offices, the circuit court, the religious community, alcohol and drug abuse treatment professionals, child advocates from the community, business leaders, parents, and a child attending high school. However, those circuits which already have in operation a council of similar composition may designate the existing body as the juvenile substance abuse prevention and early intervention council for the purpose of this section. Each such council shall establish bylaws providing for the length of term of its members. The district administrator as defined in s. 20.19*(9)*~~(7)(b)~~ and the chief judge of the circuit court shall each appoint six members of the council. The district administrator shall appoint a representative from the Department of Health and Rehabilitative Services, a school district representative, an alcohol or drug abuse treatment professional, a child advocate, a parent, and a high school student. The chief judge of the circuit court shall appoint a business leader and representatives from the state attorney's office, the public defender's office, the religious community, the circuit court, and law enforcement.

Section 14. Subsection (1) of section 402.165, Florida Statutes, is amended to read:

402.165 Statewide Human Rights Advocacy Committee.—

(1) There is created within the Department of Health and Rehabilitative Services a Statewide Human Rights Advocacy Committee. The Department of Health and Rehabilitative Services shall provide administrative support and service to the committee to the extent requested by the executive director within available resources. The Statewide Human Rights Advocacy Committee shall not be subject to control, supervision, or direction by the Department of Health and Rehabilitative Services in the performance of its duties. The committee shall consist of *15* ~~11~~ citizens, one from each service district of the Department of Health and Rehabilitative Services, who broadly represent the interests of the public and the clients of that department. The members shall be representative of five groups of citizens as follows: one elected public official; *two providers* ~~one provider~~ who *deliver* ~~delivers~~ services or programs to clients of the Department of Health and Rehabilitative Services; *four* ~~three~~ nonsalaried representatives of nonprofit agencies or civic groups; *four* ~~three~~ representatives of health and rehabilitative services consumer groups who are currently receiving, or have received, services from the Department of Health and Rehabilitative Services within the past 4 years, at least one of whom must be a consumer; and *four* ~~three~~ residents of the state who do not represent any of the foregoing groups, two of whom represent health-related professions and *two* ~~one~~ of whom *represent* ~~represents~~ the legal profession. In appointing the representatives of the health-related professions, the appointing authority shall give priority of consideration

to a physician licensed under chapter 458 or chapter 459; and, in appointing the *representatives* ~~representative~~ of the legal profession, the appointing authority shall give priority of consideration to a member in good standing of The Florida Bar. Except for the member who is an elected public official, each member of the Statewide Human Rights Advocacy Committee must have served as a member of a district human rights advocacy committee. Persons related to each other by consanguinity or affinity within the third degree may not serve on the Statewide Human Rights Advocacy Committee at the same time.

Section 15. Subsection (3) of section 410.023, Florida Statutes, is amended to read:

410.023 Definitions.—As used in this act:

(3) "District" means a specified, geographic service area, as defined in s. 20.19*(6)*~~(7)(a)~~, in which the programs of the department are administered and services are delivered.

Section 16. Subsection (3) of section 410.603, Florida Statutes, is amended to read:

410.603 Definitions.—As used in ss. 410.601-410.606:

(3) "District" means a specified geographic service area, as defined in s. 20.19*(6)*~~(7)(a)~~, in which the programs of the department are administered and services are delivered.

Section 17. Subsection (2) of section 415.602, Florida Statutes, is amended to read:

415.602 Definitions of terms used in ss. 415.601-415.608.—As used in ss. 415.601-415.608, the term:

(2) "District" means a service district of the department as created in s. 20.19*(6)*.

Section 18. Subsection (3) of section 420.621, Florida Statutes, is amended to read:

420.621 Definitions.—As used in ss. 420.621-420.627, the following terms shall have the following meanings, unless the context otherwise requires:

(3) "District" means a service district of the Department of Health and Rehabilitative Services, as set forth in s. 20.19*(6)*~~(7)~~.

Section 19. Effective July 30, 1994, section 394.715, Florida Statutes, is repealed.

Section 20. Paragraphs (b) and (f) of subsection (1) of section 316.1932, Florida Statutes, are amended to read:

316.1932 Breath, blood, and urine tests for alcohol, chemical substances, or controlled substances; implied consent; right to refuse.—

(1)

(b)1. The percent of alcohol in the blood shall be based upon grams of alcohol per 100 milliliters of blood when analyzing blood, or upon grams of alcohol per 210 liters of breath when analyzing breath.

2. An analysis of a person's breath, in order to be considered valid under this section, must have been performed substantially according to methods approved by the Department of *Law Enforcement* ~~Health and Rehabilitative Services~~. For this purpose, the department is authorized to approve satisfactory techniques or methods. Any insubstantial differences between approved techniques and actual testing procedures in any individual case *does* ~~shall~~ not render the test or test results invalid.

(f)1. The tests determining the weight of alcohol in the defendant's blood or breath shall be administered at the request of a law enforcement officer substantially in accordance with rules and regulations *that* ~~which shall~~ have been adopted by the Department of *Law Enforcement* ~~Health and Rehabilitative Services~~. Such rules and regulations shall be adopted after public hearing, shall specify precisely the test or tests *that* ~~which~~ are approved by the Department of *Law Enforcement* ~~Health and Rehabilitative Services~~ for reliability of result and facility of administration, and shall provide an approved method of administration which shall be followed in all such tests given under this section. However, the failure of a law enforcement officer to request the withdrawal of blood *does* ~~shall~~ not affect the admissibility of a test of blood withdrawn for medical purposes.

2. Only a physician, certified paramedic, registered nurse, licensed practical nurse, other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory director, supervisor, technologist, or technician, acting at the request of a law enforcement officer, may withdraw blood for the purpose of determining the alcoholic content thereof or the presence of chemical substances or controlled substances therein. However, the failure of a law enforcement officer to request the withdrawal of blood *does* ~~shall~~ not affect the admissibility of a test of blood withdrawn for medical purposes.

3. The person tested may, at his own expense, have a physician, registered nurse, other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory director, supervisor, technologist, or technician, or other person of his own choosing administer a test in addition to the test administered at the direction of the law enforcement officer for the purpose of determining the amount of alcohol in his blood or breath or the presence of chemical substances or controlled substances at the time alleged, as shown by chemical analysis of his blood or urine, or by chemical or physical test of his breath. The failure or inability to obtain an additional test by a person *does* ~~shall~~ not preclude the admissibility in evidence of the test taken at the direction of the law enforcement officer.

4. Upon the request of the person tested, full information concerning the test taken at the direction of the law enforcement officer shall be made available to him or his attorney.

5. No hospital, clinical laboratory, medical clinic, or similar medical institution or physician, certified paramedic, registered nurse, licensed practical nurse, other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory director, supervisor, technologist, or technician, or other person assisting a law enforcement officer shall incur any civil or criminal liability as a result of the withdrawal or analysis of a blood or urine specimen, or the chemical or physical test of a person's breath pursuant to accepted medical standards when requested by a law enforcement officer, regardless of whether or not the subject resisted administration of the test.

Section 21. Paragraph (b) of subsection (2) of section 316.1933, Florida Statutes, is amended to read:

316.1933 Blood test for impairment or intoxication in cases of death or serious bodily injury; right to use reasonable force.—

(2)

(b) A chemical analysis of the person's blood to determine the alcoholic content thereof must have been performed substantially in accordance with methods approved by the Department of *Law Enforcement* ~~Health and Rehabilitative Services~~ and by an individual possessing a valid permit issued by the department for this purpose. The Department of *Law Enforcement* ~~Health and Rehabilitative Services~~ may approve satisfactory techniques or methods, ascertain the qualifications and competence of individuals to conduct such analyses, and issue permits *that are* ~~which will be~~ subject to termination or revocation at the discretion of the department.

Section 22. Subsections (3) and (5) of section 316.1934, Florida Statutes, are amended to read:

316.1934 Presumption of impairment; testing methods.—

(3) A chemical analysis of a person's blood to determine alcoholic content or a chemical or physical test of a person's breath, in order to be considered valid under ~~the provisions of~~ this section, must have been performed substantially in accordance with methods approved by the Department of *Law Enforcement* ~~Health and Rehabilitative Services~~ and by an individual possessing a valid permit issued by the department for this purpose. Any insubstantial differences between approved techniques and actual testing procedures in any individual case *does* ~~shall~~ not render the test or test results invalid. The Department of *Law Enforcement* ~~Health and Rehabilitative Services~~ may approve satisfactory techniques or methods, ascertain the qualifications and competence of individuals to conduct such analyses, and issue permits *that are* ~~which shall be~~ subject to termination or revocation in accordance with rules adopted by the department.

(5) An affidavit containing the results of any test of a person's blood or breath to determine its alcohol content, as authorized by s. 316.1932 or s. 316.1933, *is* ~~shall be~~ admissible in evidence under the exception to the hearsay rule in s. 90.803(8) for public records and reports. Such affi-

davit *is* ~~shall be~~ admissible without further authentication and *is* ~~shall be~~ presumptive proof of the results of an authorized test to determine alcohol content of the blood or breath if the affidavit discloses:

(a) The type of test administered and the procedures followed;

(b) The time of the collection of the blood or breath sample analyzed;

(c) The numerical results of the test indicating the alcohol content of the blood or breath;

(d) The type and status of any permit issued by the Department of *Law Enforcement* ~~Health and Rehabilitative Services~~ that was held by the person who performed the test; and

(e) If the test was administered by means of a breath testing instrument, the date of performance of the most recent required maintenance on such instrument.

The Department of *Law Enforcement* ~~Health and Rehabilitative Services~~ shall provide a form for the affidavit. Admissibility of the affidavit *does* ~~shall~~ not abrogate the right of the person tested to subpoena the person who administered the test for examination as an adverse witness at a civil or criminal trial or other proceeding.

Section 23. Paragraphs (a) and (b) of subsection (3) of section 322.63, Florida Statutes, are amended to read:

322.63 Alcohol or drug testing; commercial motor vehicle operators.—

(3)(a) The physical and chemical tests authorized in this section shall be administered substantially in accordance with rules adopted by the Department of *Law Enforcement* ~~Health and Rehabilitative Services~~. Such rules shall be adopted after public hearing, shall specify the tests that are approved, and shall provide an approved method of administration.

(b) The Department of *Law Enforcement* ~~Health and Rehabilitative Services~~ is authorized to approve techniques or methods for administering such physical and chemical tests. Any insubstantial differences between approved techniques and actual testing procedures in any individual case *does* ~~shall~~ not render the test or tests results invalid.

Section 24. Subsection (3) of section 327.354, Florida Statutes, is amended to read:

327.354 Presumption of impairment; testing methods.—

(3) A chemical analysis of a person's blood to determine its alcoholic content or a chemical or physical analysis of a person's breath, in order to be considered valid under the provisions of this section, must have been performed substantially in accordance with methods approved by the Department of *Law Enforcement* ~~Health and Rehabilitative Services~~ and by an individual possessing a valid permit issued by the department for this purpose. Any insubstantial differences between approved techniques and actual testing procedures in an individual case shall not render the test or test results invalid. The Department of *Law Enforcement* ~~Health and Rehabilitative Services~~ may approve satisfactory techniques or methods, ascertain the qualification and competence of individuals to conduct such analyses, and issue permits which shall be subject to termination or revocation in accordance with rules adopted by the department.

Section 25. All personnel, unexpended balances of appropriations, materials, files, records, data, equipment, and supplies, including equipment and supplies purchased with federal grant moneys, used by the Department of Health and Rehabilitative Services on the effective date of this act in approving tests for determining the presence of alcohol and controlled substances and in issuing permits under sections 316.1932, 316.1933, 316.1934, 322.63, and 327.354, Florida Statutes, are transferred to the Department of Law Enforcement.

Section 26. Subsection (1) of section 316.1938, Florida Statutes, is amended to read:

316.1938 Ignition interlock devices, certification; warning label.—

(1) The Department of *Highway Safety and Motor Vehicles* ~~Health and Rehabilitative Services~~ shall certify or cause to be certified the accuracy and precision of the breath-testing component of the ignition interlock devices as required by s. 316.1937, and shall publish a list of approved devices, together with rules governing the accuracy and precision of the breath-testing component of such devices as adopted by rule in compliance with s. 316.1937. The cost of certification shall be borne by the manufacturers of ignition interlock devices.

Section 27. Section 483.021, Florida Statutes, is amended to read:

483.021 Declaration of policy and statement of purpose.—The purpose of this part is to protect the public health, safety, and welfare of the people of this state from the hazards of improper performance by clinical laboratories. Clinical laboratories provide essential services to practitioners of the healing arts by furnishing vital information which is essential to a determination of the nature, cause, and extent of the condition involved. Unreliable and inaccurate reports may cause unnecessary anxiety, suffering, financial burdens, and even contribute directly to death. The protection of public and individual health requires licensure of clinical laboratories and ~~certain of their employees,~~ the meeting of certain minimum standards, as well as certain other necessary safeguards as authorized by this part.

Section 28. Section 483.031, Florida Statutes, is amended to read:

483.031 Application of chapter; exemptions.—This part applies to all clinical laboratories ~~and clinical laboratory personnel~~ within this state, except:

(1) Clinical laboratories operated by the United States Government.

(2) A clinical laboratory operated by five or less duly licensed practitioners of the healing arts exclusively in connection with the diagnosis and treatment of their own patients. However, if any referred work is received in the clinical laboratory or if any clinical laboratory work is done for patients referred by another practitioner, all provisions of this part shall apply. This exemption does not apply to a clinical laboratory operated by a practitioner of the healing arts who holds himself and the facilities of his laboratory out as available for the performance of diagnostic tests for other practitioners or their patients.

(3) Laboratories operated and maintained exclusively for research and teaching purposes, involving no patient or public health service whatsoever.

Section 29. Section 483.051, Florida Statutes, is amended to read:

483.051 Powers and duties of the department.—The department shall adopt rules to implement this part, which rules shall include, but not be limited to, the following matters:

(1) LICENSING; QUALIFICATIONS.—

~~(a)~~ The department shall provide for annual licensure of all clinical laboratories ~~and biennial licensure of all clinical laboratory personnel~~ meeting the requirements of this part and shall prescribe the qualifications necessary for such licensure. The license of any clinical laboratory which fails to pay a required fee or otherwise fails to qualify within 60 days of the date of expiration of its license shall be automatically canceled without notice or further proceedings. ~~The license of any person who fails to pay a required fee or otherwise fails to qualify within 60 days of the date of expiration of his license shall be automatically canceled without notice or further proceedings unless the individual has made application for inactive status pursuant to s. 483.153.~~

~~(b) Personnel qualifications may require appropriate education, training, or experience or the passing of an examination in appropriate subjects or any combination of these, but no practitioner of the healing arts licensed to practice in this state is required to obtain any license under this part or to pay any fee hereunder except the fee required for clinical laboratory licensure.~~

~~(2) EXAMINATIONS.—The department shall conduct examinations required by its rules to determine in part the qualification of clinical laboratory personnel for licensure.~~

~~(3) REGISTRATION OF TRAINEES.—The department shall provide for annual registration of clinical laboratory trainees who are employed by laboratories approved pursuant to s. 483.071, which registration may not be renewed except upon special authorization of the department.~~

(2)~~(4)~~ STANDARDS OF PERFORMANCE IN THE EXAMINATION OF SPECIMENS.—The department shall operate a clinical laboratory proficiency testing program and shall prescribe standards of performance in the examination of specimens. As part of the clinical laboratory proficiency testing program, clinical laboratory personnel may be required to analyze test samples and report on the results of such analyses. The department may accept proficiency testing reports of agencies and organizations approved by the department, and shall accept such

reports for proficiency testing of blood banks, if the department determines that the standards of such agencies and organizations are equal to or exceed those of the department.

(3)~~(5)~~ SHIPMENT OF SPECIMENS.—The department may prescribe requirements for collection, transportation, handling, and storage of specimens shipped by common carrier from clinical laboratories or collection stations. Each specimen shall be sent to a laboratory for analysis as rapidly as possible, but no later than 12 hours after collection, except that the 12-hour requirement does not apply to blood banks or to plasmapheresis centers in shipping samples. Specimens may be sent to any clinical laboratory outside the state for examination if such out-of-state laboratory would meet the requirements of this part, as determined by the department. When the specimen has been referred for examination to another laboratory, the report shall bear or be accompanied by a clear statement that such findings were obtained in such other laboratory and shall specify its name and location.

(4)~~(6)~~ CONSTRUCTION OF CLINICAL LABORATORIES.—The department may establish standards for the construction, renovation, maintenance, and repair of clinical laboratories, including standards for plumbing, heating, lighting, ventilation, electrical services, and similar conditions which standards will ensure the conduct and operation of the laboratory in a manner which will protect the public health.

(5)~~(7)~~ SAFETY AND SANITARY CONDITIONS WITHIN A CLINICAL LABORATORY AND ITS SURROUNDINGS.—The department shall establish standards relating to safety and sanitary conditions within a clinical laboratory and its surroundings, including standards for water supply; sewage; the handling of specimens; disposal of needles, syringes, and laboratory wastes; storage of chemicals; workspace; firesafety; and general measures which will ensure the protection of the public health.

(6)~~(8)~~ EQUIPMENT.—The department shall establish minimum standards for clinical laboratory equipment essential to its proper operation, its calibration, and its adequacy for testing procedures.

~~(9) APPROVAL OF CURRICULUM IN SCHOOLS AND COLLEGES.—The department may approve the curriculum in schools and colleges offering education and training leading toward qualification for licensure under this part.~~

Section 30. Section 483.172, Florida Statutes, is amended to read:

483.172 License fees.—The department shall collect fees for all licenses issued under this part. The fee schedule for fiscal year 1983-1984 shall be the minimum fees provided herein, and such schedule shall remain in effect until the effective date of a fee schedule adopted by rule by the department pursuant to this part. The fee schedule for licensure of clinical laboratories shall be increased annually in substantially equal increments to produce, by fiscal year 1985-1986, an overall fee schedule in which fees from licensure of clinical laboratories are sufficient to carry out the responsibilities of the department for regulation of clinical laboratories ~~and fees from licensure of clinical laboratory personnel are sufficient to carry out the responsibilities of the department for regulation of clinical laboratory personnel~~. Each fee shall be due at the time of application and shall be payable to the department to be deposited in a trust fund administered by the department and used only for the purposes of this chapter. ~~The fee schedule is as follows:~~

~~(1) For licensure as a clinical laboratory director, an application fee of not less than $35 or more than $60. For each category of specialty, an examination fee of not less than $20 or more than $80. For biennial renewal of a license, a fee of not less than $70 or more than $140.~~

~~(2) For licensure as a clinical laboratory technologist, an application fee of not less than $20 or more than $35. For each category of specialty, an examination fee of not less than $20 or more than $80. For biennial renewal of a license, a fee of not less than $40 or more than $80.~~

~~(3) For licensure as a clinical laboratory technician, an application and examination fee of not less than $25 or more than $45. For biennial renewal of a license, a fee of not less than $30 or more than $60. For late filing of an application for renewal of a personnel license, a fee of $20.~~

~~(4) For approval as a laboratory personnel training program, a fee of not less than $150 or more than $300. For annual renewal, a fee of not less than $150 or more than $300. For late filing of an application for renewal, a fee of $50.~~

~~(5)~~ For licensure as a clinical laboratory, *the* ~~an~~ annual fee *shall be* ~~of~~ not less than $210 or more than $1,200. No separate licensure fee shall be paid by any branch office, mobile donor unit, or transfusion service operated by a blood bank when the principal location of the blood bank is licensed under this part. For late filing of an application for renewal, *there shall be* a fee of $100. In any licensure period in which the department accepts an equivalent inspection of a blood bank pursuant to s. 483.061, such blood bank shall pay only a fee of $50.

~~(6) For registration as a clinical laboratory trainee, an annual fee of not less than $5 or more than $10.~~

~~(7) For licensure as a clinical laboratory supervisor, an application and examination fee of not less than $25 or more than $50. For each category of specialty, an examination fee of not less than $20 or more than $80. For biennial renewal of a license, a fee of not less than $50 or more than $100.~~

Section 31. Section 483.23, Florida Statutes, is amended to read:

483.23 Offenses; criminal penalties.—

(1)(a) It is unlawful for any person to:

1. Operate, maintain, direct, or engage in the business of operating a clinical laboratory, as herein defined, unless he has obtained a clinical laboratory license from the department or is exempt under s. 483.031.

2. Conduct, maintain, or operate a clinical laboratory, other than an exempt laboratory, unless such clinical laboratory is under the direct and responsible supervision and direction of a person licensed under *part IV of this chapter* ~~this part~~.

3. Allow any person other than an individual licensed under *part IV of this chapter* ~~this part~~ to perform clinical laboratory procedures, except in the operation of an exempt laboratory.

4. Violate or aid and abet in the violation of any provision of this part or the rules *adopted* ~~promulgated~~ hereunder.

(b) The performance of any act specified in paragraph (a) constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any use or attempted use of a forged license under this part *or part IV of the chapter* constitutes the crime of forgery.

Section 32. Part IV of chapter 483, Florida Statutes, consisting of sections 483.800, 483.801, 483.803, 483.805, 483.807, 483.809, 483.811, 483.813, 483.815, 483.817, 483.819, 483.821, 483.823, 483.825, and 483.827, Florida Statutes, is created to read:

PART IV
CLINICAL LABORATORY PERSONNEL

483.800 Declaration of policy and statement of purpose.—The purpose of this part is to protect the public health, safety, and welfare of the people of this state from the hazards of improper performance by clinical laboratory personnel. Clinical laboratories provide essential services to practitioners of the healing arts by furnishing vital information that is essential to a determination of the nature, cause, and extent of the condition involved. Unreliable and inaccurate reports may cause unnecessary anxiety, suffering, and financial burdens and may even contribute directly to death. The protection of public and individual health requires the licensure of clinical laboratory personnel who meet minimum requirements for safe practice.

483.801 Exemptions.—This part applies to all clinical laboratories and clinical laboratory personnel within this state, except:

(1) Clinical laboratories operated by the United States Government.

(2) A clinical laboratory operated by five or fewer duly licensed practitioners of the healing arts exclusively in connection with the diagnosis and treatment of their own patients. However, if any referred work is received in the clinical laboratory or if any clinical laboratory work is done for patients referred by another practitioner, all provisions of this part shall apply. This exemption does not apply to a clinical laboratory operated by a practitioner of the healing arts who holds himself and the facilities of his laboratory out as available for the performance of diagnostic tests for other practitioners or their patients.

(3) Laboratories operated and maintained exclusively for research and teaching purposes, involving no patient or public health service whatsoever.

483.803 Definitions.—As used in this part, the term:

(1) "Board" means the Board of Clinical Laboratory Personnel.

(2) "Clinical laboratory" means a clinical laboratory as defined in s. 483.041(1).

(3) "Clinical laboratory personnel" includes a clinical laboratory director, supervisor, technologist, blood gas analyst, or technician who performs or is responsible for laboratory test procedures, but the term does not include trainees, persons who perform screening for blood banks or plasmapheresis centers, phlebotomists, or persons employed by a clinical laboratory to perform manual pretesting duties or clerical, personnel, or other administrative responsibilities.

(4) "Clinical laboratory trainee" means any person having qualifying education who is enrolled in a clinical laboratory training program approved pursuant to s. 483.811 and who is seeking experience required to meet minimum qualifications for licensing in this state. Trainees may perform procedures under direct and responsible supervision of duly licensed clinical laboratory personnel, but they may not report test results.

(5) "Department" means the Department of Professional Regulation.

(6) "Licensed practitioner of the healing arts" means a physician licensed pursuant to chapter 458, chapter 459, or chapter 460; a dentist licensed pursuant to chapter 466; or a person licensed pursuant to chapter 461 or chapter 462.

483.805 Board of Clinical Laboratory Personnel.—

(1) There is created within the Department of Professional Regulation a Board of Clinical Laboratory Personnel, composed of seven members appointed by the Governor and confirmed by the Senate.

(2)(a) Five members of the board shall be persons licensed under this part, as follows:

1. At least one member shall be a practicing clinical laboratory director.

2. At least two members shall be practicing clinical laboratory supervisors.

3. Two members shall be practicing clinical laboratory personnel.

(b) Two members of the board shall be citizens of the state who have never been licensed health care practitioners and who are not, and have never been, licensed as clinical laboratory personnel and who are in no way connected with the practice of such profession.

(3) Within 90 days after the effective date of this part, the Governor shall appoint two members for a term of 2 years, two members for a term of 3 years, and three members for a term of 4 years. As terms of the initial members expire, the Governor shall appoint successors for terms of 4 years and such terms shall expire on October 31. A member whose term has expired shall continue to serve on the board until such time as a replacement is appointed. No member shall serve for more than the remaining portion of a previous member's unexpired term, plus two consecutive 4-year terms of the member's own appointment thereafter.

(4) The board is authorized to adopt such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this part.

(5) All provisions of chapter 455 relating to activities of regulatory boards shall apply to the board.

(6) The board shall maintain its official headquarters in Tallahassee.

483.807 Fees; establishment; disposition.—

(1) The board, by rule, shall establish fees to be paid for application, examination, reexamination, licensing and renewal, reinstatement, and recordmaking and recordkeeping. The board may also establish, by rule, a late renewal penalty. The board shall establish fees which are adequate to ensure the continued operation of the board and to fund the proportionate expenses incurred by the department in carrying out its licensure and other related responsibilities under this part. Fees shall be based on departmental estimates of the revenue required to implement this part and the provisions of law with respect to the regulation of clinical laboratory personnel.

(2) The nonrefundable application fee may not exceed $200.

(3) The examination fee shall be in an amount which covers the costs of obtaining and administering the examination and shall be refunded if the applicant is found ineligible to sit for the examination. The combined fees for initial application and examination may not exceed $200 plus the actual per applicant cost to the department for developing, administering, or procuring the licensure examination.

(4) The initial license fee may not exceed $100.

(5) The fee for licensure by endorsement may not exceed $100.

(6) The biennial renewal fee may not exceed $150.

(7) The fee for application for an inactive status license or for reactivation of an inactive status license may not exceed $50.

(8) The initial application fee for registration of a trainee shall not exceed $20.

(9) The initial and renewal fee for approval as a laboratory training program may not exceed $300. The fee for late filing of a renewal application shall be $50.

(10) All fees shall be established, collected, and deposited in accordance with s. 455.219.

483.809 Licensure; examinations; registration of trainees; approval of curricula.—

(1) LICENSING; QUALIFICATIONS.—

(a) The department shall provide biennial licensure of all clinical laboratory personnel meeting the requirements of this part and shall prescribe the qualifications necessary for such licensure. The license of any person who fails to pay a required fee or otherwise fails to qualify within 60 days after the date of expiration of such license shall be automatically canceled without notice or further proceedings unless the individual has made application for inactive status pursuant to s. 483.819.

(b) Personnel qualifications may require appropriate education, training, or experience or the passing of an examination in appropriate subjects or any combination of these, but no practitioner of the healing arts licensed to practice in this state is required to obtain any license under this part or to pay any fee hereunder except the fee required for clinical laboratory licensure.

(2) EXAMINATIONS.—The department shall conduct examinations required by board rules to determine in part the qualification of clinical laboratory personnel for licensure.

(3) REGISTRATION OF TRAINEES.—The department shall provide for annual registration of clinical laboratory trainees who are employed by laboratories approved pursuant to s. 483.811, which registration may not be renewed except upon special authorization of the board.

(4) APPROVAL OF CURRICULUM IN SCHOOLS AND COLLEGES.—The board may approve the curriculum in schools and colleges offering education and training leading toward qualification for licensure under this part.

483.811 Approval of laboratory personnel training programs.—

(1) The board shall approve clinical laboratories for training programs upon presentation of satisfactory evidence that such laboratories are adequately staffed by qualified personnel and comply with rules adopted by the board to ensure that such laboratories provide training in clinical laboratory techniques adequate to prepare individuals to meet the requirements for licensure under this part.

(2) The board shall adopt rules for training programs, including, but not limited to, rules relating to curriculum, educational objectives, evaluation procedures, personnel licensure requirements, preentry educational requirements, and length of clinical training.

(3) The department may inspect laboratory personnel training programs.

(4) If the board finds that an approved program no longer meets the required standards, the department may rescind the approval.

483.813 Clinical laboratory personnel license.—A person may not conduct a clinical laboratory examination or report the results of such examination unless such person is licensed under this part to perform such procedures. However, this provision does not apply to any practitioner of the healing arts authorized to practice in this state. The department may grant a temporary license to any candidate it deems properly qualified, for a period not to exceed 6 months.

483.815 Application for clinical laboratory personnel license.—An application for a clinical laboratory personnel license shall be made under oath on forms provided by the department and shall be accompanied by payment of fees as provided by this part. A license may be issued authorizing the performance of procedures of one or more categories.

483.817 Renewal of clinical laboratory personnel license.—

(1) The department shall renew a license upon receipt of a renewal application and fee and upon certification by the board that the licensee has demonstrated his competence.

(2) The board shall adopt rules establishing a procedure for the biennial renewal of clinical laboratory personnel licenses.

(3) Any clinical laboratory personnel license which is not renewed at the end of the biennium prescribed by the board automatically reverts to an inactive status. Such license may be reactivated only if the licensee meets the qualifications for reactivation in s. 483.819.

(4) Sixty days before the end of a biennium and automatic reversion of a license to inactive status, the department shall mail a notice of renewal and possible reversion to the last known address of the licensee.

483.819 Inactive status.—

(1) A licensee may request that his license be placed in an inactive status by making application to the department and paying a fee in an amount set by the board.

(2) A license which has been inactive for less than 1 year after the end of the biennium prescribed by the board may be renewed pursuant to s. 483.817 upon payment of the late renewal penalty. The renewed license shall expire 2 years after the date the license automatically reverted to inactive status.

(3) A license which has been inactive for more than 1 year may be reactivated upon application to the department. The board shall prescribe, by rule, continuing education requirements as a condition of reactivating a license. The continuing education requirements for reactivating a license may not exceed 15 classroom hours for each year the license was inactive and in no event may exceed 65 classroom hours for all years in which the license was inactive.

(4) Any license which is inactive for more than 5 years shall be automatically suspended. One year prior to the suspension, the department shall give notice to the licensee. The board shall establish requirements for reinstatement of a suspended license, which may include a requirement for reexamination.

483.821 Periodic demonstration of competency; continuing education or reexamination.—

(1) As part of the license renewal procedure, the board, by rule, shall require each licensee periodically to demonstrate his competency by completing, each 2 years, not less than 10 or more than 30 hours of continuing education in programs approved by the board.

(2) The board may allow a licensee to demonstrate his competency by reexamination in lieu of satisfying the continuing education requirement.

483.823 Qualifications of clinical laboratory personnel.—The board shall prescribe minimal qualifications for clinical laboratory personnel and shall issue a license to any person who meets the minimum qualifications and who demonstrates that he possesses the character, training, and ability to qualify in those areas for which the license is sought.

483.825 Grounds for disciplinary action against clinical laboratory personnel.—The following acts constitute grounds for which disciplinary actions specified in s. 483.827 may be taken against clinical laboratory personnel:

(1) Making a fraudulent statement on an application for a license or any other document required by the department.

(2) Engaging in or attempting to engage in, or representing himself as entitled to perform, any clinical laboratory procedure or category of procedures not authorized pursuant to his license.

(3) Demonstrating incompetence or making consistent errors in the performance of clinical laboratory examinations or procedures or erroneous reporting.

(4) Performing a test and rendering a report thereon to a person not authorized by law to receive such services.

(5) Having been convicted of a felony or of any crime involving moral turpitude under the laws of any state or of the United States. The record of conviction or a certified copy thereof shall be conclusive evidence of such conviction.

(6) Having been adjudged mentally or physically incompetent.

(7) Violating or aiding and abetting in the violation of any provision of this part or the rules adopted hereunder.

(8) Reporting a test result when no laboratory test was performed on a clinical specimen.

(9) Knowingly advertising false services or credentials.

(10) Having a license revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another jurisdiction.

483.827 Administrative penalties.—

(1) The board may deny, suspend, revoke, annul, or limit renewal of a license or impose an administrative fine, not to exceed $500 per violation, for the violation of any provision of this part or rules adopted hereunder. Each day of violation constitutes a separate violation and is subject to a separate fine.

(2) In determining the amount of the fine to be levied for a violation, as provided in subsection (1), the following factors shall be considered:

(a) The severity of the violation, including the probability that death or serious harm to the health or safety of any person will result or has resulted; the severity of the actual or potential harm; and the extent to which the provisions of this part were violated.

(b) Actions taken by the licensee to correct the violation or to remedy complaints.

(c) Any previous violation by the licensee.

(d) The financial benefit to the licensee of committing or continuing the violation.

Section 33. Paragraph (b) of subsection (2) of section 395.1015, Florida Statutes, is amended to read:

395.1015 Annual assessment on health care entities.—

(2) There is hereby imposed an annual assessment against certain health care entities as described in this section:

(b) For the purpose of this section, "health care entities" include the following:

1. Ambulatory surgical centers licensed under s. 395.003.

2. Clinical laboratories licensed under s. 483.091, excluding any hospital laboratory defined under s. 483.041*(5)*~~(7)~~, any clinical laboratory operated by the state or a political subdivision of the state, and any blood or tissue bank where the majority of revenues are received from the sale of blood or tissue and where blood, plasma, or tissue is procured from volunteer donors and donated, processed, stored, or distributed on a nonprofit basis.

3. Freestanding radiation therapy centers providing treatment through the use of radiation therapy machines that are registered under s. 404.22 and ss. 10D-91.902, 10D-91.903, and 10D-91.904 of the Florida Administrative Code.

4. Diagnostic imaging centers that are freestanding outpatient facilities that provide specialized services for the identification or determina-

tion of a disease through examination and also provide sophisticated radiological services such as computed tomography scans and magnetic resonance imaging, and in which services are rendered by a physician licensed by the Board of Medicine under s. 458.311, s. 458.313, or s. 458.317, or by an osteopathic physician licensed by the Board of Osteopathic Medical Examiners under s. 459.006, s. 459.007, or s. 459.0075.

Section 34. Saving clauses.—

(1) No judicial or administrative proceeding pending pursuant to part I of chapter 483, Florida Statutes, on October 1, 1992, shall be abated as a result of the repeal of subsections (2) and (4) of section 483.041 and sections 483.053, 483.071, 483.141, 483.151, 483.152, 483.153, 483.154, 483.161, and 483.21, Florida Statutes. In any such unabated proceeding, the Board of Clinical Laboratory Personnel and the Department of Professional Regulation shall be deemed parties in interest and shall be made parties to the proceeding.

(2) Licenses issued to clinical laboratory personnel under part I of chapter 483, Florida Statutes, which are in effect on September 30, 1992, shall remain in effect pursuant to the provisions of this act.

Section 35. Paragraph (o) is added to subsection (5) of section 20.30, Florida Statutes, to read:

20.30 Department of Professional Regulation.—There is created a Department of Professional Regulation.

(5) The following boards are established within the Department of Professional Regulation, Division of Medical Quality Assurance:

(o) Board of Clinical Laboratory Personnel, created by s. 483.805.

Section 36. The unencumbered cash balance of the trust fund administered by the Department of Health and Rehabilitative Services pursuant to section 483.172, Florida Statutes, and all programs, activities, and functions of the Department of Health and Rehabilitative Services relating to the licensure of clinical laboratory personnel under part I of chapter 483, Florida Statutes, are transferred by a type four transfer, as defined in section 20.06(4), Florida Statutes, to the Professional Regulation Trust Fund created pursuant to section 215.37, Florida Statutes, and to the Department of Professional Regulation. Funds transferred pursuant to this section may be used only to fund the regulation of clinical laboratory personnel.

Section 37. Subsections (2) and (4) of section 483.041 and sections 483.053, 483.071, 483.141, 483.151, 483.152, 483.153, 483.154, 483.161, and 483.21, Florida Statutes, are repealed.

Section 38. Subsection (14) of section 409.029, Florida Statutes, is amended to read:

409.029 Florida Employment Opportunity Act.—

(14) ADMINISTRATIVE PROCEDURES.—*The department may, to the maximum extent allowable by federal law and regulations, contract for the services required by this section.* All contracts, subcontracts, and agreements under this act shall include specific performance criteria. Such contracts, subcontracts, and agreements may also include the provision of job placement assistance. These contracts shall provide for termination of the contract at the discretion of the department if the provider either violates the employment plan contract described in this act or fails to meet the performance criteria specified in the contract.

Section 39. Study Commission on Employment Opportunities and Self-Sufficiency.—

(1) It is the finding of the Legislature that:

(a) It is in the best interests of the citizens of this state that public assistance recipients become productive members of society.

(b) It is further in the best interests of society that the state adopt social policies that emphasize work, personal responsibility, education and training, child support, family preservation, and self-sufficiency; and that such policies address the root causes of dependency, including, but not limited to, illiteracy, teenage pregnancy, and chemical dependency.

(c) The cycle of intergenerational welfare dependency must be broken. Able-bodied applicants for and recipients of public assistance desire to work and will do so if provided the opportunity.

(d) Despite this widely held view, the state's public assistance roles have risen 53 percent in the last 2 years, many teenage mothers are on public assistance, and high school drop-out rates are among the highest in the country. A comprehensive examination is required to determine the efficacy of the state's policies and programs which are intended to promote self-sufficiency, educational and job skills achievement, and personal responsibility, and to discourage dependence on public assistance.

(2) There is created a Study Commission on Employment Opportunities and Self-Sufficiency to examine and recommend changes to the state's current social welfare, vocational, and educational policies and programs including but not limited to the feasibility of requiring proof of standard childhood immunizations as a condition of receiving aid to families with dependent children. The commission shall address, at a minimum, the root causes of dependency, its effect on children and their parents, the efficacy of public policies and strategies in Florida, and the experience of other states designed to reduce dependency and promote family preservation and economic self-sufficiency. These recommendations shall be examined and offered within the statutory requirements of applicable federal law.

(3) The commission shall be composed of 25 members, including the Commissioner of Education and the secretaries of the Departments of Health and Rehabilitative Services, Labor and Employment Security, and Corrections. The remaining 21 members shall be selected from business leaders, educational and vocational communities, consumers, bipartisan membership of the Legislature, academicians, advocates, and other interested individuals and groups. The Governor, the President of the Senate, and the Speaker of the House of Representatives shall each appoint 7 members, of which at least one of the appointments by each shall be a person who is a recipient of public assistance. The Governor shall appoint the chair. All appointments shall be made by June 1, 1992. In the event of a vacancy, the vacancy shall be filled by the person who made the original appointment.

(4) The study commission shall hold its first meeting no later than June 15, 1992, and shall submit its findings and recommendations to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the minority leaders in both the Senate and House, by no later than December 31, 1992. Staff support and expenses shall be provided by the Executive Office of the Governor and by the Departments of Health and Rehabilitative Services and Labor and Employment Security. The findings and recommendations of the study commission may serve as the basis for a comprehensive welfare reform proposal for the 1993 Regular Session of the Legislature.

(5) Members of the study commission shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses as provided in section 112.061, Florida Statutes. Payment may also be authorized for preapproved child care expenses or lost wages for members who are consumers of the department's services, and for preapproved child care expenses for other members who demonstrate hardship.

Section 40. Subsection (6) of section 240.512, Florida Statutes, is amended to read:

240.512 H. Lee Moffitt Cancer Center and Research Institute.—There is established the H. Lee Moffitt Cancer Center and Research Institute at the University of South Florida.

(6) The board of directors of the corporation shall create a council of scientific advisors to the center director comprised of leading researchers, *physicians,* and scientists. This council shall review programs and recommend research priorities and initiatives so as to maximize the state's investment in the center. The council shall be appointed by the board of directors of the corporation and shall include five appointees of the Board of Regents. Each member of the council shall *be appointed to* serve a 2-year term *and may be reappointed to the council.*

Section 41. Section 385.201, Florida Statutes, is transferred, renumbered as section 240.5121, Florida Statutes, and is amended to read:

240.5121 ~~385.201~~ Cancer control and research.—

(1) SHORT TITLE.—This section shall be known and may be cited as the "Cancer Control and Research Act."

(2) LEGISLATIVE INTENT.—It is the finding of the Legislature that:

(a) Advances in scientific knowledge have led to the development of preventive and therapeutic capabilities in the control of cancer. Such knowledge and therapy must be made available to all citizens of this state through educational and therapeutic programs.

(b) The present state of our knowledge concerning the prevalence, cause or associated factors, and treatment of cancer have resulted primarily from a vast federal investment into basic and clinical research, some of which is expended in this state. These research activities must continue, but programs must be established to extend this knowledge in preventive measures and patient treatment throughout the state.

(c) Research in cancer has implicated the environment as a causal factor for many types of cancer, i.e. sunshine, X rays, diet, smoking, etc., and programs are needed to further document such cause and effect relationships. Proven causes of cancer should be publicized and be the subject of educational programs for the prevention of cancer.

(d) An effective cancer control program would mobilize the scientific, educational, and medical resources that presently exist into an intense attack against this dread disease.

(3) DEFINITIONS.—The following words and phrases when used in this section have, unless the context clearly indicates otherwise, the meanings given to them in this subsection:

(a) "Cancer" means all malignant neoplasms, regardless of the tissue of origin, including lymphoma and leukemia.

(b) "Council" means the Florida Cancer Control and Research Advisory Council, which is an advisory body appointed to function on a continuing basis for the study of cancer and which recommends solutions and policy alternatives to the *Board of Regents and the* secretary and which is established by this section.

(c) "Department" means the Department of Health and Rehabilitative Services.

(d)~~(c)~~ "Fund" means the Florida Cancer Control and Research Fund established by this section.

(e)~~(d)~~ "Qualified nonprofit association" means any association, incorporated or unincorporated, that has received tax-exempt status from the Internal Revenue Service.

(f)~~(e)~~ "Secretary" means the Secretary of Health and Rehabilitative Services.

(4) FLORIDA CANCER CONTROL AND RESEARCH ADVISORY COUNCIL; CREATION; COMPOSITION.—

(a) There is created within the *H. Lee Moffitt Cancer Center and Research Institute, Inc.* ~~Department of Health and Rehabilitative Services~~ the Florida Cancer Control and Research Advisory Council. The council shall consist of *30* ~~28~~ members, which includes the chairperson, all of whom must be residents of this state. All members except those appointed by the Speaker of the House of Representatives and the President of the Senate must be appointed by the Governor. At least one of the members appointed by the Governor must be 60 years of age or older. One member must be a representative of the American Cancer Society; one member must be a representative of the Florida Tumor Registrars Association; one member must be a representative of the *Sylvester* ~~Papanicolaou~~ Comprehensive Cancer Center of the *University of Miami* ~~State of Florida~~; one member must be a representative of the Department of Health and Rehabilitative Services; one member must be a representative of the Florida Nurses Association; one member must be a representative of the Florida Osteopathic Medical Association; one member must be a representative of the American College of Surgeons; one member must be a representative of the School of Medicine of the University of Miami; one member must be a representative of the College of Medicine of the University of Florida; one member must be a representative of Southeastern College of Osteopathic Medicine; one member must be a representative of the College of Medicine of the University of South Florida; *one member must be a representative of the College of Public Health of the University of South Florida;* one member must be a representative of the Florida Society of Clinical Oncology; one member must be a representative of the Florida Obstetric and Gynecologic Society who has had training in the specialty of gynecologic oncology; one member must be a representative of the Florida Medical Association; one member must be a member of the Florida Pediatric Society; one member must be a representative of the Florida Radiological Society; one member must be a representative of the Florida Society of Pathologists; one member must be a representative of the H. Lee Moffitt Cancer Center and Research Institute, Inc.; three members must be representatives of the general public acting as consumer advocates; one member must be a member of the House of Representatives appointed by the Speaker of the House; one member must be a member of the Senate appointed by the President of the Senate; one member must be a representative of the Department of Education; one member must be a representative of the Florida Dental Association; one member must be a representative of the Florida Hospital Association; one member must be a representative of the Association of Community Cancer Centers; *one member shall be a representative from a statutory teaching hospital affiliated with a community based cancer center;* and one member must be a representative of the Florida Association of Pediatric Tumor Programs, Inc.

(b) The terms of the members shall be 4 years from their respective dates of appointment.

(c) A chairperson shall be appointed by the Governor for a term of 2 years. The chairperson shall appoint an executive committee of no fewer than three persons to serve at the pleasure of the chairperson. This committee will prepare material for the council but make no final decisions.

(d) The council shall meet no less than semiannually at the call of the chairperson or, in his absence or incapacity, at the call of the secretary. *Sixteen* ~~Fourteen~~ members constitute a quorum for the purpose of exercising all of the powers of the council. A vote of the majority of the members present is sufficient for all actions of the council.

(e) The council members shall serve without pay. Pursuant to the provisions of s. 112.061, the council members *may* ~~shall~~ be entitled to be reimbursed for per diem and travel expenses.

(f) No member of the council shall participate in any discussion or decision to recommend grants or contracts to any qualified nonprofit association or to any agency of this state or its political subdivisions with which the member is associated as a member of the governing body or as an employee or with which the member has entered into a contractual arrangement.

(g) The council may prescribe, amend, and repeal bylaws governing the manner in which the business of the council is conducted.

(h) The council shall advise *the Board of Regents,* the secretary, and the Legislature with respect to cancer control and research in this state.

(i) The council shall approve each year a program for cancer control and research to be known as the "Florida Cancer Plan" which shall be consistent with the State Health Plan developed by the Statewide Health Council and integrated and coordinated with existing programs in this state.

(j) The council shall formulate and recommend to the secretary a plan for the care and treatment of persons suffering from cancer and recommend the establishment of standard requirements for the organization, equipment, and conduct of cancer units or departments in hospitals and clinics in this state. The council may recommend to the secretary the designation of cancer units following a survey of the needs and facilities for treatment of cancer in the various localities throughout the state. The secretary shall consider the plan in developing departmental priorities and funding priorities and standards under chapter 395.

(k) The council is responsible for including in the Florida Cancer Plan recommendations for the coordination and integration of medical, nursing, paramedical, lay, and other plans concerned with cancer control and research. Committees shall be formed by the council so that the following areas will be established as entities for actions:

1. Cancer plan evaluation: tumor registry, data retrieval systems, and epidemiology of cancer in the state and its relation to other areas.

2. Cancer prevention.

3. Cancer detection.

4. Cancer patient management: treatment, rehabilitation, terminal care, and other patient-oriented activities.

5. Cancer education: lay and professional.

6. Unproven methods of cancer therapy: quackery and unorthodox therapies.

7. Investigator-initiated project research.

(l) In order to implement in whole or in part the Florida Cancer Plan, the council shall recommend to the *Board of Regents or the* secretary the awarding of grants and contracts to qualified profit or nonprofit associations or governmental agencies in order to plan, establish, or conduct programs in cancer control or prevention, cancer education and training, and cancer research.

(m) *If funds are specifically appropriated by the Legislature,* the council shall develop and prepare a standardized written summary, written in layman's terms and in language easily understood by the average adult patient, informing actual and high-risk breast cancer patients of the medically viable treatment alternatives available to them in the effective management of breast cancer; describing such treatment alternatives; and explaining the relative advantages, disadvantages, and risks associated therewith. Such summary, upon its completion, shall be printed in the form of a pamphlet or booklet and made continuously available to physicians and surgeons in this state for their use in accordance with s. 458.324 and to osteopathic physicians in this state for their use in accordance with s. 459.0125. The council shall periodically update the pamphlet to reflect current standards of medical practice in the treatment of breast cancer. The council shall develop and implement an educational program, including distribution of the pamphlet or booklet developed under this paragraph, to inform citizen groups, associations, and voluntary organizations about early detection and treatment of breast cancer.

(n) The council shall have the responsibility to advise the *Board of Regents and the* secretary on methods of enforcing and implementing laws already enacted and concerned with cancer control, research, and education.

(o) The council may recommend to the *Board of Regents or the* secretary rules not inconsistent with law as it may deem necessary for the performance of its duties and the proper administration of this section.

(p) The council shall formulate and put into effect a continuing educational program for the prevention of cancer and its early diagnosis and disseminate to hospitals, cancer patients, and the public information concerning the proper treatment of cancer.

(q) The council shall be physically located at the H. Lee Moffitt Cancer Center and Research Institute, Inc., at the University of South Florida.

(r)~~(q)~~ On February 15 of each year, the council shall report to the Governor and to the Legislature.

(5) RESPONSIBILITIES OF THE *BOARD OF REGENTS, THE H. LEE MOFFITT CANCER CENTER AND RESEARCH INSTITUTE, INC., AND THE* SECRETARY.—

(a) The *Board of Regents or the* secretary, after consultation with the council, shall award grants and contracts to qualified nonprofit associations and governmental agencies in order to plan, establish, or conduct programs in cancer control and prevention, cancer education and training, and cancer research.

(b) The *H. Lee Moffitt Cancer Center and Research Institute, Inc.* ~~secretary~~ shall provide such staff, information, and other assistance as *reasonably* ~~the secretary may deem~~ necessary for the completion of the responsibilities of the council.

(c) The *Board of Regents or the* secretary, after consultation with the council, may adopt rules necessary for the implementation of this section.

(d) The secretary, after consultation with the council, shall make rules specifying to what extent and on what terms and conditions cancer patients of the state may receive financial aid for the diagnosis and treatment of cancer in any hospital or clinic selected. The department may furnish to citizens of this state who are afflicted with cancer financial aid to the extent of the appropriation provided for that purpose in a manner which in its opinion will afford the greatest benefit to those afflicted and may make arrangements with hospitals, laboratories, or clinics to afford proper care and treatment for cancer patients in this state.

(6) FLORIDA CANCER CONTROL AND RESEARCH FUND.—

(a) There is created the Florida Cancer Control and Research Fund consisting of funds appropriated therefor from the General Revenue Fund and any gifts, grants, or funds received from other sources.

(b) The fund shall be used exclusively for grants and contracts to qualified nonprofit associations or governmental agencies for the purpose of cancer control and prevention, cancer education and training, cancer research, and all expenses incurred in connection with the administration of this section and the programs funded through the grants and contracts authorized by the *Board of Regents or the* secretary.

Section 42. The Department of Health and Rehabilitative Services shall provide for the orderly transfer of all powers, duties, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Florida Cancer Control and Research Advisory Council from the department to the H. Lee Moffitt Cancer Center and Research Institute, Inc. pursuant to section 20.06, Florida Statutes. It is the intent of the Legislature to preserve the integrity of the council's mission with respect to cancer control and epidemiology, including the statutory powers and duties of the council pursuant to section 240.5121, Florida Statutes.

Section 43. Paragraph (d) of subsection (7) of section 119.07, Florida Statutes, subsection (3) of section 415.107, Florida Statutes, and subsection (3) of section 415.51, Florida Statutes, as created by chapter 91-71, Laws of Florida, are hereby repealed.

Section 44. Subsection (4) of section 110.1127, Florida Statutes, is amended to read:

110.1127 Employee security checks.—

(4) Within the Department of Health and Rehabilitative Services, all permanent or temporary employees in the central abuse registry and tracking system and all persons working under contract who have access to abuse records shall be screened for recorded reports of abuse, neglect, or exploitation pursuant to ss. 415.101-415.113 and ss. 415.501-415.514. Such employees shall be rescreened annually. A confirmed report shall disqualify an applicant or an employee from employment. The presence of indicated reports prior to July 1, 1987, shall be processed as provided in ss. 415.107*(5)*~~(6)~~(a) and 415.51*(4)*~~(5)~~. The exemption procedures provided in subparagraph (3)(b)2. shall be available to persons covered under this subsection.

Section 45. Paragraph (a) of subsection (7) of section 119.07, Florida Statutes, is amended to read:

119.07 Inspection and examination of records; exemptions.—

(7)(a) Notwithstanding the provisions of paragraph (3)(a), any person or organization, including the Department of Health and Rehabilitative Services, may petition the court for an order making public the records of the Department of Health and Rehabilitative Services that pertain to investigations of alleged adult or child abuse, neglect, abandonment, or exploitation. The court shall determine if good cause exists for public access to the records sought or a portion thereof. In making this determination, the court shall balance the best interest of the adult or child who is the focus of the investigation, and in the case of the child, the interest of that child's siblings, together with the privacy right of other persons identified in the reports against the public interest. The public interest in access to such records is reflected in s. 119.01(1), and includes the need for citizens to know of and adequately evaluate the actions of the Department of Health and Rehabilitative Services and the court system in providing aged persons, disabled adults, and children of this state with the protections enumerated in ss. 415.101 and 415.502. However, nothing in this subsection shall contravene the provisions of s. 415.51*(9)*~~(10)~~, which protect the name of any person reporting adult or child abuse, neglect, or exploitation.

Section 46. Paragraph (e) of subsection (2) of section 400.414, Florida Statutes, is amended to read:

400.414 Denial, revocation, or suspension of license; imposition of administrative fine; grounds.—

(2) Any of the following actions by a facility or its employee shall be grounds for action by the department against a licensee:

(e) A confirmed report of abuse, neglect, or exploitation, as defined in s. 415.102, which has been upheld following a chapter 120 hearing or a waiver of such proceedings where the perpetrator is an employee, volunteer, administrator, or owner, or otherwise has access to the residents of a facility, and the administrator has not taken action to remove the perpetrator. A perpetrator may seek an exemption from disqualification through the procedures provided in s. 415.107*(5)*~~(6)~~(b). No administrative action may be taken against the facility if the perpetrator is granted an exemption.

Section 47. Subsection (2) of section 415.107, Florida Statutes, is amended to read:

415.107 Confidentiality of reports and records in cases of abuse, neglect, or exploitation of aged persons or disabled adults.—

(2) Access to such records, excluding the name of the reporter which shall be released only as provided in subsection *(4)* ~~(5)~~, shall depend on the classification of the report, and shall be granted only to the following persons, officials, and agencies. Access to unfounded reports shall be limited to the persons and for the purposes stated in paragraphs (a), (b), (c), (g), and (h). Access to proposed confirmed reports shall be limited to the persons and for the purposes stated in paragraphs (a) through (i). Access to confirmed reports shall be limited to the persons and for the purposes stated in paragraphs (a) through (m). Access to reports closed without classification shall be limited to the persons and for the purposes stated in paragraphs (a), (b), (c), (e), (f), and (g), as follows:

(a) Employees or agents of the department responsible for carrying out adult or child protective services investigations, ongoing adult or child protective services, or licensure or approval of nursing homes, adult congregate living facilities, adult day care centers, adult foster homes, home care for the elderly, hospices, or other facilities used for the placement of aged persons or disabled adults.

(b) A criminal justice agency investigating a report of known or suspected abuse, neglect, or exploitation of an aged person or disabled adult.

(c) The state attorney of the judicial circuit in which the aged person or disabled adult resides or in which the alleged abuse, neglect, or exploitation occurred.

(d) Any aged person or disabled adult or perpetrator who is the subject of a proposed confirmed or confirmed report or the subject's guardian, caregiver, or legal counsel.

(e) A court, by subpoena, upon its finding that access to such records may be necessary for the determination of an issue before the court; however, such access shall be limited to inspection in camera, unless the court determines that public disclosure of the information contained in such records is necessary for the resolution of an issue then pending before it.

(f) A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business.

(g) Any appropriate official of the human rights advocacy committee or long-term care ombudsman council investigating a report of known or suspected abuse, neglect, or exploitation of an aged person or disabled adult.

(h) Any appropriate official of the department responsible for:

1. Administration or supervision of the department's program for the prevention, investigation, or treatment of adult abuse, neglect, or exploitation when carrying out his official function; or

2. Taking appropriate administrative action concerning an employee of the department alleged to have perpetrated institutional abuse, neglect, or exploitation of an aged person or disabled adult.

(i) Any person engaged in bona fide research or auditing. However, no information identifying the subjects of the report shall be made available to the researcher.

(j) The Division of Administrative Hearings for purposes of any administrative challenge relating to a proposed confirmed or confirmed report.

(k) The Department of Professional Regulation when taking disciplinary action against a licensee for actions which resulted in a confirmed report of abuse, neglect, or exploitation which has been upheld following a chapter 120 hearing or a waiver of such proceedings.

(l) Employees or agents of an agency of another state that has comparable jurisdiction to the jurisdiction described in paragraph (a).

(m) The Public Employees Relations Commission for the sole purpose of obtaining evidence for appeals filed pursuant to s. 447.207. Records may be released only after deletion of all information which specifically identifies persons other than the employee.

These exemptions are subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 48. Subsections (2) and (7) of section 415.51, Florida Statutes, are amended to read:

415.51 Confidentiality of reports and records in cases of child abuse or neglect.—

(2) Access to such records, excluding the name of the reporter which shall be released only as provided in subsection *(9)* ~~(10)~~, shall depend on the classification of the report, and shall be granted only to the following persons, officials, and agencies. Access to unfounded reports shall be limited to the persons and for the purposes stated in paragraphs (a), (b), (c), (g), and (l). Access to proposed confirmed reports shall be limited to the persons and for the purposes stated in paragraphs (a) through (i) and (l). Access to confirmed reports shall be limited to the persons and for the purposes stated in paragraphs (a) through (n). Access to reports closed without classification shall be limited to the persons and for the purposes stated in paragraphs (a), (b), (c), (e), (f), and (l), as follows:

(a) Employees or agents of the department responsible for carrying out child or adult protective investigations, ongoing child or adult protective services, or licensure or approval of adoptive homes, foster homes, or other homes used to provide for the care and welfare of children.

(b) A law enforcement agency investigating a report of known or suspected child abuse or neglect.

(c) The state attorney of the judicial circuit in which the child resides or in which the alleged abuse or neglect occurred.

(d) Any child or perpetrator who is the subject of a proposed confirmed or confirmed report or the subject's parent, guardian, custodian, or counsel.

(e) A court, by subpoena, upon its finding that access to such records may be necessary for the determination of an issue before the court; however, such access shall be limited to inspection in camera, unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then pending before it.

(f) A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business.

(g) Any appropriate official of the department responsible for:

1. Administration or supervision of the department's program for the prevention, investigation, or treatment of child abuse or neglect when carrying out his official function; or

2. Taking appropriate administrative action concerning an employee of the department alleged to have perpetrated institutional child abuse or neglect.

(h) Any person engaged in bona fide research or audit purposes. However, no information identifying the subjects of the report shall be made available to the researcher.

(i) The Division of Administrative Hearings for purposes of any administrative challenge relating to a proposed confirmed or confirmed report.

(j) The Department of Professional Regulation when taking disciplinary action against a licensee for actions which resulted in a confirmed report of abuse, neglect, or exploitation which has been upheld following a chapter 120 hearing or a waiver of such proceedings.

(k) The Office of Professional Practices Services of the Department of Education for the purpose of assisting the Department of Education in determining whether an individual who is named as the perpetrator in a confirmed report of abuse or neglect which has been upheld following a chapter 120 hearing or which became final without a hearing should obtain or hold a Florida teaching certificate.

(l) Any appropriate official of the human rights advocacy committee investigating a report of known or suspected child abuse or neglect, the Auditor General for the purpose of conducting preliminary or compliance reviews pursuant to s. 11.45, or the guardian ad litem for the child as defined in s. 415.503.

(m) Employees or agents of an agency of another state that has comparable jurisdiction to the jurisdiction described in paragraph (a).

(n) The Public Employees Relations Commission for the sole purpose of obtaining evidence for appeals filed pursuant to s. 447.207. Records may be released only after deletion of all information which specifically identifies persons other than the employee.

These exemptions are subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(7) Except as provided in subsection *(4)* ~~(5)~~, the department shall, upon receipt of the applicable fee and with the written consent of a person applying to work with children as a volunteer or as a paid employee for a public or private nonprofit agency, or for an individual family, search its central abuse registry and tracking system for the existence of a confirmed report and shall advise such agency or family of any such report found and the results of the investigation. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 49. Subsections (2) and (7), paragraphs (a) and (b) of subsection (6), and paragraphs (a) and (f) of subsection (8) of section 39.453, Florida Statutes, are amended to read:

39.453 Judicial review.—

(2) The court shall review the status of the child and shall hold a hearing as provided in subsection (7). The court may dispense with the attendance of the child at the hearing, but shall not dispense with the hearing or the presence of other parties to the review unless prior to the review a hearing is held before a citizen review panel ~~appointed by the court~~. *Citizen review panels may be established pursuant to s. 39.4531 to conduct a review of the status of a child.* Notice of such hearing by a citizen review panel shall be provided as set forth in subsection (5). *At the conclusion of a citizen review panel hearing, each party may propose a recommended order to the chairperson of the panel. Thereafter, the citizen review panel shall submit its report and recommended order to the court. The citizen review panel's recommended order must be limited to the dispositional options available to the court in subsection (8). Each party may file exceptions to the report and recommended order of the citizen review panel in accordance with Rule 1.490, Florida Rules of Civil Procedure.*

(6)(a) The social service agency shall make an investigation and social study concerning all pertinent details relating to the child and shall furnish to the court *or citizen review panel* a written report which includes, but is not limited to:

1. A description of the type of placement the child is in at the time of the hearing.

2. Documentation of the diligent efforts made by all parties to the performance agreement or permanent placement plan to comply with each provision of the agreement or plan.

3. The amount of fees assessed and collected during the period of time being reported.

4. The services provided to the foster family in an effort to address the needs of the child as indicated in the performance agreement or permanent placement plan.

5. A statement concerning whether the parent or guardian, though able to do so, did not comply substantially with the provisions of the performance agreement or plan and the agency recommendations or a statement that the parent or guardian did substantially comply with such provisions.

6. A statement from the foster parent or parents providing any material evidence concerning the return of the child to the parent or parents.

(b) A copy of the written report shall be provided to the attorney of record of the parent, parents, or guardian; to the parent, parents, or guardian; ~~and~~ to the foster parents*; to each citizen review panel established pursuant to s. 39.4531;* and *to* the guardian ad litem for the child, if one has been appointed by the court, at least 48 hours prior to the judicial review hearing *or citizen review panel hearing if such a panel has been established pursuant to s. 39.4531.* The requirement for providing parents or guardians with a copy of the written report does not apply to those parents or guardians who have voluntarily surrendered their child for adoption.

(7) The court, and any citizen review panel *established pursuant to s. 39.4531* ~~appointed by the court~~, shall take into consideration the information contained in the social services study and investigation *and all medical, psychological, and educational records which support the terms of the performance agreement or the permanent placement plan*; testimony by the social services agency, the parent or guardian, the foster parent, the guardian ad litem, if one has been appointed for the child, and any other person deemed appropriate; and any relevant and material evidence submitted to the court, including written and oral reports to the extent of their probative value. In its deliberations, the court, and any citizen review panel *established pursuant to s. 39.4531* ~~appointed by the court~~, shall seek to determine:

(a) If the parent or guardian was advised of his right to receive assistance from any person or social service agency in the preparation of the performance agreement.

(b) If the parent or guardian has been advised of his right to have counsel present at the judicial review *or citizen review* hearings. If not so advised, the court or citizen review panel shall advise the parent or guardian of such right.

(c) If a guardian ad litem needs to be appointed for the child in a case in which a guardian ad litem has not previously been appointed or if there is a need to continue a guardian ad litem in a case in which a guardian ad litem has been appointed.

(d) The compliance or lack of compliance of all parties with each item of the performance agreement or permanent placement plan, including a determination of ability to comply in areas of noncompliance, a determination of diligent efforts by all parties, and a determination of whether or not there has been substantial compliance.

(e) The compliance or lack of compliance with a visitation contract between the parent or guardian and the social service agency for contact with the child, including the reason for any noncompliance.

(f) The compliance or lack of compliance of the parent or guardian in meeting specified financial obligations pertaining to the care of the child, including the reason for failure to comply if such is the case.

(g) The appropriateness of the child's current placement, including whether the child is in a setting which is as family-like and as close to the parent's home as possible, consistent with the child's best interests and special needs.

(h) A projected date likely for the child's return home or other permanent placement.

(i) When a permanent placement plan has been prepared in lieu of a performance agreement, the basis for the unwillingness or inability of the parent or guardian to become a party to a performance agreement. If the reason for the submission of the plan in lieu of a performance agreement was the physical location or the emotional, mental, or physical condition of the parent, the court and the citizen review panel shall determine if the nature of the location or the condition of the parent and the efforts of the social service agency to secure parental participation in a performance agreement were sufficient to demonstrate the necessity for the utilization of a permanent placement plan in lieu of a performance agreement. If the court or citizen review panel finds that the use of a permanent placement plan, based upon the criteria of unwillingness or inability of the parent or guardian, was not justified, the court *shall order,* or, *if a* citizen review panel *has been established pursuant to s. 39.4531, the panel shall recommend that the court* ~~shall~~ order, the social service agency to submit a performance agreement to the court within 30 days.

(8)(a) Based upon the criteria set forth in subsection (7) and the *recommended order* ~~report and recommendations~~ of *the* ~~any duly appointed~~ citizen review panel, *if established pursuant to s. 39.4531,* the court shall determine whether or not the social service agency shall initiate proceedings to have a child declared a dependent child, return the child to the parent, continue the child in foster care for a specified period of time, or initiate termination of parental rights proceedings for subsequent placement in an adoptive home. Modifications to the agreement or plan shall be handled in the manner as prescribed in s. 39.451(4)(e). If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home or be safely returned to the home, the court shall allow the child to remain in or return to the home after making a specific finding of fact that the reasons for removal have been remedied to the extent that the child's safety and well-being will not be endangered.

(f) If, at the time of the 18-month judicial review *or citizen review,* the child is not returned to the physical custody of his natural parents, the agreement shall be extended only if, at the time of the judicial review *or citizen review,* the court finds that the situation of the child is so extraordinary that the agreement should be extended. The extension shall be in accordance with subsection (3).

Section 50. Section 39.4531, Florida Statutes, is amended to read:

39.4531 Citizen review panels.—~~A citizen review panel shall:~~

(1) Citizen review panels may be established in each judicial circuit and shall be authorized by an administrative order executed by the chief judge of each circuit. The court shall administer an oath of office to each citizen review panel member which shall authorize the panel member to participate in citizen review panels and make recommendations to the court pursuant to the provisions of this section.

(2) Citizen review panels shall be administered by an independent not-for-profit agency. For the purpose of this section, an organization that has filed for nonprofit status under the provisions of s. 501(c)(3) of the U.S. Internal Revenue Code is an independent not-for-profit agency for a period of 1 year after the date of filing. At the end of that 1-year period, in order to continue conducting citizen reviews, the organization must have qualified for nonprofit status under s. 501(c)(3) of the U.S. Internal Revenue Code and must submit to the chief judge of the circuit court a consumer's certificate of exemption that was issued to the organization by the Florida Department of Revenue and a report of the organization's progress. If the agency has not qualified for nonprofit status, the court must rescind its administrative order that authorizes the agency to conduct citizen reviews. All independent not-for-profit agencies conducting citizen reviews must submit citizen review annual reports to the court. For the purpose of this section, a citizen review panel shall be composed of five volunteer members and shall conform with the requirements of this section. The presence of three members at a panel hearing shall constitute a quorum. Panel members shall serve without compensation.

(3) Based on the information provided to each citizen review panel pursuant to s. 39.453, each citizen review panel shall provide the court with a report and recommendations regarding the placement and dispositional alternatives the court shall consider before issuing a judicial review order.

(4) An independent not-for-profit agency authorized to administer each citizen review panel shall:

(a) In collaboration with the department, develop policies to assure that citizen review panels comply with all applicable state and federal laws.

~~(1) Be composed of five volunteer members, three of whom shall constitute a quorum. Such members shall serve without compensation, but shall be entitled to receive reimbursement for per diem and travel expenses pursuant to s. 112.061.~~

(b)~~(2)~~ Establish policies for the recruitment, selection, ~~training~~, retention, and terms of volunteer panel members. *Final selection of citizen review panel members shall, to the extent possible, reflect the multicultural composition of the community which they serve. A criminal background check and personal reference check shall be conducted on each citizen review panel member prior to the member serving on a citizen review panel.*

(c)~~(3)~~ *In collaboration with the department, develop, implement, and maintain a training program for citizen review volunteers and* provide training for each panel member prior to that member serving on a review *panel.* Such training may include, but shall not be limited to, instruction on dependency laws, departmental policies, and judicial procedures.

(d) Ensure that all citizen review panel members have read, understood, and signed an oath of confidentiality relating to the citizen review hearings and written or verbal information provided to the panel members.

(e)~~(4)~~ *Establish* ~~Construct~~ policies to avoid actual or perceived conflicts of interest by panel members during the review process *and to ensure accurate, fair reviews of each child dependency case.*

~~(5) Establish policies to ensure accurate, objective, and fair reviews of each child dependency case.~~

(f)~~(6)~~ Establish policies to ensure ongoing communication with the department and the court.

(g)~~(7)~~ Establish policies to ensure adequate communication with the parent or guardian, the foster parent, the guardian ad litem, and any other person deemed appropriate.

(h)~~(8)~~ Establish procedures that encourage attendance of interested persons at review hearings.

(i)~~(9)~~ Coordinate with existing citizen review panels to ensure consistency of operating procedures, ~~and~~ data *collection, and analysis and report generation* ~~keeping~~.

(j)~~(10)~~ Make recommendations as necessary to the court concerning attendance of essential persons at the review and other issues pertinent to an effective review process.

(k) Ensure consistent methods of identifying barriers to the permanent placement of the child and delineation of findings and recommendations to the court.

(5) The department and agents of the department shall submit information to the citizen review panel when requested and shall address questions asked by the citizen review panel to identify barriers to the permanent placement of each child.

Section 51. Effective July 1, 1992, paragraph (e) of subsection (4) and paragraph (b) of subsection (5) of section 420.627, Florida Statutes, are amended, and paragraphs (h) and (i) are added to subsection (4) of said section, to read:

420.627 Emergency financial assistance program.—

(4) CRITERIA.—The department shall develop criteria for implementation of the program in accordance with the following guidelines:

(e) Assistance shall be in the form of a *one-party check, made payable to the landlord, mortgageholder, or vendor,* ~~two-party payment~~ and shall be limited to the amount of 1 month's rent, mortgage payment, or cost for emergency housing, and related expenses as defined by rule of the department. The amount of such payment shall be based upon demonstrated need, but may not exceed a maximum established by the Legislature.

(h) The department shall have the authority to promulgate rules to determine whether the income and resources available to an applicant limited the applicant's ability to avoid the emergency. The department shall deny eligibility if the applicant fails to demonstrate, pursuant to the rules promulgated by the department, that income and resources limited the applicant's ability to avoid the emergency.

(i) The department shall have the authority to deny eligibility when it demonstrates, based on rules promulgated by the department, that the applicant who is eligible with respect to income and resources has otherwise abused the program.

(5) ADMINISTRATION OF PROGRAM.—

(b) Pending federal *waiver* approval, the department is encouraged to contract with *local service providers* ~~county governments~~ for administration of this program in accordance with the provisions of this section. *Upon approval, all determinations as to eligibility and distribution of emergency assistance payments may be made by the local service providers. Payment disbursed under this program must be made by the local service providers through revolving funds in accordance with this section.*

Section 52. (1) The Food Distribution Program within the Department of Health and Rehabilitative Services is hereby transferred by a type four transfer as defined in section 20.06(4), Florida Statutes, to the Department of Agriculture and Consumer Services.

(2) The administrative rules of the agencies involved in this reorganization that are in effect immediately prior to the effective date of this act shall remain in effect until specifically changed in the manner provided by law.

(3) This act shall not affect the validity of any judicial or administrative proceeding pending on the effective date of this act, and any agency to which are transferred the powers, duties, and functions relating to the pending proceeding shall be substituted as a party in interest for that proceeding.

Section 53. Subsection (1) of section 409.026, Florida Statutes, is amended to read:

409.026 Department functions.—

(1) The department shall conduct, supervise, and administer all social and economic services within the state which are or will be carried on by the use of federal or state funds or funds from any other source and receive and distribute food stamps ~~and commodities~~ donated by the United States or any agency thereof. The department shall determine the benefits each applicant or recipient of assistance is entitled to receive under this chapter, provided that each such applicant or recipient is a resident of this state and is a citizen of the United States or is an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

Section 54. Section 570.072, Florida Statutes, is created to read:

570.072 Commodity distribution; responsibility of department; functions.—

(1) The department shall conduct, supervise, and administer all commodity distribution services that will be carried on by the use of federal or state funds or funds from any other source or commodities received and distributed from the United States or any agency thereof. The department shall determine the benefits each applicant or recipient of assistance is entitled to receive under this chapter, provided that each such applicant or recipient is a resident of this state and is a citizen of the United States or is an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

(2) The department shall cooperate fully with the United States Government and its agencies and instrumentalities to the end that the department may receive the benefit of all federal financial allotments and assistance possible to carry out the purposes of this chapter.

(3) The department may:

(a) Accept such duties with respect to commodity distribution services as may be delegated to it by an agency of the Federal Government or any state, county, or municipal government.

(b) Act as agent of, or contract with, the Federal Government, state government, or any county or municipal government in the conduct and administration of commodity distribution services activities in securing the benefits of any public assistance that is available from the Federal Government or any of its agencies and in the distribution of funds received from the Federal Government, state government, or any county or municipal government for commodity distribution services purposes within the state; and

(c) Accept from any person or organization all offers of personal services, commodities, or other aid or assistance.

(4) This chapter does not limit, abrogate, or abridge the powers and duties of any other state agency.

Section 55. Contingent upon the approval of the Social Security Administration, the Department of Health and Rehabilitative Services shall provide for the orderly type four transfer of all powers, duties, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the department's Office of Disability Determinations from the department to the Department of Labor and Employment Security, pursuant to section 20.06(4), Florida Statutes.

Section 56. Paragraph (b) of subsection (6) of section 402.305, Florida Statutes, is amended to read:

402.305 Licensing standards; child care facilities.—

(6) SQUARE FOOTAGE PER CHILD.—Minimum standards shall be established by the department by rule.

(b) A child care facility that does not hold a valid license on October 1, 1992, and seeks regulatory approval to operate as a child care facility must have a minimum of 35 square feet of usable floor space for each child and a minimum of 45 square feet of usable *outdoor play area* ~~floor space~~ for each child.

Section 57. (1) The Department of Health and Rehabilitative Services shall establish, in one or more areas of the state, an electronic benefit transfer program for the dissemination of food stamp purchase authorization. The program may include authorization for other benefits as determined by the department.

(2) The department shall, in accordance with applicable federal laws and regulations, develop minimum program requirements and other policy initiatives for the electronic benefit transfer program, and shall submit to the U.S. Department of Health and Human Services and the U.S. Department of Agriculture the planning document for the implementation of the electronic benefit transfer program no later than December 31, 1992.

(3) To procure the necessary electronic equipment and technical support for the electronic benefit transfer program, the department shall, upon the effective date of this act, issue a request for proposals specifying the minimum components of the program.

Section 58. (1) There is established the State Agency Evaluation and Review Committee composed of the Lieutenant Governor, who shall serve as chairman; the director of the Office of Planning and Budgeting of the Executive Office of the Governor; a designee of the Governor from among the secretaries of departments of state government; a designee of the Governor from among the executive directors of agencies headed by the Governor and Cabinet; two members of the Senate, appointed by the Senate President; and two members of the House of Representatives, appointed by the Speaker of the House of Representatives. The duties of the State Agency Evaluation and Review Committee shall be:

(a) To identify and examine the specific purpose of each program, function, and activity of the executive branch of government, and the specific public benefit derived therefrom.

(b) To explore alternative courses of action that would result in administration of the same program, function, or activity in a more efficient or effective manner, including but not limited to determining:

1. Whether the implementing agency could be organized in a more efficient and cost-effective manner, or whether it should be reduced in size or eliminated.

2. Whether a program, function, or activity is administered by more than one agency, and whether it could be administered more efficiently or effectively to eliminate or reduce duplication or to ensure greater accountability, or could be more adequately coordinated among agencies.

3. Whether a program, function, or activity could be assumed more efficiently or effectively by a level of government other than the state, and whether such assumption would assure greater accountability for the program, function, or activity.

4. Whether agency procedures should be modified to ensure that a program, function, or activity efficiently and effectively meets the needs of the public.

(c) To determine the extent to which a program, function, or activity merits the cost to the taxpayer for the accomplishment of the program, function, or activity.

(d) To consider the consequences of discontinuing a program, function, or activity.

(e) To determine whether it is of a public benefit to continue funding the program, function, or activity in the existing manner.

(f) To determine whether the methods, rules, and policies employed by an agency to implement a program, function, or activity are cost-effective, efficient, and consistent with law and other identified policies of the state, and whether any such policies are sound, serve a public purpose in which government should be engaged, and are sufficient to serve identified needs of the state.

(2) The committee shall prepare and submit to the Governor, the members of the Legislature, affected agencies, and the public such reports of its activities and recommendations of the committee as the committee deems necessary.

(3) As the committee shall determine to be necessary to effectuate its recommendations pursuant to the purposes and directives of this sections, the committee shall prepare and submit to the Executive Office of the Governor, the Governmental Operations committees of the Senate and the House of Representatives, or the Appropriations committees of the Senate and the House of Representatives, as appropriate, for their consideration and introduction such proposed bills, resolutions, or joint resolutions as will make any transfer, reduction, abolition, consolidation, coordination, authorization, change in policy or practice, change in funding source, or reduction of personnel or funds; or as will amend or repeal statutory law or propose an amendment to the State Constitution.

(4) The committee shall have the right and authority to inspect and investigate the books, records, and physical plant of any agency of the state, and each agency is hereby directed to compile and furnish to the committee such testimony, information, books, and records as the committee shall request. The committee shall have the power to compel by subpoena duces tecum the production of any books, records, or any other documentary evidence that the committee may require to examine with respect to its duties, and the chairman shall issue such subpoena duces tecum on behalf of the committee.

(5) The committee shall have the power and authority to issue subpoena and other necessary process to compel the attendance of witnesses before the committee, and the chairman shall issue such process on behalf of the committee. The chairman or any other member of such committee shall be authorized to administer oaths and affirmations in the manner provided by law to witnesses who shall appear before such committee for the purpose of testifying before the committee on any matter within its purview that the committee shall require.

(6) The committee shall be assisted by staff, respectively, of the Appropriations committees and Governmental Operations committees of the Senate and the House of Representatives, the Office of Planning and Budgeting, the Legislative Auditing Committee, and the Information Resource Commission. The committee shall also be assisted by such staff of the Senate as the President of the Senate shall assign, staff of the House of Representatives as the Speaker of the House of Representatives shall assign, and staff of any joint committee as the President of the Senate and the Speaker of the House of Representatives shall assign.

(7) The committee shall have access to and use of the equipment, facilities, and resources, respectively, of the Appropriations committees and the Governmental Operations committees of the Senate and the House of Representatives, the Office of Planning and Budgeting, and the Legislative Auditing Committee; and such other equipment, facilities, and resources of the Legislature as the President of the Senate and the Speaker of the House of Representatives, or both, as appropriate, shall authorize or assign.

(8) The committee shall provide notice of its meetings in the manner provided in the rules of the Legislature for meetings at which legislative business is to be discussed, and shall schedule such meetings and timetables for the work of the committee as will expeditiously but thoroughly accomplish the duties of the committee in fulfillment of the purposes and directives of this section.

Section 59. Child protection system strategic plan.—

(1)(a) The Legislature finds that increasing numbers of children are entering the child welfare system as a result of abuse or neglect and many people believe the state's policy framework for the prevention, investigation, and treatment of child abuse and neglect has not been able to fully address the rise in reports of child maltreatment or to appropriately respond to the complexity of the problems presented by these children and their families. In addition, many people believe the child protection system has alienated many Floridians, whether because of lack of understanding or disagreement concerning the values and procedural application of child protective investigation policy or because of lack of adequate resources to address the problems of child abuse and neglect. The Legislature also finds that many people believe the child protection system has a poorly defined sense of mission, in that it too often focuses disproportionately on the technical aspects of child protection while demonstrating a diminished sensitivity to the needs of the children and their families and the consequences of system decisions that profoundly affect their lives.

(b) It is the intent of the Legislature to examine the values, definitions, procedures, policy, and resources of the child protection system. It is also the intent of the Legislature to develop a child protection system that maximizes the safety and stabilization of children and their families in crisis and appropriately minimizes the influx of the children and their families into the child welfare system by fully blending prevention, investigation, and child protection services into an integrative family preservation model.

(2) The Department of Health and Rehabilitative Services shall prepare a strategic plan relating to the child protection system in accordance with the findings and intent in subsection (1).

(a) As used in this section, "strategic plan" means analyzing existing programs, services, resources, policy, and needs in order to define a new direction for child protection system policy and programs by establishing clear and consistent goals and objectives and the strategies to meet them. The child protection system includes child abuse and neglect prevention, the central abuse registry and related investigation function, classification and appeals policy and function, protective services, and other related services.

(b) The strategic plan shall include, but not be limited to, the following:

1. Identification of the fundamental values of the child protection system.

2. Delineation of the issues and concerns regarding the child protection system and examination of the merits of these issues and concerns.

3. Identification of components of the child protection system and strategies to coordinate the continuum.

4. Proposed changes to the child protection system continuum.

5. Identification of the goals and objectives of the child protection system and of strategies to achieve them.

6. Identification of the needs of the child protection system.

7. Proposed statutory and policy changes.

8. Procedure for determining the effectiveness of the child protection system.

9. Identification of areas or issues lacking consensus regarding the appropriate state response.

(c) In developing the strategic plan, the department shall engage the viewpoints of a broad spectrum of individuals and groups, including child advocates, family rights advocates, the judiciary, members of the legal community, members of the service provider community, members of the Legislature, and other interested persons.

(d) On or before December 1, 1992, the Department of Health and Rehabilitative Services shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the appropriate substantive committees in the Senate and the House of Representatives a copy of the child protection system strategic plan.

Section 60. The Division of Statutory Revision of the Joint Legislative Management Committee shall prepare a reviser's bill for introduction at a subsequent session of the Legislature to conform the Florida Statutes to the changes made by this act.

Section 61. Except when contrary to the provisions of this act, any administrative rule of the Department of Health and Rehabilitative Services which is in effect on the date of transfer to another agency of duties with respect to which the rule was adopted remain in effect, as rules of the respective agency to which the duties were transferred, until the rule is specifically changed in the manner provided by law.

Section 62. The provisions of this act do not affect the validity of any judicial or administrative proceeding pending as of June 30, 1992; and any agency to which are transferred any powers, duties, and functions of the Department of Health and Rehabilitative Services relating to the pending proceeding must be substituted as a real party in interest.

Section 63. Other provisions of this act to the contrary notwithstanding, the health care systems in District 3 and District 13 shall be managed as a unified system. Therefore, the contractual relationships, master contracts, and patient care referral patterns in the Children's Medical Services program and related health and medicaid services in those districts which were in effect on July 1, 1991, shall not be affected by this act. The authority of District 13 to establish health or medicaid program offices or to respond to changing client needs, however, shall not be limited by the terms of this section.

Section 64. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 65. Except as otherwise expressly provided in this act, this act shall take effect July 1, 1992.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to the Department of Health and Rehabilitative Services; creating the "Health and Rehabilitative Services Reorganization Act of 1992"; providing legislative findings and intent; specifying preference for functional organization of services and programs of the department; providing for a functional organization plan; providing for a pilot project to test the feasibility of a functional, integrated system of children's services; providing criteria and requiring reports; amending s. 20.19, F.S.; expanding purposes of the department; deleting an annual assessment against budget entities; expanding duties of department administrators; creating the position of Assistant Secretary for Delinquency Services; assigning duties; providing for the issuance of health advisories by the State Health Officer; establishing a Medicaid Program Office; requiring advisory boards to civil mental health and developmental services institutions; reorganizing service districts; creating district and subdistrict health and human services boards and providing membership, powers, and duties; providing for removal of members; providing for reimbursement of travel and per diem expenses; providing for organization and meetings; requiring reports; creating district nominee qualifications review committees and providing membership, powers, and duties; providing for a district administrator and providing powers and duties; creating a statewide health and human services board; deleting district advisory councils; revising departmental budget provisions; revising provisions relating to information systems; providing duties; deleting obsolete reporting requirements; providing for the establishment of innovation zones for the purpose of testing model programs, policy options, and new technologies for the department; authorizing the Secretary of Health and Rehabilitative Services to propose changes to policies or procedures or waivers of rules for purposes of an innovation zone proposal; limiting the number of such zones; providing for clarifying language; requiring reports; amending s. 39.025, F.S.; revising provisions relating to juvenile delinquency and gang prevention councils; requiring councils to coordinate activities with district administrators; establishing duties and responsibilities for gang prevention councils; authorizing gang prevention councils to obtain funding and to hold public hearings; amending ss. 39.056, 393.11, 409.146, F.S., relating to early delinquency intervention programs, involuntary admission to residential developmental services programs, and client and management information systems; requiring provision of information and services for purposes of provision of delinquency services; creating s. 409.152, F.S.; providing legislative intent and definitions; requiring development service districts to develop a plan for service integration and family preservation; providing plan objectives; requiring a report; amending s. 381.702, F.S.; providing districts for health planning; amending s. 402.165, F.S.; revising membership of the Statewide Human Rights Advocacy Committee; amending ss. 394.67, 396.1818, 397.217, 410.023, 410.603, 415.602, 420.621, F.S., relating to juvenile substance abuse prevention and early intervention councils, mental health, community care services, health maintenance services, domestic violence services, and social services, to conform; repealing s. 394.715, F.S., relating to alcohol, drug abuse and mental health planning councils; amending ss. 316.1932, 316.1933, 316.1934, 322.63, 327.354, F.S.; transferring duties and functions with respect to rules and procedures for tests determining the presence of alcohol or controlled substances from the Department of Health and Rehabilitative Services to the Department of Law Enforcement; providing for the Department of Law Enforcement to establish standards and issue permits for certain blood tests; amending s. 316.1938, F.S.; transferring the authority and responsibilities for certifying ignition interlock devices from the Department of Health and Rehabilitative Services to the Department of Law Enforcement; amending ss. 483.021, 483.031, 483.051, 483.172, 483.23, F.S.; deleting provisions relating to the licensing and regulation of clinical laboratory personnel by the Department of Health and Rehabilitative Services; creating ss. 483.800-483.827, F.S.; providing a statement of purpose; providing for regulation of clinical laboratory personnel by the Board of Clinical Laboratory Personnel within the Department of Professional Regulation; amending s. 395.1015, F.S.; conforming a cross-reference; amending s. 20.30, F.S.; providing for the Board of Clinical Laboratory Personnel within the Division of Medical Quality Assurance; repealing ss. 483.041(2) and (4), 483.053, 483.071, 483.141, 483.151, 483.152, 483.153, 483.154, 483.161, 483.21, F.S., relating to clinical laboratory personnel; providing a saving clause; amending s. 409.029, F.S.; authorizing the Department of Health and Rehabilitative Services to contract for certain services provided under the Florida Employment Opportunity Act; establishing a Study Commission on Employment Opportunities and Self-Sufficiency and providing for membership and duties; requiring submission of findings and recommendations as to comprehensive welfare reform; amending s. 240.512, F.S.; adding physicians to the representation on the council of scientific advisors to the director of the H. Lee Moffitt Cancer and Research Institute; allowing council member to be reappointed; providing for transfer of the Florida Cancer Control and Research Advisory Council from the department to the H. Lee Moffitt Cancer Center and Research Institute; adding a member to the council; providing for physical location of the council; providing legislative intent to preserve the mission of the council; repealing ss. 119.07(7)(d), 415.107(3), and 415.51(3), F.S.; removing exemptions from public records requirements for reports of abuse, neglect, or exploitation of aged persons or disabled adults and of child abuse or neglect which are the subject of an active criminal investigation, and for quality assurance reports promulgated by the Department of Health and Rehabilitative Services; amending ss. 110.1127, 119.07, 400.414, 415.107, and 415.51, F.S.; correcting references; amending s. 39.453, F.S.; revising provisions relating to the use of citizen review panels in reviewing the status of a child; revising provisions relating to information provided to a panel; amending s. 39.4531, F.S.; revising provisions relating to citizen review panels; providing for the establishment, composition, and administration of such panels; providing duties of independent not-for-profit agencies administering such panels; amending s. 420.627, F.S.; revising the form of payments under the emergency financial assistance program; providing for certain eligibility determinations by rule of the Department of Health and Rehabilitative Services; specifying conditions for denial of eligibility; authorizing contracts with local service providers for administration of the program, upon approval of a federal waiver; transferring the Food Distribution Program from the Department of Health and Rehabilitative Services to the Department of Agriculture and Consumer Services; amending s. 409.026, F.S.; conforming that section to the transfer; creating s. 570.072, F.S.; providing for the Department of Agriculture and Consumer Services to conduct, supervise, and administer commodity distribution services; providing duties and powers of the department; transferring, upon federal approval, the Office of Disability Determinations from the Department of Health and Rehabilitative Services to the Department of Labor and Employment Security; amending s. 402.305, F.S.; providing standards for outdoor playground areas for certain child care facilities; requiring the establishment of an electronic benefit transfer program for disseminating food stamp purchase authorizations; establishing a State Agency Evaluation and Review Committee and providing membership, powers, and duties; providing for staffing; providing for procedure; requiring reports and recommendations; requiring the development of a child protection system strategic plan; providing legislative findings and intent; providing criteria; requiring a report; providing a directive to the Division of Statutory Revision; providing a saving clause for rules; providing that provisions of this act do not affect the validity of certain pending judicial or administrative proceedings; providing for exceptions to certain effects of the act on certain districts; providing a severability clause; providing an effective date.

WHEREAS, interim planning groups were established by the Legislature to provide recommendations regarding the geographic boundaries of service districts of the department and the manner of governance of service districts, and

WHEREAS, there is a need to create a strong sense of community and a recognition that the problems of dysfunctional and disabled families belong to each of us and that an effective response will require community ownership, and

WHEREAS, there is a need to create a governance model which allows for a true partnership between the state and local communities and provides for substantial local decisionmaking regarding needs and resources within broad statewide policies, and

WHEREAS, there is a need to create a client-centered, highly integrated, and accessible continuum of services which empowers individuals, families, and communities to provide their solutions to meeting their needs, and

WHEREAS, there is a need to streamline the day-to-day operations of both the service delivery system and support services to assure that they are both efficient and satisfactory to the consumer, and

WHEREAS, there is a need to improve accountability based upon real-world outcomes to ensure that the dollars invested in health and human service programs produce meaningful positive change in the lives of those served, NOW, THEREFORE,

Senator Bankhead moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A—On page 24, strike line 2 and insert: *County, 3 members; and Volusia County, 9 members.*

Senator Weinstock moved the following amendments to **Amendment 1** which were adopted:

Amendment 1B—On page 16, line 28, through page 17, line 21, strike all of said lines and insert:

g.f. Children~~, Youth,~~ and Families Program Office.—The responsibilities of this program office encompass intake services for ~~delinquent children,~~ families-in-need-of-services and children-in-need-of-services programs; protective investigation services for abandoned, abused, and neglected children; interstate compact on the placement of children programs; children's protective services; adoption; child care; foster care programs; specialized services to families; *and* programs serving children through the Menninger Foundation, including the CHARLEE Program~~, the Eckerd Family Youth Alternatives, Inc., and the Elaine Gordon Treatment Center; and all programs operated by the department relating to delinquent children~~.

h.g. Alcohol, Drug Abuse, and Mental Health Program Office.—The responsibilities of this office encompass all alcohol, drug abuse, and mental health programs operated by the department. In addition, the responsibility for adult forensic programs and children's mental health programs and services, except programs serving children through the Menninger Foundation, including the CHARLEE Program, the Eckerd Family Youth Alternatives, Inc., and the Elaine Gordon Treatment Center, shall be located within this office.

i. Delinquency Services Program Office.—The responsibilities of this office encompass all delinquency programs and services operated by the department, including but not limited to programs serving children through the Eckerd Family Youth Alternatives, Inc.; and the Elaine Gordon Treatment Center.

Amendment 1C (with Title Amendment)—On page 145, line 24, strike all language through and including page 149, line 18

And the title is amended as follows:

In title, on page 159, strike all of lines 20-24 and insert: authorizations; requiring the

Amendment 1 as amended was adopted.

On motion by Senator Weinstock, by two-thirds vote **CS for HB 2379** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

On motions by Senator Kirkpatrick, by two-thirds vote **HB 2477** was withdrawn from the Committees on Natural Resources and Conservation; Finance, Taxation and Claims; and Appropriations.

On motion by Senator Kirkpatrick—

HB 2477—A bill to be entitled An act relating to pollutant discharge prevention and removal; amending s. 376.031, F.S.; providing a definition; amending s. 376.30, F.S.; providing legislative intent; amending s. 376.301, F.S.; providing certain definitions; amending s. 376.302, F.S.; prohibiting certain activities; providing penalties; amending s. 376.303, F.S.; authorizing the Department of Environmental Regulation to adopt rules imposing a schedule of fees for regulated storage systems; amending s. 376.305, F.S.; revising the abandoned tank restoration program; amending s. 376.3071, F.S.; revising provisions specifying uses of the Inland Protection Trust Fund; requiring the department to reimburse certain cleanup costs; abolishing the Financial and Technical Advisory Committee; requiring the department to establish an efficiency task force; providing for membership; providing duties; amending s. 376.3072, F.S.; revising the Florida Petroleum Liability and Restoration Insurance Program; authorizing the department to provide certain restoration coverage; providing a schedule; authorizing the department to conduct audits; requiring interest on overpayments by the department; amending s. 376.3074, F.S.; authorizing the department to collect certain noncompliance fees; providing for a course in storage tank operation and management; amending s. 376.308, F.S.; providing for liability and defenses of certain facilities; amending s. 376.311, F.S.; providing for nonapplication of a penalty; amending s. 376.313, F.S.; providing for joint and several liability; amending s. 376.317, F.S.; deleting certain requirement for a county to adopt a countywide ordinance regulating underground storage tanks; amending s. 206.9935, F.S.; increasing the excise tax for inland protection; reenacting s. 206.9941, F.S., relating to tax exemptions; amending s. 376.320, F.S.; specifying applicability; amending s. 376.321, F.S.; providing definitions; amending s. 376.322, F.S.; deleting a requirement that the department monitor certain facilities; deleting a requirement that the department issue certain registration certificates; amending s. 376.323, F.S.; changing date of tank registrations; increasing the registration fee; requiring the department to issue certain registration placards; amending s. 376.324, F.S.; revising facility containment and integrity plan requirements; amending s. 376.325, F.S.; requiring new and replacement tanks to have secondary containment; amending s. 376.326, F.S.; providing for applicability; providing an appropriation; amending s. 376.70, F.S., exempting state universities from certain Department of Environmental Regulation asbestos removal fees; repealing s. 3, ch. 86-186, Laws of Florida; providing that s. 20.261(2)(d), F.S.; relating to the Division of Waste Management of the Department of Environmental Regulation, is not repealed; amending s. 28 of ch. 91-305, L.O.F.; changing the report date for the Pollution Prevention Council; providing for abolishment of the council; providing effective dates.

—a companion measure, was substituted for **CS for CS for CS for SB 2288** and read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote **HB 2477** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motions by Senator Kirkpatrick, by two-thirds vote **HB 2337** was withdrawn from the Committees on Natural Resources and Conservation; Community Affairs; and Appropriations.

On motion by Senator Kirkpatrick—

HB 2337—A bill to be entitled An act relating to hazardous materials; amending ss. 252.81, 252.82, 252.83, 252.85, 252.86, 252.87, 252.88, and 252.90, F.S.; correcting references to federal law; clarifying definitions; requiring the Department of Community Affairs to use the emergency planning capabilities of local governments under certain circumstances; imposing an annual reporting fee; requiring interdepartmental cooperation; providing for legislative review and repeal; requiring the State Hazardous Materials Emergency Response Commission to establish an efficiency task force; providing duties of the task force; requiring a report; creating s. 252.91, F.S.; providing for repayment of certain start-up costs; providing an effective date.

—a companion measure, was substituted for **CS for SB 1936** and read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote **HB 2337** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

SENATOR JENNE PRESIDING

CS for HB 497—A bill to be entitled An act relating to state planning and budgeting; amending s. 11.513, F.S.; repealing provisions that authorize agency evaluations and reviews to be conducted by consultants; revising the list of recipients for evaluation and justification review reports; amending s. 216.0165, F.S.; revising the list of recipients for agency responses; providing for the Legislative Auditing Committee to establish the order in which agencies are reviewed; repealing provisions that require the Senate and House of Representatives and the Governor to prepare responses to the evaluation and review; repealing s. 11.511(5), F.S., which provides for the Director of the Office of Policy Analysis and Agency Review to hire consultants to perform agency evaluation and justification reviews; repealing s. 17.31, F.S., relating to annual reports of trust funds; creating s. 17.32, F.S.; requiring the Comptroller to provide reports of trust funds to the Legislature annually; amending ss. 18.10, 18.125, 215.195, 215.22, 215.26, 215.28, 215.29, 215.31, 215.32, 215.322, 215.34, 215.405, 215.422, 215.48, 215.49, 215.51, 215.515, 215.53, 215.85, 215.92, 215.94, 216.011, 216.015, 216.0152, 216.0154, 216.0158, 216.016, 216.0165, 216.023, 216.031, 216.043, 216.044, 216.0442, 216.0445, 216.081, 216.091, 216.102, 216.111, 216.131, 216.135, 216.141, 216.151, 216.163, 216.172, 216.177, 216.179, 216.181, 216.192, 216.195, 216.212, 216.221, 216.231, 216.241, 216.251, 216.262, 216.271, 216.275, 216.292, 216.301, 216.311, 216.321, 216.345, 216.347, 216.349, 287.20, F.S.; providing that certain budgetary procedures that apply to agencies of the executive branch of government also apply to the judicial branch; amending ss. 216.111, 216.177, 216.181, 216.292, F.S.; deleting certain powers and duties of the Executive Office of the Governor relating to budgetary mat-

ters; amending s. 110.1099, F.S.; deleting a provision that allows educational leaves of absence to be granted only when the Legislature has provided specific funding for such leaves; amending s. 215.32, F.S.; providing for transferring moneys in trust funds into the Working Capital Fund under certain circumstances; providing for transfer into the General Revenue Fund of unappropriated cash balances in trust funds; providing exceptions; specifying minimum balances for moneys in the Working Capital Fund; repealing s. 215.3205, F.S., relating to abolishing trust funds; creating s. 215.3206, F.S.; providing for oversight of agency budgets; providing a format and procedure for appropriations bills and revenue bills; requiring a final budget report by the Office of Planning and Budgeting; specifying contents of the report; providing for review and accounting of certain funds; providing for the abolishment of specified trust funds and the reversion of assets in such funds to the General Revenue Fund; providing for future abolishment of specified trust funds; providing for the appropriation of such funds; providing limitations on funding of specified state programs and activities; creating s. 215.3207, F.S.; providing criteria for creation of trust funds; amending s. 215.93, F.S.; requiring the Florida Fiscal Accounting Management Information System to become operational; amending s. 216.011, F.S.; providing definitions; amending s. 216.0165, F.S.; providing for evaluation of certain judicial offices; amending s. 216.031, F.S.; prescribing contents of legislative budget requests; creating s. 216.052, F.S.; providing for review of legislative budget requests; prescribing guidelines on grants and loans to local entities; providing for audits of support organizations; creating s. 216.053, F.S.; providing for summary information in the general appropriations acts; amending s. 216.141, F.S.; deleting provisions relating to duties of the Comptroller; amending s. 216.163, F.S.; providing for organization of Governor's recommended budget; amending s. 216.164, F.S.; providing for the Governor to recommend a program budget or performance-based budget; amending s. 216.177, F.S.; deleting certain powers of legislative appropriations committee chairmen; amending s. 216.178, F.S.; providing for format of appropriations acts; amending s. 216.181, F.S.; providing for amendments to approved budgets; providing guidelines; amending s. 216.212, F.S.; providing for budgeting of federal funds; amending s. 216.221, F.S.; prescribing duties of the Governor and the Chief Justice of the Supreme Court with respect to actions to prevent budget deficits; requiring reductions in certain General Revenue appropriations under certain circumstances; providing for an appropriation from the Working Capital Fund to offset deficits; providing guidelines in reducing operating budgets; providing for resolution by the Legislature of certain deficits; amending s. 216.262, F.S.; prescribing duties with respect to authorized positions; amending s. 216.272, F.S.; creating additional working capital trust funds; amending s. 235.4235, F.S.; deleting an Administration Commission approval requirement; amending s. 240.2094, F.S.; providing that funds for the State University System are subject to guidelines imposed in general appropriations acts; repealing s. 411.204(5)(e), F.S., relating to a transfer of funds for evaluation of handicap prevention, early childhood, and early assistance; amending s. 946.40, F.S.; deleting powers of the Administration Commission with respect to the number of positions for prisoners in public works; amending s. 218.385, F.S.; providing for a truth-in-bonding statement before issue of local government bonds; amending s. 110.1245, F.S.; revising provisions relating to the meritorious service awards program; repealing s. 409.085, F.S., relating to appropriations to the Department of Health and Rehabilitative Services and transfer of surplus funds; amending s. 186.002, F.S.; providing legislative findings and intent with respect to state agency strategic plans; amending s. 186.003, F.S.; providing definitions; amending s. 186.021, F.S.; providing for content of state agency strategic plans; amending s. 186.022, F.S.; providing for preparation and review of state agency strategic plans and deleting requirements for agencies to prepare functional plans; amending s. 11.45, F.S.; requiring the Auditor General to use an agency's strategic plan in evaluating the agency's performance; amending s. 24.122, F.S.; deleting the exemption of the Department of the Lottery from requirements for agency functional plans; creating s. 110.12456, F.S.; requiring the Department of Administration to adopt rules to establish and administer a reversion reprogramming and recovery reward program; providing guidelines; amending s. 282.003, F.S.; revising the title of the Information Resources Management Act to include paperwork reduction; amending s. 282.004, F.S.; providing legislative intent regarding minimizing the paperwork burden; amending s. 282.303, F.S.; providing definitions; amending s. 282.305, F.S.; providing duties of the Information Resource Commission regarding assistance for the review of required forms and reporting requirements and paperwork reduction; creating s. 282.3051, F.S.; providing legislative findings with respect to state government reporting requirements and required forms; directing state governmental entities to periodically identify, review, and evaluate certain reporting requirements and forms and make recommendations for the modification or elimination thereof; providing criteria for evaluation of reporting requirements and required forms; directing such entities to take specified paperwork reduction actions; directing the Information Resource Commission to coordinate development of a pilot project to eliminate or reduce forms and paperwork and report thereon; amending ss. 282.3061, 282.3062, and 282.307, F.S.; including paperwork reduction in the State Strategic Plan for Information Resources Management, the Annual Report on Information Resources Management, and the Strategic Plan for Information Resources Management submitted by each department; amending s. 282.311, F.S.; providing duties of information resource managers regarding paperwork reduction; amending s. 282.312, F.S.; requiring that Annual Performance Reports include information relating to paperwork reduction and reporting requirements; amending s. 286.001, F.S.; providing that specified governmental agencies required to make regular or periodic reports may file an abstract thereof with the designated recipient and an abstract and copy with the Division of Library and Information Services; providing duties of the division and removing responsibilities of the Executive Office of the Governor; directing agency heads to ensure that reports are created, managed, and disseminated through electronic means; amending ss. 216.031 and 216.0445, F.S.; correcting references; amending s. 287.012, F.S.; defining the term "local purchasing source"; amending s. 287.042, F.S.; authorizing the Division of Purchasing to negotiate and execute contracts for state purchases; creating s. 287.056, F.S.; allowing state agencies to make purchases from a local purchasing source for certain purchases if such purchases cost less; providing that administrative costs and the specifications, terms, and conditions developed by the division be considered in evaluating such purchases; providing for review by the Auditor General; providing an exception; providing for future review and expiration of s. 287.056, F.S.; providing for an annual review of the fiscal impact of s. 287.056, F.S.; providing for establishment of a work group to review certain functions in the Department of Management Services; providing for membership; providing duties; providing for a report; providing an expiration date; creating a pilot project in the Department of Health and Rehabilitative Services to test certain flexible budget and personnel policies; providing duties of the department; providing criteria for the pilot project; authorizing the department to use certain appropriations for certain purposes; providing an exemption from certain budget requirements for certain positions and appropriations of the department; authorizing the department to transfer certain funds to establish an Office of Evaluation; providing for payment of certain expenses from such funds; providing an effective date.

—was read the second time by title.

Senator Gardner moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. Section 11.513, Florida Statutes, is amended to read:

11.513 Agency evaluation and justification review.—

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

~~(a) "Consultant" means a private consultant or an individual employee or group of employees of the Office of Policy Analysis and Agency Review.~~

(a)~~(b)~~ "Director" means the Director of the Office of Policy Analysis and Agency Review.

(b)~~(c)~~ "Policy area" means a set of broad plans or courses of action undertaken by a governmental entity or entities pursuant to statutory or budgetary authority which involves related objectives or goals, including specific issues likely to come before the Legislature.

(c) "Agency" means any unit of organization of the executive branch as defined in chapter 20, any unit of organization of the legislative branch, and any unit of organization of the judicial branch.

~~(d) "Private consultant" means a public accounting firm or a public or private information-gathering and evaluation organization that has been selected by the director as being qualified to perform the periodic agency evaluation and justification reviews required by this section and by s. 216.0165.~~

(2) No later than October 1 of the year in which an agency has been scheduled for an evaluation and review pursuant to s. 216.0165~~(2) and~~ (3),

the director shall initiate an evaluation and justification review of the agency. ~~The director shall propose to the Legislative Auditing Committee which aspects of the review are to be done using private consultants. The director shall submit a proposal to the Legislative Auditing Committee for review and approval.~~

~~(a)1. If it is determined that a private consultant is needed to carry out the requirements of this section, the director shall solicit proposals from private consultants and may require each private consultant being considered for the project to provide a statement concerning the private consultant's contractual relationship or employment with any person, business, or other entity if the information obtained from an evaluation and review by the private consultant will directly or indirectly benefit the private consultant or the person, business, or other entity with which the private consultant has a contractual relationship or employment. At least 30 days before the issuance of a request for proposals, the director shall submit the request for proposals to the Legislative Auditing Committee for review and approval. The request for proposals must be issued 30 days after its submittal to the Legislative Auditing Committee unless the committee requests in writing that the request for proposals be amended prior to its issuance.~~

~~2. Within 5 days after the execution of a contract with a private consultant, the director shall submit the proposed contract to the Legislative Auditing Committee for review. Each such contract becomes effective 30 days after its submittal to the Legislative Auditing Committee unless the committee objects to the contract in writing to the director within such time. If the Legislative Auditing Committee objects to the proposed contract, the contract must be renegotiated and submitted to the committee. A renegotiated contract becomes effective 30 days after its submittal to the Legislative Auditing Committee unless the committee objects in writing to the renegotiated contract. The Legislative Auditing Committee may not object to the private consultant selected by the director.~~

~~3. The director shall serve as administrator of the contract and may assist the private consultant as appropriate. The contract must contain performance guidelines based on acceptable evaluation standards.~~

~~(b) If it is determined that a portion or all of an agency evaluation and justification review can be conducted in house, the director must submit a proposal to the Legislative Auditing Committee for review and approval.~~

(3) The director, in consultation with the Legislative Auditing Committee, shall develop specific measures of performance and criteria for *each* ~~the consultants that perform the~~ agency evaluation and justification review. ~~If particular policy areas involve a significant number of agencies or governmental entities such that a fully detailed evaluation would unnecessarily delay or complicate the evaluation process, the consultant may use statistical sampling and analysis methods in obtaining information for the agency evaluation and justification review.~~

(4) The scheduled evaluation and justification review must be comprehensive in its scope but, at a minimum, must be conducted in such a manner as to specifically determine the following, and to consider and determine what changes, if any, are needed with respect thereto:

(a) The identifiable cost of programs and activities in each policy area.

(b) The specific purpose of each program or activity in each policy area, as well as the specific public benefit derived therefrom.

(c) Alternate courses of action that would result in administration of the same programs and activities in a more efficient or effective manner. The courses of action to be considered must include, but are not limited to:

1. Whether the implementing agency could be organized in a more efficient and cost-effective manner or should be reduced in size or eliminated.

2. Whether state programs that are implemented by more than one agency could be administered more efficiently or effectively to avoid duplication of activities and ensure that activities are adequately coordinated.

3. Whether the activities of an agency that implements programs or activities in a particular policy area could be assumed by a level of government other than the state.

4. Whether agency procedures should be modified to ensure that programs and activities within each policy area efficiently and effectively meet the needs of the public.

(d) The extent to which the duties and functions of the agency are required by the State Constitution or merit the cost to the taxpayer for the accomplishment of those duties and functions.

(e) The consequences of discontinuing such programs or activities within each policy area. If any discontinuation is recommended, such recommendation must be accompanied by the description of methods to implement such recommendation, including an implementation schedule for discontinuing the programs or activities and procedures for assisting agency employees affected by the discontinuation.

(f) Whether it would be desirable public policy to continue funding the programs or activities, either in whole or in part, in the existing manner. In making such a determination, the *director* ~~consultant~~ shall evaluate whether programs or activities funded by taxes paid by the general population of the state serve broad-based or limited interests. If a program or activity is found to serve a limited interest, the review shall contain recommendations as to whether it would be sound public policy to continue funding the program or activity, either in whole or in part, in the existing manner.

(g) Whether the implementation of programs or activities, including the agency's implementation through its rules, is cost-effective and consistent with the policies of the Legislature as expressed or recognized in law, including the state comprehensive plan, for the particular policy area, and whether such policies remain sound policies and whether the policies, programs, and activities are sufficient to serve the identified needs of the state or should be changed.

(h) Whether the information reported pursuant to s. 216.031(5) has relevance and utility for the evaluation of the policy area.

(5) The *director* ~~consultant~~ shall develop where appropriate~~, in consultation with the director,~~ criteria by which the performance of programs or activities may be measured.

(6) No later than 1 year after the initiation of an agency evaluation and review or no later than the time established by the Legislative Auditing Committee for submittal, the *director* ~~consultant~~ shall submit a report of the agency evaluation and justification review findings to ~~the director,~~ the President of the Senate, the Speaker of the House of Representatives, ~~the Senate Minority Leader, the House Minority Leader, the chairmen of the Senate and House of Representatives appropriations committees,~~ the Legislative Auditing Committee, the Auditor General, the Governor, the head of each agency that was the subject of the evaluation and justification review, and the head of any state agency that is substantially affected by the findings and recommendations.

(7) Within 90 days after receipt by the director of the ~~report by the consultant of the~~ agency evaluation and justification review findings, the director shall recommend in writing any changes in the programs or activities, including the funding for such programs or activities, which he has determined advisable based upon the findings ~~of the consultant or upon his own independent review~~. These recommendations must be forwarded to the President of the Senate, the Speaker of the House of Representatives, ~~the Senate Minority Leader, the House Minority Leader, the chairmen of the Senate and House of Representatives appropriations committees,~~ the Legislative Auditing Committee, the Governor, the head of each agency that was the subject of the evaluation and justification review, and the head of any state agency that is substantially affected by the recommendations of the director.

(8) The Legislature intends that the agency evaluation and justification review procedure be designed to assess the efficiency, effectiveness, and long-term implications of state policies, and that the procedure results in recommendations for the improvement of such policies and state government. To that end, all reports submitted pursuant to subsections (6) and (7) must include an identification of the estimated financial consequences, including any potential savings, that would be realized if the recommendations were implemented.

~~(9) The report of the consultant submitted pursuant to subsection (6) is exempt from s. 119.07(1) until such time as the agency's response thereto is released or until 30 days after submittal, whichever occurs first.~~

~~(10) A consultant may not disclose or use information not available to members of the general public and gained by reason of the consultant's~~

~~performance of an agency evaluation and justification review pursuant to this section and s. 216.0165 for the consultant's gain or benefit or the gain or benefit of any other person or business entity.~~

(9)~~(11)~~ This section expires October 1, 2001, and must be reviewed by the Legislature in advance of that date.

Section 2. Section 216.0165, Florida Statutes, is amended to read:

216.0165 Agency evaluation and justification.—

(1)(a) Each agency or entity ~~identified in subsection (2)~~ is periodically subject to the agency evaluation and justification review provided for in s. 11.513~~, in accordance with subsection (2) or as determined by the Legislative Auditing Committee pursuant to subsection (3)~~.

(b) The Director of the Office of Policy Analysis and Agency Review, pursuant to the authority set forth in s. 11.513, shall timely notify each agency that a periodic evaluation and review of the policy area and the agency's current budget and current and projected needs has been scheduled.

(c)1. Each such agency shall offer its complete cooperation to the ~~consultant and the~~ director to the end that the review may be accomplished.

2. Any person who willfully fails or refuses to furnish or produce any book, record, paper, document, data, or sufficient information necessary to a proper review, as scheduled by this section, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

3. Any officer who willfully fails or refuses to furnish or produce any book, record, paper, document, data, or sufficient information necessary to a proper review, as scheduled by this section, is subject to removal from office.

(d) Upon receipt of the ~~consultant's report and the~~ recommendations of the director as provided in s. 11.513(6) and (7), any agency to which recommendations contained in the director's recommendations specifically apply shall provide its point-by-point responses to the director's recommendations as a separate document that must be submitted at the same time as the agency's budget request for the fiscal year commencing on July 1 of the second calendar year following the submission of the ~~consultant's~~ report. An agency to which any of the director's recommendations specifically apply also shall submit its responses to the recommendations to the director, the President of the Senate, the Speaker of the House of Representatives, ~~the Senate Minority Leader, the House Minority Leader,~~ the Legislative Auditing Committee, ~~and~~ the chairmen of the appropriate substantive committees of the Senate and the House of Representatives, *and the Governor*.

~~(e) The Senate and the House of Representatives shall prepare a point-by-point response to the recommendations contained in the report of the director on the legislative branch that is prepared and submitted pursuant to s. 11.513 and this section. The Governor shall prepare a point-by-point response to the recommendations contained in the report of the director on the Executive Office of the Governor that is prepared and submitted pursuant to s. 11.513 and this section.~~

(2) Each agency or entity subject to the provisions of this section shall be subject to periodic evaluation and review no more often than once every 7 years or less often than once every 15 years. The agency evaluation and justification review of an agency shall include all adjunct authorities, boards, committees, offices, and commissions within or connected to an agency, and all adjunct agencies which are by law contained in or responsible to the agency which is the subject of the evaluation and review. The evaluation and review may include consideration of programs provided by other agencies which are integrally related to the programs administered by the agency which is scheduled for evaluation and review. ~~The evaluations and reviews shall be initiated in the following order, subject to revision by the Legislative Auditing Committee as provided in subsection (3):~~

~~(a) The Department of Revenue.~~

~~(b) The Department of Environmental Regulation.~~

~~(c) The Department of Natural Resources.~~

~~(d) The Game and Fresh Water Fish Commission.~~

~~(e) The Department of the Lottery.~~

~~(f) The Department of Corrections.~~

~~(g) The Florida Parole Commission.~~

~~(h) The Department of Health and Rehabilitative Services.~~

~~(i) The Department of Education.~~

~~(j) The Department of Professional Regulation.~~

~~(k) The Department of Transportation.~~

~~(l) The Department of Community Affairs.~~

~~(m) The Department of Legal Affairs.~~

~~(n) The Department of Law Enforcement.~~

~~(o) The Judicial Branch.~~

~~(p) The Department of Banking and Finance.~~

~~(q) The Department of Administration.~~

~~(r) The Department of Business Regulation.~~

~~(s) The Department of Agriculture and Consumer Services.~~

~~(t) The Department of Commerce.~~

~~(u) The Department of State.~~

~~(v) The Department of Veterans' Affairs.~~

~~(w) The Department of Military Affairs.~~

~~(x) The Executive Office of the Governor.~~

~~(y) The Legislative Branch.~~

~~(z) The Public Service Commission.~~

~~(aa) The Department of Labor and Employment Security.~~

~~(bb) The Department of Insurance.~~

~~(cc) The Department of General Services.~~

~~(dd) The Department of Highway Safety and Motor Vehicles.~~

~~(ee) The Department of Citrus.~~

(3) The Legislative Auditing Committee *shall establish* ~~may from time to time revise~~ the order of evaluations and reviews *and may* ~~or~~ provide ~~either~~ for acceleration or deceleration of the total review cycle, provided that:

(a) No agency shall be the subject of a periodic evaluation and review for a second time until each agency on the schedule has been the subject of a periodic evaluation and review, except upon a two-thirds vote of the members appointed to the Legislative Auditing Committee. However, the programs of an agency may be reviewed as part of the review of another agency even if the agency has previously been reviewed.

(b) The total period for the evaluations and reviews may not be reduced to a period of less than 7 years nor extended to a period of more than 15 years.

(c) Funds sufficient to permit an acceleration of the evaluations and reviews have been appropriated.

(d) The revision is approved by a two-thirds vote of the members appointed to the Legislative Auditing Committee.

(4) This section expires October 1, 2001, and must be reviewed by the Legislature in advance of that date.

Section 3. Subsection (5) of section 11.511, Florida Statutes, as created by chapter 90-110, Laws of Florida, is repealed.

Section 4. Section 17.31, Florida Statutes, is repealed, and section 17.32, Florida Statutes, is created to read:

17.32 Annual report of trust funds; duties of Comptroller.—

(1) On February 1 of each year, the Comptroller shall present to the President of the Senate and the Speaker of the House of Representatives a report listing all trust funds as defined in s. 215.32. The report shall contain the following data elements for each fund for the preceding fiscal year:

(a) The fund code.

(b) The title.

(c) The fund type according to generally accepted accounting principles.

(d) The statutory authority.

(e) The beginning cash balance.

(f) Direct revenues.

(g) Nonoperating revenues.

(h) Operating disbursements.

(i) Nonoperating disbursements.

(j) The ending cash balance.

(k) The department and budget entity in which the fund is located.

(2) The report shall separately list all funds that received no revenues other than interest earnings or transfers from the General Revenue Fund or from other trust funds during the preceding fiscal year.

(3) The report shall separately list all funds that had unencumbered balances in excess of $2 million in each of the 2 preceding fiscal years.

Section 5. Subsection (6) of section 18.10, Florida Statutes, is amended to read:

18.10 Deposits and investments of state money.—

(6) The Treasurer is designated the cash management officer for the state and is charged with the coordination and supervision of procedures providing for the efficient handling of financial assets under the control of the State Treasury and each of the various state agencies, *and of the judicial branch,* as defined in s. 216.011.

Section 6. Section 18.125, Florida Statutes, is amended to read:

18.125 Treasurer; powers and duties in the investment of certain funds.—

(1) The Treasurer, acting with the approval of a majority of the State Board of Administration, shall invest all general revenue funds and all the trust funds and all agency funds of each state agency, *and of the judicial branch,* as defined in s. 216.011, and may, upon request, invest funds of any statutorily created board, association, or entity, except for the funds required to be invested pursuant to ss. 215.44-215.53, by the procedure and in the authorized securities prescribed in s. 18.10; for this purpose, the Treasurer shall be authorized to open and maintain one or more demand and safekeeping accounts in any bank or savings association for the investment and reinvestment and the purchase, sale, and exchange of funds and securities in the accounts. Funds in such accounts used solely for investments and reinvestments shall be considered investment funds and not funds on deposit, and such funds shall be exempt from the provisions of chapter 280. In addition, the securities or investments purchased or held under the provisions of this section and s. 18.10 may be loaned to securities dealers and banks and may be registered by the Treasurer in the name of a third-party nominee in order to facilitate such loans, provided the loan is collateralized by cash or United States government securities having a market value of at least 100 percent of the market value of the securities loaned. The Treasurer shall keep a separate account, designated by name and number, of each fund. Individual transactions and totals of all investments, or the share belonging to each fund, shall be recorded in the accounts.

(2) By and with the consent and approval of any constitutional board, *the judicial branch,* or agency now having the constitutional power to make investments and in accordance with this section, the Treasurer shall have the power to make purchases, sales, exchanges, investments, and reinvestments for and on behalf of any such board.

(3)(a) It is the duty of each state agency, *and of the judicial branch,* now or hereafter charged with the administration of the funds referred to in subsection (1) to make such moneys available for investment as fully as is consistent with the cash requirements of the particular fund and to authorize investment of such moneys by the Treasurer.

(b) Monthly, and more often as circumstances require, such agency *or judicial branch* shall notify the Treasurer of the amount available for investment; and the moneys shall be invested by the Treasurer. Such notification shall include the name and number of the fund for which the investments are to be made and the life of the investment if the principal sum is to be required for meeting obligations. This subsection, however, shall not be construed to make available for investment any funds other than those referred to in subsection (1).

(4)(a) There is hereby created in the State Treasury the Treasurer's Administrative and Investment Trust Fund.

(b) The Treasurer shall make an annual assessment of 0.1 percent against the average daily balance of those moneys made available pursuant to subsection (3). The proceeds of this assessment shall be deposited in the Treasurer's Administrative and Investment Trust Fund.

(c) The moneys so received and deposited in the fund shall be used by the Treasurer to defray the expense of his office in the discharge of the administrative and investment powers and duties prescribed by this section and this chapter, including the maintaining of an office and necessary supplies therefor, essential equipment and other materials, salaries and expenses of required personnel, and all other legitimate expenses relating to the administrative and investment powers and duties imposed upon and charged to him under this section and this chapter. The unencumbered balance in the trust fund at the close of each quarter shall not exceed $750,000. Any funds in excess of this amount shall be transferred unallocated to the General Revenue Fund.

(5) The transfer of the powers, duties, and responsibilities of existing state agencies *and of the judicial branch* made by this section to the Treasurer shall include only the particular powers, duties, and responsibilities hereby transferred, and all other existing powers shall in no way be affected by this section.

Section 7. Subsection (5) of section 110.1099, Florida Statutes, as created by chapter 91-431, Laws of Florida, is amended to read:

110.1099 Education and training opportunities for state employees.—

(5) The Department of Administration, in consultation with the agencies and Florida's public postsecondary educational institutions, shall adopt rules to implement and administer this section. ~~However, educational leave of absence may not be approved unless the Legislature has provided specific funding to the agency for employees participating in such leave.~~

Section 8. Subsections (2) and (3) of section 215.195, Florida Statutes, are amended to read:

215.195 State-Federal Relations Trust Fund.—

(2) APPLICATION FOR ALLOCABLE STATEWIDE OVERHEAD.—Each state agency, *and the judicial branch,* making application for federal grant or contract funds shall, in accordance with the Statewide Cost Allocation Plan, include in its application a prorated share of the cost of services provided by state central service agencies which are reimbursable to the state pursuant to the provisions of Federal Management Circular 74-4.

(3) DEPOSIT OF OVERHEAD IN THE TRUST FUND.—If an application for federal grant or contract funds is approved, the state agency *or judicial branch* receiving the federal grant or contract shall identify that portion representing reimbursement of allocable statewide overhead and deposit that amount into the State-Federal Relations Trust Fund.

Section 9. Paragraph (d) of subsection (1) of section 215.22, Florida Statutes, is amended to read:

215.22 Certain income and certain trust funds exempt.—

(1) The following income of a revenue nature or the following trust funds shall be exempt from the deduction required by s. 215.20(1):

(d) Funds charged by a state agency for services provided to another state agency, *by a state agency for services provided to the judicial branch, or by the judicial branch for services provided to a state agency.*

Section 10. 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 shall be filed with the Comptroller, except as otherwise provided herein, within 3 years after the right to such refund shall have accrued else such right shall be barred. The Comptroller 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. Such application for refund shall be on a form approved by the Comptroller and shall be supplemented with such additional proof as the Comptroller deems necessary to establish such claim; provided, such 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 so notify the applicant stating the reasons therefor. Upon approval of an application for refund, *the judicial branch or* such state agency shall furnish the Comptroller with a properly executed voucher authorizing payment.

Section 11. Subsection (1) of section 215.28, Florida Statutes, is amended to read:

215.28 United States securities, purchase by state and county officers and employees; deductions from salary.—

(1) Upon the request in writing, signed by any officer or employee of the state, or of any county, ~~or~~ of any other political subdivision or subordinate agency of the state or any county, *or of the judicial branch,* any officer or employee who acts as disbursing agent for the payment of salaries and wages is authorized and empowered to deduct from the salary or wages of such officer or employee, periodically, such sum as authorized by such written application, for the purchase of United States securities.

Section 12. Section 215.29, Florida Statutes, is amended to read:

215.29 Classification of Comptroller's warrants; report.—All disbursements made by the state upon Comptroller's warrants shall be classified according to officers, offices, bureaus, divisions, boards, commissions, institutions, ~~or~~ other agencies, *or the judicial branch,* and undertakings and shall be further classified according to personal services, contractual services, commodities, current charges, current obligations, capital outlays, debt payments, or investments or such additional classifications as may be prescribed or authorized by law. Such detail classifications shall be printed in the Comptroller's annual reports.

Section 13. Section 215.31, Florida Statutes, is amended to read:

215.31 State funds; deposit in State Treasury.—Revenue, including licenses, fees, imposts, or exactions collected or received under the authority of the laws of the state by each and every state official, office, employee, bureau, division, board, commission, institution, agency, or undertaking of the state *or the judicial branch* shall be promptly deposited in the State Treasury, and immediately credited to the appropriate fund as herein provided, properly accounted for by the Department of Banking and Finance as to source and no money shall be paid from the State Treasury except as appropriated and provided by the annual General Appropriations Act, or as otherwise provided by law.

Section 14. Paragraphs (b) and (c) of subsection (2) of section 215.32, Florida Statutes, are amended to read:

215.32 State funds; segregation.—

(2) The source and use of each of these funds shall be as follows:

(b)1. The trust funds shall consist of moneys received by the state which under law or under trust agreement are segregated for a purpose authorized by law. The Administration Commission *for the executive branch, and the Chief Justice of the Supreme Court for the judicial branch,* shall have the power and authority, subject to the limitations of this paragraph *and consistent with legislative policy and intent,* to approve the establishment of any trust fund ~~it deems~~ necessary to preserve the integrity of any moneys received or collected by a state agency *or the judicial branch* for a specific use or purpose authorized by law. The state agency *or branch* receiving or collecting such moneys shall be responsible for their proper expenditure as provided by law.

2. *At least* ~~Within~~ 14 days *before* ~~after approving~~ the establishment of any trust fund, the *Executive Office of the Governor or the Chief Justice of the Supreme Court* ~~Administration Commission~~ shall provide the chairmen of the legislative appropriations committees with the following information on the trust fund:

a. The name of the trust fund.

b. The specific requirements being met by the establishment of the trust fund.

c. The agency, *or the entity of the judicial branch,* responsible for administering the trust fund.

d. The specific sources of all receipts to be deposited in the trust fund.

e. The projected amount of receipts from each source to be deposited in the trust fund for each of the following 2 fiscal years.

f. The names of any other funds whose balances or future deposits may be reduced by the deposit of funds into the trust fund.

g. The purposes, programs, or services for which expenditures will be made from the trust fund.

h. The period of time for which the trust fund will be necessary or the circumstances under which the trust fund will no longer be necessary.

3.a. Unless the Legislature establishes the trust fund in substantive legislation or includes it in a specific appropriation, any trust fund approved for establishment by the Administration Commission *or the Chief Justice of the Supreme Court* shall be abolished on October 1 following the next regular legislative session after the establishment of the trust fund and may not be approved by the commission *or by the Chief Justice* for reestablishment, except in those cases where the commission *or the Chief Justice* determines that there is a critical state interest or that federal matching funds or contributions will otherwise be lost to the state and, in either case, consults with the Legislature as provided in s. 216.177(2). The Comptroller shall close out and remove from the various state accounting systems any trust fund so abolished, using generally accepted accounting practices concerning warrants outstanding, assets, and liabilities.

b. The provisions of this subparagraph shall not apply to any trust fund established by bond indentures or resolutions, any trust fund the revenues of which are legally pledged by the state or any public body to meet debt service or other financial requirements of any debt obligations of the state or such public body, or any trust fund used solely as a clearing trust fund or account for any state agency *or for the judicial branch, as defined in chapter 216.*

4. In order to maintain a minimum number of trust funds in the State Treasury, each state agency *or the judicial branch* may consolidate, if permitted under the terms and conditions of their receipt, the trust funds administered by it; provided, however, the agency *or judicial branch* employs effectively a uniform system of accounts sufficient to preserve the integrity of such trust funds; and provided, further, that ~~such~~ consolidation *of trust funds* is approved by the Administration Commission *or the Chief Justice.*

5. All such moneys are hereby appropriated to be expended in accordance with the law or trust agreement under which they were received, subject always to the provisions of chapter 216 relating to the appropriation of funds and to the applicable laws relating to the deposit or expenditure of moneys in the State Treasury.

6.a. Notwithstanding the provisions of subparagraph 3. or any other provision of law restricting the use of trust funds to specific purposes, unappropriated cash balances from selected trust funds may be authorized by the Legislature for transfer to the Working Capital Fund in the General Appropriations Act.

b. The provisions of this subparagraph shall not apply to the Educational Enhancement Trust Fund, any trust fund established by the State Constitution, retirement trust funds, the State Transportation Trust Fund, any trust fund invested by law by the State Board of Administration, any trust fund established by bond indentures or resolutions, any trust fund the revenues of which are legally pledged by the state or any public body to meet debt service or other financial requirements of any debt obligations of the state or such public body, the Citrus Advertising Trust Fund, the Florida Public Service Regulatory Trust Fund, self-insurance trust funds created by the Board of Regents pursuant to the authority granted in s. 240.213, any trust fund affiliated with self-supporting activities, including contracts and grants but excluding sponsored research overhead, conducted within the State University System, or any trust fund that serves as a clearing fund or account for any state agency or for the judicial branch as defined in chapter 216.

(c)1. The amount of moneys in the General Revenue Fund shall be determined at the beginning of the fiscal year based on the Revenue Estimating Conference's estimate of funds available. This amount shall be adjusted upon determination of the previous year's appropriations which remain unspent after certifications are completed pursuant to s. 216.301.

2. The Working Capital Fund shall consist of an amount, not more than 10 percent of the amount of net revenue of the General Revenue Fund for the preceding fiscal year, which accrues from moneys in the General Revenue Fund which are in excess of the amount needed to meet the General Revenue Fund appropriations acts. *The Legislature shall have as a goal that the Working Capital Fund for fiscal year 1994-1995 have not less than 2 percent of the amount of net revenue of the General Revenue Fund for the preceding fiscal year, that the Working Capital Fund for fiscal year 1995-1996 have not less than 3 percent of the amount of net revenue of the General Revenue Fund for the preceding fiscal year, that the Working Capital Fund for fiscal year 1996-1997 have not less than 4 percent of the amount of net revenue of the General Revenue Fund for the preceding fiscal year, and that the Working Capital Fund for fiscal year 1997-1998 and each fiscal year thereafter have not less than 5 percent of the amount of net revenue of the General Revenue Fund for the preceding fiscal year.* By September 15 of each year, the Executive Office of the Governor shall transfer the excess funds that are in the General Revenue Fund to the Working Capital Fund. ~~Such moneys are hereby appropriated for transfer to the General Revenue Fund~~ Whenever *the Governor determines* ~~it is determined by the Administration Commission~~ that revenue collections in the General Revenue Fund will be insufficient to meet General Revenue Fund appropriations *he shall certify the amount of the deficit and transfer up to the amount specified in the General Appropriations Act from* ~~and when the Administration Commission determines, after consultation with the legislative appropriations committees, that it would be more prudent to transfer~~ the Working Capital *Fund to the General Revenue Fund* ~~Funds than to reduce general revenue approved budget and release authority~~ pursuant to s. 216.221. When not required to meet General Revenue Fund appropriations, such moneys shall be used as a revolving fund for transfers as provided by s. 215.18; and when the Comptroller determines that such moneys are not needed for either type of transfer, they may be temporarily invested as provided in s. 18.125.

3. The provisions of subparagraph 1. notwithstanding, the Comptroller shall pay from the Working Capital Fund such claims as are authorized pursuant to s. 265.55.

Section 15. Section 215.3205, Florida Statutes, as amended by chapter 91-50, Laws of Florida, is repealed.

Section 16. Review of specified trust funds.—

(1) All trust funds in the State Treasury shall be reviewed for continuation or abolition before October 1, 1993, except for the following:

(a) The Educational Enhancement Trust Fund.

(b) The State School Fund established in Section 6, Article IX of the State Constitution.

(c) The Social Security Clearing Trust Fund.

(d) The Collector of Internal Revenue Trust Fund.

(e) The Federal Tax Levy Clearing Trust Fund.

(f) Retirement system and employee health and life insurance trust funds.

(g) Trust funds established by bond indentures or resolutions.

(h) Trust funds or portions thereof the revenues of which are legally pledged by the state or any public body to meet debt service or other financial requirements of any debt obligations of the state or such public body.

(i) Trust funds created for the deposit of gifts, donations, or bequests from private persons, including annual use fees specified in sections 320.08065-320.0809, Florida Statutes, and voluntary contributions under sections 320.02(8) and 327.25(7), Florida Statutes.

(j) Trust funds created to pay court-ordered settlements or court-ordered escrow of state funds.

(k) The Public Medical Assistance Trust Fund.

(l) Trust funds created for the collection and distribution of local government tax revenues.

(m) Trust funds from which the transfer of moneys is prohibited by federal law in order for the state to be eligible for program participation or the receipt of matching funds.

(n) Trust funds that derive their revenues from assessments on an industry or profession for the purpose of regulating, advertising, or promoting the industry or profession that is assessed.

(o) Trust funds administered by the Department of the Lottery.

(p) Trust funds administered by the Department of Transportation.

(q) Trust funds invested by law by the State Board of Administration.

(r) Self insurance trust funds created by the Board of Regents pursuant to the authority granted in section 240.213, Florida Statutes.

(2) The rights of holders of bonds or other indebtedness issued after the effective date of this section shall not be impaired.

(3) At least 90 days before the 1993 Regular Session of the Legislature, the entity responsible for administering a trust fund identified for review by this section must review the purpose, use, and continuing necessity of the trust fund and must recommend to the President of the Senate and the Speaker of the House of Representatives that the trust fund be continued or that it be abolished. The recommendation must include any suggested modifications to the purpose, sources of receipts, and allowable expenditures for the trust fund.

(4) During the 1993 Regular Session, the Legislature shall review each trust fund identified for review by this section. If the Legislature decides to continue a trust fund, it shall consider an agency's recommendations for suggested modifications with respect to the purpose, source of receipts, and allowable expenditures for the trust fund. If the Legislature decides not to continue a trust fund, it shall, by law, provide for the distribution of moneys in the trust fund.

(5) If a trust fund is abolished, the department that administers the fund shall pay all outstanding debts and obligations of the trust fund as soon as practicable, and the Comptroller shall close out and remove the trust fund from the various state accounting systems, using generally accepted accounting practices concerning warrants outstanding, assets, and liabilities.

Section 17. Section 215.3207, Florida Statutes, is created to read:

215.3207 Trust funds; establishment; criteria.—All trust funds established by the Legislature after January 1, 1993, shall be created by statutory language that specifies at least the following:

(1) The name of the trust fund.

(2) The agency or branch of government responsible for administering the trust fund.

(3) The requirements or purposes which the trust fund is established to meet.

(4) The sources of moneys which shall be credited to the trust fund or specific sources of receipts to be deposited into the trust fund.

(5) The purposes, programs, or services for which the administering agency or branch of government may expend moneys from the trust fund pursuant to specific appropriations.

(6) A requirement that the trust fund shall be abolished pursuant to s. 215.3206.

Section 18. Section 215.322, Florida Statutes, is amended to read:

215.322 Acceptance of credit cards by state agencies, ~~and~~ units of local government, *and judicial branch.*—

(1) A state agency, as defined in s. 216.011, *or the judicial branch,* may accept credit cards in payment for goods and services with the prior approval of the Treasurer.

(2) The Treasurer shall adopt rules governing the establishment and acceptance of credit cards by state agencies *or the judicial branch,* including, but not limited to, the following:

(a) Utilization of a standardized contract between the financial institution and the agency *or judicial branch* which shall be developed by the Treasurer or approval by the Treasurer of a substitute agreement.

(b)1. The types of revenue or collections that may be subject to service fees or surcharges by the financial institution, vending service company, or credit card company. Only taxes, license fees, tuition, and other statutorily prescribed revenues may be subject to a service fee or surcharge. Notwithstanding the foregoing, this section shall not be construed to permit surcharges on any other credit card purchase in violation of s. 501.0117.

2. The minimum public disclosure requirements to persons who elect to pay taxes, license fees, tuition, and other statutorily prescribed revenues by credit card which are subject to a surcharge pursuant to this section. Any state agency, ~~or~~ unit of local government, *or the judicial branch* that surcharges a person who pays by credit card shall be subject to the minimum public disclosure requirements adopted by the Treasurer pursuant to this subparagraph.

(c) All service fees payable to financial institutions when practicable shall be invoiced and paid by state warrant in accordance with s. 215.422.

(d) Submission of information to the Treasurer concerning the acceptance of credit cards by all state agencies *or the judicial branch.*

(3) The Treasurer is authorized to establish contracts with one or more financial institutions or credit card companies, in a manner consistent with chapter 287, for processing credit card collections for deposit into the State Treasury or another qualified public depository. Any state agency *or the judicial branch* which accepts payment by credit card shall use at least one of the contractors established by the Treasurer unless the state agency *or judicial branch* obtains authorization from the Treasurer to use another contractor which is more financially advantageous to such state agency *or the judicial branch.* Such contracts may authorize a unit of local government to use the services upon the same terms and conditions for deposit of credit card transactions into its qualified public depositories.

(4) A unit of local government is authorized to accept credit cards in payment of financial obligations which are owing to such unit of local government and to surcharge the person who uses a credit card in payment of taxes, license fees, tuition, or other statutorily prescribed revenues an amount sufficient to pay the service fee charges by the financial institution, vending service company, or credit card company for such services.

(5) Credit card account numbers in the possession of a state agency, ~~a or~~ unit of local government, *or the judicial branch* are confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 19 Section 215.34, Florida Statutes, is amended to read:

215.34 State funds; noncollectible items; procedure.—

(1) Any check, draft, or other order for the payment of money in payment of any licenses, fees, taxes, commissions, or charges of any sort authorized to be made under the laws of the state and deposited in the State Treasury as provided herein, which may be returned for any reason by the bank or other payor upon which same shall have been drawn shall be forthwith returned by the State Treasurer for collection to the state officer, ~~or~~ the state agency, *or the entity of the judicial branch* making the deposit. In such case, the Treasurer is hereby authorized to issue a debit memorandum charging an account of the agency, ~~or~~ officer, *or entity of the judicial branch* which originally received the payment. The original of the debit memorandum shall state the reason for the return of the check, draft, or other order and shall accompany the item being returned to the officer, ~~or~~ agency, *or entity of the entity of the judicial branch* being charged, and a copy of the debit memorandum shall be sent to the Comptroller. The officer, ~~or~~ agency, *or entity of the judicial branch* receiving the charged-back item shall prepare a journal transfer which shall debit the charge against the fund or account to which the same shall have been originally credited. Such procedure for handling noncollectible items shall not be construed as paying funds out of the State Treasury without an appropriation, but shall be considered as an administrative procedure for the efficient handling of state records and accounts.

(2) Whenever a check, draft, or other order for the payment of money is returned by the State Treasurer, or by a qualified public depository as defined in s. 280.02, to a state officer, *a* ~~or~~ state agency, *or the judicial branch* for collection, the officer, ~~or~~ agency, *or judicial branch* shall add to the amount due a service fee of $15 or 5 percent of the face amount of the check, draft, or order, whichever is greater. An agency *or the judicial branch* may adopt a rule which prescribes a lesser maximum service fee, which shall be added to the amount due for the dishonored check, draft, or other order tendered for a particular service, license, tax, fee, or other charge, but in no event shall the fee be less than $15. The service fee shall be in addition to all other penalties imposed by law, except that when other charges or penalties are imposed by an agency related to a noncollectible item, the amount of the service fee shall not exceed $150. Proceeds from this fee shall be deposited in the same fund as the collected item. Nothing in this section shall be construed as authorization to deposit moneys outside the State Treasury unless specifically authorized by law.

(3) When a county or municipal official or agency is acting for a state official or agency *or the judicial branch* in the collection of fees or other charges, the service fee collected under this section shall be retained by the collector of the fee.

Section 20. Section 215.405, Florida Statutes, is amended to read:

215.405 State agencies *and judicial branch* authorized to collect costs of fingerprinting.—Any state agency *or the judicial branch* exercising regulatory authority and authorized to take fingerprints of persons within or seeking to come within such agency's *or judicial branch's* regulatory power may collect from the person or entity on whose behalf the fingerprints were submitted the actual costs of processing such fingerprints including, but not limited to, any charges imposed by the Department of Law Enforcement or any agency or branch of the United States Government. This provision shall constitute express authority for state agencies *and the judicial branch* to collect the actual costs of processing the fingerprints either prior to or subsequent to the actual processing and shall supersede any other law to the contrary. To administer the provisions of this section, a state agency *or the judicial branch* electing to collect the cost of fingerprinting is empowered to promulgate and adopt rules to establish the amounts and the methods of payment needed to collect such costs. Collections made under these provisions shall be deposited with the Treasurer to an appropriate trust fund account to be designated by the Executive Office of the Governor.

Section 21. Section 215.422, Florida Statutes, is amended to read:

215.422 Warrants, vouchers, and invoices; processing time limits; dispute resolution; agency *or judicial branch* compliance.—

(1) The voucher authorizing payment of an invoice submitted to an agency of the state *or the judicial branch,* required by law to be filed with the Comptroller, shall be filed with the Comptroller not later than 20 days after receipt of the invoice and receipt, inspection, and approval of the goods or services, except that in the case of a bona fide dispute the voucher shall contain a statement of the dispute and authorize payment only in the amount not disputed. Approval and inspection of goods or services shall take no longer than 5 working days unless the bid specifications, purchase order, or contract specifies otherwise. If a voucher filed within the 20-day period is returned by the Department of Banking and Finance because of an error, it shall nevertheless be deemed timely filed. The 20-day filing requirement may be waived in whole or in part by the Department of Banking and Finance on a showing of exceptional circumstances in accordance with rules and regulations of the department. For the purposes of determining the receipt of invoice date, the agency *or judicial branch* is deemed to receive an invoice on the date on which a proper invoice is first received at the place designated by the agency *or judicial branch.* The agency *or judicial branch* is deemed to receive an invoice on the date of the invoice if the agency *or judicial branch* has failed to annotate the invoice with the date of receipt at the time the agency *or judicial branch* actually received the invoice or failed at the time the order is placed or contract made to designate a specific location to which the invoice must be delivered.

(2) The warrant in payment of an invoice submitted to an agency of the state *or the judicial branch* shall be issued not later than 10 days after filing of the voucher authorizing payment. However, this requirement may be waived in whole or in part by the Department of Banking and Finance on a showing of exceptional circumstances in accordance with rules and regulations of the department. If the 10-day period contains fewer than 6 working days, the Department of Banking and Finance shall be deemed in compliance with this subsection if the warrant is

issued within 6 working days without regard to the actual number of calendar days. For purposes of this section, a payment is deemed to be issued on the first working day that payment is available for delivery or mailing to the vendor.

(3)(a) Each agency of the state *or the judicial branch* which is required by law to file vouchers with the Comptroller shall keep a record of the date of receipt of the invoice, dates of receipt, inspection, and approval of the goods or services, date of filing of the voucher, and date of issuance of the warrant in payment thereof. If the voucher is not filed or the warrant is not issued within the time required, an explanation in writing by the agency head *or the chief justice* shall be submitted to the Department of Banking and Finance in a manner prescribed by it. Agencies *and the judicial branch* shall continue to deliver or mail state payments promptly.

(b) If a warrant in payment of an invoice is not issued within 40 days after receipt of the invoice and receipt, inspection, and approval of the goods and services, the agency *or judicial branch* shall pay to the vendor, in addition to the amount of the invoice, interest at a rate of 1 percent per month calculated on a daily basis on the unpaid balance from the expiration of such 40-day period until such time as the warrant is issued to the vendor. Such interest shall be added to the invoice at the time of submission to the Comptroller for payment whenever possible. If addition of the interest penalty is not possible, the agency *or judicial branch* shall pay the interest penalty payment within 15 days after issuing the warrant. The provisions of this paragraph apply only to undisputed amounts for which payment has been authorized. Disputes shall be resolved in accordance with rules *developed and adopted by Chief Justice for the judicial branch, and rules* adopted by the Department of Banking and Finance or in a formal administrative proceeding before a hearing officer of the Division of Administrative Hearings *for state agencies*, provided that, for the purposes of s. 120.57(1), no party to a dispute involving less than $1,000 in interest penalties shall be deemed to be substantially affected by the dispute or to have a substantial interest in the decision resolving the dispute. In the case of an error on the part of the vendor, the 40-day period shall begin to run upon receipt by the agency *or the judicial branch* of a corrected invoice or other remedy of the error. The provisions of this paragraph do not apply when the filing requirement under subsection (1) or subsection (2) has been waived in whole by the Department of Banking and Finance. The various state agencies *and the judicial branch* shall be responsible for initiating the penalty payments required by this subsection and shall use this subsection as authority to make such payments. The budget request submitted to the Legislature shall specifically disclose the amount of any interest paid by any agency *or the judicial branch* pursuant to this subsection. The temporary unavailability of funds to make a timely payment due for goods or services does not relieve an agency *or the judicial branch* from the obligation to pay interest penalties under this section.

(c) An agency *or the judicial branch* may make partial payments to a contractor upon partial delivery of goods or services or upon partial completion of construction when a request for such partial payment is made by the contractor and approved by the agency. Provisions of this section and rules of the Department of Banking and Finance shall apply to partial payments in the same manner as they apply to full payments.

(4) If the terms of the invoice provide a discount for payment in less than 30 days, agencies of the state *and the judicial branch* shall preferentially process it and use all diligence to obtain the saving by compliance with the invoice terms.

(5) All purchasing agreements between a state agency *or the judicial branch* and a vendor, applicable to this section, shall include a statement of the vendor's rights and the state's responsibilities under this section. The vendor's rights shall include being provided with the name and telephone number of the vendor ombudsman within the Department of Banking and Finance, which information shall also be placed on all agency *or judicial branch* purchase orders.

(6) The Department of Banking and Finance shall monitor each agency's *and the judicial branch's* compliance with the time limits and interest penalty provisions of this section. The department shall provide a quarterly report to each agency head disclosing the agency's *or judicial branch's* compliance rate. The report shall also include a list of late vouchers or payments, the amount of interest owed or paid, and any corrective actions recommended. The department shall perform monitoring responsibilities, pursuant to this section, utilizing the General Services and Purchasing Subsystem or the State Automated Management Accounting Subsystem provided in s. 215.94. Each agency *and the judicial branch* shall be responsible for the accuracy of information entered into the General Services and Purchasing Subsystem and the State Automated Management Accounting Subsystem for use in this monitoring.

(7) There is created a vendor ombudsman within the Department of Banking and Finance who shall be responsible for the following functions:

(a) Performing the duties of the department pursuant to subsection (6).

(b) Reviewing requests for waivers due to exceptional circumstances.

(c) Disseminating information relative to the prompt payment policies of this state and assisting vendors in receiving their payments in a timely manner.

(d) Performing such other duties as determined by the department.

(8) The Department of Banking and Finance is authorized and directed to adopt and promulgate rules and regulations to implement this section and for resolution of disputes involving amounts of less than $1,000 in interest penalties *for state agencies*. No agency *or the judicial branch* shall adopt any rule or policy that is inconsistent with this section or the Department of Banking and Finance's rules or policies.

(9) Each agency *and the judicial branch* shall include in the official position description of every officer or employee who is responsible for the approval or processing of vendors' invoices or distribution of warrants to vendors that the requirements of this section are mandatory. In addition, each employee shall be required to sign a statement at least annually that he has been provided a copy of this section and the rules promulgated by the Comptroller. The statement shall also acknowledge that the employee understands the approval and processing time limitations and the provision for automatic interest penalty payments. Each agency *and the judicial branch* shall certify its compliance with this subsection to the Comptroller on or before February 1 of each year.

(10) Persistent failure to comply with this section by any agency of the state *or the judicial branch* shall constitute good cause for discharge of employees duly found responsible, or predominantly responsible, for failure to comply.

(11) Travel and other reimbursements to state officers and employees shall be the same as payments to vendors pursuant to this section.

(12) In the event that a state agency *or the judicial branch* contracts with a third party, uses a revolving fund, or pays from a local bank account to process and pay invoices for goods or services, all requirements for financial obligations and time processing set forth in this section shall be applicable and the state agency *or judicial branch* shall be responsible for paying vendors the interest assessed for untimely payment. The state agency *or judicial branch* may, through its contract with a third party, require the third party to pay interest from the third party's funds.

(13) Notwithstanding the provisions of subsections (3) and (12), in order to alleviate any hardship that may be caused to a health care provider as a result of delay in receiving reimbursement for services, any payment or payments for hospital, medical, or other health care services which are to be reimbursed by a state agency *or the judicial branch*, either directly or indirectly, shall be made to the health care provider not more than 35 days from the date eligibility for payment of such claim is determined. If payment is not issued to a health care provider within 35 days after the date eligibility for payment of the claim is determined, the state agency *or the judicial branch* shall pay the health care provider interest at a rate of 1 percent per month calculated on a calendar day basis on the unpaid balance from the expiration of such 35-day period until such time as payment is made to the health care provider, unless a waiver in whole has been granted by the Department of Banking and Finance pursuant to subsection (1) or subsection (2).

(14) The Comptroller may adopt rules to authorize advance payments for goods and services, including, but not limited to, maintenance agreements and subscriptions. Such rules shall provide objective criteria for determining when it is in the best interest of the state to make payments in advance and shall also provide for adequate protection to ensure that such goods or services will be provided.

(15) Nothing contained in this section shall be construed to be an appropriation. Any interest which becomes due and owing pursuant to this section shall only be payable from the appropriation charged for such goods or services.

Section 22. Section 215.48, Florida Statutes, is amended to read:

215.48 Consent and ratification of appropriate board, ~~or~~ agency, *or judicial branch.*—By and with the consent and approval of any constitutional board or agency, *or the judicial branch,* now having the constitutional power to make investments, and in accordance with the provisions of ss. 215.44-215.53, the State Board of Administration shall have the power to make purchases, sales, exchanges, investments and reinvestments for and on behalf of any such board.

Section 23. Section 215.49, Florida Statutes, is amended to read:

215.49 Making funds available for investment.—

(1) It shall be the duty of each state agency, *and the judicial branch,* now or hereafter charged with the administration of the System Trust Fund, as defined in s. 121.021(36), or other funds specifically required by law to be invested by the State Board of Administration pursuant to ss. 215.44-215.53 to make such moneys available for investment as fully as is consistent with the cash requirements of the particular fund and to transfer such moneys to the board for investment.

(2) Monthly, and more often as circumstances require, such agency *and the judicial branch* shall notify the State Board of Administration of the amount available for investment, the moneys shall be transferred to the board, and the investment shall be made by the board. Such notification shall include the name and number of the fund for which the investments are to be made, and of the life of the investment if the principal sum is to be required for meeting obligations; however, nothing herein shall be construed as legislative intent to make available for investment any funds other than those referred to in s. 215.44.

(3) If requested by the board, it shall be the duty of the agency *and the judicial branch* to furnish the board an inventory of all securities in the particular fund, together with such additional information as may be requested.

Section 24. Subsection (2) of section 215.51, Florida Statutes, is amended to read:

215.51 Investment accounts; changes, notice, etc.—

(2) The board shall make written report monthly to each and every interested state official or agency *and the judicial branch* the changes in investments made during the preceding month for their respective fund or funds, and, in addition, shall furnish the details on the investment transaction of any fund upon written request of such state official or agency *or judicial branch* or head thereof.

Section 25. Subsection (1) of section 215.515, Florida Statutes, is amended to read:

215.515 Investment accounts; charges for services.—

(1) The Board of Administration shall make reasonable charges for all investment services performed for any agency, *the judicial branch,* or *any* fund in accordance with the provisions of ss. 215.44-215.53 or other provisions of law. The agency, *judicial branch,* or fund shall pay the charges, and such sums as may be necessary for this purpose are hereby appropriated from earnings on investments held by such agency, *judicial branch,* or fund. The amount to be paid by each agency, *judicial branch,* or fund shall be determined in such proportion as the service rendered to each agency, *judicial branch,* or fund bears to the total service rendered to all agencies and funds *and the judicial branch.*

Section 26. Section 215.53, Florida Statutes, is amended to read:

215.53 Powers of existing officers *and,* boards, *the judicial branch,* and agencies not affected.—It is the intent of the Legislature that transfer of the powers, duties and responsibilities of existing state agencies *or the judicial branch* made by ss. 215.44-215.53 to the board shall include only the particular powers, duties, and responsibilities hereby transferred, and all other existing powers shall in no way be affected by said sections. The powers, duties and responsibilities conferred by ss. 215.44-215.53 upon the board are additional and supplemental to the existing powers of the officers composing the said board.

Section 27. Subsection (2) and paragraph (b) of subsection (3) of section 215 85, Florida Statutes, are amended to read:

215.85 Direct deposit of public funds.—

(2) LEGISLATIVE INTENT.—It is the legislative intent that this act shall constitute authorization for all public agencies, *and the judicial branch,* to withdraw, pay, or disburse all public funds in their control by direct deposit to the account of the person entitled to receive such funds. This act is not intended to limit existing statutory authority for the direct deposit of public funds, but rather to allow in similar fashion all public agencies, *and the judicial branch,* to employ this method.

(3) DEFINITIONS.—

(b) The term "public funds" means all moneys under the jurisdiction or control of the state, a county, or a municipality, including any district, authority, commission, board, or agency thereof *and the judicial branch,* and includes all manner of pension and retirement funds and all other funds held, as trust funds or otherwise, for any public purpose.

Section 28. Subsection (5) of section 215.92, Florida Statutes, is amended to read:

215.92 Definitions.—For the purposes of this act:

(5) "Functional owner" means the agency, *or that part of the judicial branch,* which has the legal responsibility to design, implement, and operate an information subsystem as provided by this act.

Section 29. Subsection (1) of section 215.93, Florida Statutes, is amended to read:

215.93 Florida Fiscal Accounting Management Information System.—

(1) To provide the information necessary to carry out the intent of the Legislature, there shall be a Florida Fiscal Accounting Management Information System. *The Florida Fiscal Accounting Management Information System shall be fully implemented and shall be upgraded as necessary to ensure the efficient operation of an integrated financial management information system and to provide necessary information for the effective operation of state government.* The principal unit of the system shall be the subsystem, and the system shall originally include the following:

(a) Revenue and Regulations Subsystem.

(b) Planning and Budgeting Subsystem.

(c) State Automated Management Accounting Subsystem.

(d) Banking and Collateral Securities Subsystem.

(e) General Services and Purchasing Subsystem.

(f) State Personnel Payroll Information Subsystem.

(g) Investment and Debt Control Subsystem.

Section 30. Paragraph (b) of subsection (1), paragraphs (a) and (b) of subsection (2), and paragraph (a) of subsection (3) of section 215.94, Florida Statutes, are amended to read:

215.94 Designation, duties, and responsibilities of functional owners.—

(1) The Department of Revenue shall be the functional owner of the Revenue and Regulation Subsystem. The department shall design, implement, and operate the subsystem in accordance with the provisions of this act. The subsystem shall include, but shall not be limited to, components for:

(b) Compiling and reporting statistical data for the estimation or projection of agency *and judicial branch revenue sources in future periods.*

(2) The Executive Office of the Governor shall be the functional owner of the Planning and Budgeting Subsystem, which shall be designed, implemented, and operated in accordance with the provisions of this act and chapter 216. The Planning and Budgeting Subsystem shall include, but shall not be limited to, components for:

(a) Development and preparation of agency *and judicial branch* budget requests.

(b) Analysis and evaluation of agency *and judicial branch* budget requests and alternatives.

(3) The Department of Banking and Finance shall be the functional owner of the State Automated Management Accounting Subsystem

established pursuant to ss. 216.141 and 11.46 and further developed in accordance with the provisions of this act. The subsystem shall include, but shall not be limited to, the following components:

(a) Departmental, ~~or~~ agency, *or judicial branch* accounting and reporting.

Section 31. Section 216.011, Florida Statutes, is amended to read:

216.011 Definitions.—

(1) For the purpose of fiscal affairs of the state, appropriations acts, legislative budgets, and approved budgets, each of the following terms has the meaning indicated:

(a) "Annual salary rate" means the salary estimated to be paid or actually paid a position or positions on an annualized basis. In calculating salary rate, a vacant position shall be calculated at the minimum of the pay grade for that position.

(b) "Appropriation" means a legal authorization to make expenditures for specific purposes within the amounts authorized in the appropriations act.

(c) "Appropriations act" means the authorization of the Legislature, based upon legislative budgets or based upon legislative findings of the necessity for an authorization when no legislative budget is filed, for the expenditure of amounts of money by an agency, *the judicial branch,* and the legislative branch for stated purposes in the performance of the functions it is authorized by law to perform.

(d) "Authorized position" means a position included in an approved budget. In counting the number of authorized positions, part-time positions shall be converted to full-time equivalents.

(e) "Budget entity" means a unit or function at the lowest level to which funds are specifically appropriated in the appropriations act.

(f) "Consultation" means to deliberate and seek advice in an open and forthright manner with the full committee, a subcommittee thereof, the chairman, or the staff as deemed appropriate by the chairman of the respective appropriations committee.

(g) "Continuing appropriation" means an appropriation automatically renewed without further legislative action, period after period, until altered or revoked by the Legislature.

(h) "Data processing services" means electronic data processing services provided by or to state agencies *or the judicial branch,* which services include, but are not limited to, systems design, software development, or time-sharing by other governmental units or budget entities.

(i) "Disbursement" means the payment of an expenditure.

(j) "Established position" means an authorized position which has been classified in accordance with a classification and pay plan as provided by law.

(k) "Expenditure" means the creation or incurring of a legal obligation to disburse money.

(l) "Expense" means the usual, ordinary, and incidental expenditures by an agency *or the judicial branch,* including, but not limited to, such items as contractual services, commodities, and supplies of a consumable nature, current obligations, and fixed charges, and excluding expenditures classified as operating capital outlay. Payments to other funds or local, state, or federal agencies are included in this budget classification of expenditures.

(m) "Fiscal year of the state" means a period of time beginning July 1 and ending on the following June 30, both dates inclusive.

(n) "Fixed capital outlay" means real property (land, buildings, including appurtenances, fixtures and fixed equipment, structures, etc.), including additions, replacements, major repairs, and renovations to real property which materially extend its useful life or materially improve or change its functional use and including furniture and equipment necessary to furnish and operate a new or improved facility, when appropriated by the Legislature in the fixed capital outlay appropriation category.

(o) "Full-time position" means a position authorized for the entire normally established work period, daily, weekly, monthly, or annually.

(p) "Grants and aids" means contributions to units of governments or nonprofit organizations to be used for one or more specified purposes, activities, or facilities. Funds appropriated under this category may be advanced.

(q) "Independent judgment" means an evaluation of actual needs made separately and apart from the legislative budget request of any other agency *or of the judicial branch,* or any assessments by the Governor. Such evaluation shall not be limited by revenue estimates of the Revenue Estimating Conference.

(r) "Judicial branch" means *all officers, employees, and offices of the Supreme Court, district courts of appeal, circuit courts, county courts, Justice Data Center, and the Judicial Qualifications Commission* ~~the various officers, courts, commissions, or other units of the judicial branch of state government supported in whole or in part by appropriations made by the Legislature~~.

(s) "Legislative branch" means the various officers, committees, and other units of the legislative branch of state government.

(t) "Legislative budget" means a request to the Legislature, filed pursuant to s. 216.023, or supplemental detailed requests filed with the Legislature, for the amounts of money such agency or branch believes will be needed in the performance of the functions that it is authorized, or which it is requesting authorization by law, to perform.

(u) "Lump-sum appropriation" means funds appropriated to accomplish a specific activity or project which must be transferred to one or more appropriation categories for expenditure.

(v) "Operating capital outlay" means equipment, fixtures, and other tangible personal property of a nonconsumable and nonexpendable nature, the value or cost of which is $500 or more and the normal expected life of which is 1 year or more, and hardback-covered bound books that are circulated to students or the general public, the value or cost of which is $25 or more, and hardback-covered bound books, the value or cost of which is $100 or more.

(w) "Original approved budget" means the approved plan of operation of an agency *or of the judicial branch* consistent with the General Appropriations Act or special appropriations acts.

(x) "Other personal services" means the compensation for services rendered by a person who is not a regular or full-time employee filling an established position. This definition includes, but is not limited to, services of temporary employees, student or graduate assistants, persons on fellowships, part-time academic employees, board members, and consultants and other services specifically budgeted by each agency, *or by the judicial branch,* in this category.

1. In distinguishing between payments to be made from salaries appropriations and other-personal-services appropriations, those persons filling established positions shall be paid from salaries appropriations and those persons performing services for a state agency *or for the judicial branch,* but who are not filling established positions, shall be paid from other-personal-services appropriations.

2. It is further intended that those persons paid from salaries appropriations shall be state officers or employees and shall be eligible for membership in a state retirement system and those paid from other-personal-services appropriations shall not be eligible for such membership.

(y) "Part-time position" means a position authorized for less than the entire normally established work period, daily, weekly, monthly, or annually.

(z) "Pay plan" means a document which formally describes the philosophy, methods, procedures, and salary schedule for compensating employees for work performed.

(aa) "Perquisites" means those things, or the use thereof, or services of a kind which confer on the officers or employees receiving same some benefit that is in the nature of additional compensation, or which reduces to some extent the normal personal expenses of the officer or employee receiving the same, and shall include, but not be limited to, such things as quarters, subsistence, utilities, laundry services, medical service, use of state-owned vehicles for other than state purposes, servants paid by the state, and other similar things.

(bb) "Position" means the work, consisting of duties and responsibilities, assigned to be performed by an officer or employee.

(cc) "Position number" means the identification number assigned to an established position.

(dd) "Program component" means an aggregation of generally related objectives which, because of their special character, related workload, and interrelated output, can logically be considered an entity for purposes of organization, management, accounting, reporting, and budgeting.

(ee) "Proviso" means language that qualifies or restricts a specific appropriation and which can be logically and directly related to the specific appropriation.

(ff) "Reclassification" means changing an established position in one class in a series to the next higher or lower class in the same series or to a class in a different series which is the result of a natural change in the duties and responsibilities of the position.

(gg) "Revolving fund" means a cash fund maintained within or outside of the State Treasury and established from an appropriation, to be used by an agency *or the judicial branch* in making authorized expenditures.

(hh) "Salary" means the cash compensation for services rendered for a specific period of time.

(ii) "Salary schedule" means an official document which contains a complete list of classes and their assigned salary ranges.

(jj) "Special category" means amounts appropriated for a specific need or classification of expenditures.

(kk) "State agency" or "agency" means any official, officer, commission, board, authority, council, committee, or department of the executive branch~~, or the judicial branch, as herein defined,~~ of state government. *For purposes of this chapter and chapter 215, "state agency" or "agency" includes state attorneys, public defenders, the Capital Collateral Representative, and the Justice Administrative Commission.*

(ll) "State revenue sharing" means statutory or constitutional distributions to local units of government.

(mm) "Title of position," or "class of positions" means the official name assigned to a position or class of positions.

(nn) "Grants and Aids to Local Governments and Nonprofit Organizations-Fixed Capital Outlay" means that appropriation category which includes:

1. Grants to local units of governments and nonprofit organizations for the acquisition of real property (land, buildings, including appurtenances, fixtures and fixed equipment, structures, etc.); additions, replacements, major repairs, and renovations to real property which materially extend its useful life or materially improve or change its functional use; and operating capital outlay necessary to furnish and operate a new or improved facility; and

2. Grants to local units of government for their respective infrastructure and growth management needs related to local government comprehensive plans.

Funds appropriated under this category may be advanced in part or in whole.

(2) For purposes of this chapter, each of the following terms has the meaning indicated:

(a) "Approved operating budget" or "approved budget" means the plan of operations consisting of the original approved operating budget and statement of intent.

(b) "Commission" means the Administration Commission composed of the Governor and Cabinet.

(c) "Department" means the Department of Administration.

(d) "Emergency situation" means a set of conditions that were unforeseen at the time the General Appropriations Act was adopted and that are essential to correct in order to continue the operation of government, or a set of conditions that were not considered in the General Appropriations Act and that constitute an imminent threat to public health, safety, or welfare. This definition shall not apply to the emergency provisions of chapter 252.

(e) "Impoundment" means the omission of any appropriation or part of an appropriation in the approved operating plan prepared pursuant to the provisions of s. 216.181 or in the schedule of releases prepared pursuant to the provisions of s. 216.192 or the failure of any state agency *or the judicial branch* to spend an appropriation for the stated purposes authorized in the approved operating budget.

Section 32. Section 216.015, Florida Statutes, is amended to read:

216.015 Capital facilities planning and budgeting process.—

(1) Sections 216.015-216.0162 may be cited as the "Capital Facilities Planning and Budgeting Act."

(2) The Legislature finds that:

(a) The condition of the state's infrastructure, including its roads, water and sewer facilities, state office buildings, bridges, ports, airports, canals, prisons, educational facilities, park and recreational facilities, and other capital assets, are in need of repair, expansion, and replacement at a time when the fiscal resources of the state are increasingly being strained by the competing demands for state services and capital improvements.

(b) The high degree of coordination among the various branches of state government, local government, and public benefit corporations which is necessary to maximize the potential public benefits to be derived from the limited financial resources which will be dedicated to public capital improvements within this state in the future is lacking.

(c) There is a need to establish a comprehensive capital facilities planning and budgeting process which is fully integrated with the state financial planning and debt management activities and which incorporates the long-range plans of all state agencies *and the judicial branch* and major public benefit corporations to ensure that projects with the greatest potential for improving the prosperity and well-being of the people of the state receive their proper allocation of limited resources.

(d) There is currently no mechanism in place for managing the debt structure of the state by matching the capital facility needs of the state with the amounts and sources of funds which could be made available to meet those needs.

It is, therefore, the intent of the Legislature in enacting this legislation that a comprehensive capital facilities planning and budgeting process be established and maintained to enable the state to better meet the demands for new and properly maintained infrastructure in a fiscally responsible manner.

(3) The comprehensive capital facilities planning and budgeting process requires integration and coordination by all government agencies *and by the judicial branch*. The process includes:

(a) An inventory of current facilities owned, leased, rented, or otherwise occupied by any agency of the state *or the judicial branch*;

(b) An assessment of current *population,* economic, social, physical, and environmental trends and conditions that relate to public facilities;

(c) A determination of future *demographic* conditions deemed most appropriate and likely for this state and of a set of goals and objectives;

(d) A determination of unmet needs by comparing existing facilities to goals and objectives;

(e) A strategic matching of funding options and facility needs to ensure the most effective development strategy; and

(f) A management structure that maintains, operates, repairs, renovates, and replaces capital facilities to obtain the maximum value for each public dollar spent.

(4) In order to carry out this act, the Executive Office of the Governor is designated as the agency responsible for the coordination, development, and direction of the comprehensive capital facilities planning and budgeting process.

(5) All agencies of government *and the judicial branch* are directed to extend maximum cooperation and assistance in the furtherance of this program.

Section 33. Section 216.0152, Florida Statutes, is amended to read:

216.0152 Inventory of state-owned or state-occupied facilities.—

(1) The Department of General Services shall develop and maintain an automated inventory of all facilities owned, leased, rented, or otherwise occupied or maintained by any agency of the state *or by the judicial branch*, except those with less than 3,000 square feet. The inventory shall include the location, occupying agency, ownership, size, condition assessment, maintenance record, age, parking and employee facilities, and other information as required by the department for determining maintenance needs and life-cycle cost evaluations of the facility. The inventory need not include a condition assessment or maintenance record of facilities not owned by a state agency *or by the judicial branch*. The term "facility," as used in this section, means buildings, structures, and building systems, but does not include transportation facilities of the state transportation system. The Department of Transportation shall develop and maintain an inventory of transportation facilities of the state transportation system. The Board of Regents and the Division of Community Colleges of the Department of Education shall develop and maintain an inventory, in the manner prescribed by the Department of General Services, of all higher education facilities and shall make the data available in a format acceptable to the Department of General Services.

(2) The Department of General Services shall update its inventory and cause to be updated the other inventories required by subsection (1) at least once every 5 years, but the inventories shall record acquisitions of new facilities and significant changes in existing facilities as they occur. The Department of General Services shall provide each agency *and the judicial branch* with the most recent inventory applicable to that agency *or to the judicial branch*. Each agency *and the judicial branch* shall, in the manner prescribed by the Department of General Services, report significant changes in the inventory as they occur. Items relating to the condition and life-cycle cost of a facility shall be updated at least every 5 years.

(3) The Department of General Services shall, every 3 years, publish a complete report detailing this inventory and shall publish an annual update of the report. The department shall furnish the updated report to the Executive Office of the Governor and the Legislature no later than September 1 of each year.

Section 34. Section 216.0154, Florida Statutes, is amended to read:

216.0154 Assessment of trends and conditions affecting need for capital facilities.—

(1) The Executive Office of the Governor or its designee shall annually analyze trends and conditions in the state and nation that bear on the need for capital facilities. This analysis shall be integrated into the state comprehensive planning process as a part thereof. Planning data shall be collected and adopted by rule pursuant to chapter 186.

(2) The Executive Office of the Governor shall, as soon as practicable and subject to appropriations made for that purpose, automate the planning data base and update it as often as necessary.

(3) The data contained in the planning data base shall be made available to all state and regional agencies *and to the judicial branch*, and that data shall be utilized to prepare the legislative budget request required by s. 216.043.

Section 35. Section 216.0158, Florida Statutes, is amended to read:

216.0158 Assessment of facility needs.—

(1) By analyzing the trends and conditions, goals and objectives, and current facilities inventory, each agency *and the judicial branch* shall determine its unmet and forecasted future needs.

(2) On or before September 1 of each year, each state agency, as defined in s. 216.011, shall submit to the Executive Office of the Governor, *and each district court of appeal and the Marshal of the Supreme Court shall submit to the Chief Justice of the Supreme Court,* in a manner prescribed by the legislative budget instructions, a short-term plan for facility needs covering the next 5-year period. The short-term plan *shall list the agency's or judicial branch's facility needs in order of priority and* shall include preventive maintenance strategies, expected replacement of existing facilities, expected improvements or additions to facilities on a specific project-by-project basis, estimated cost, and other information as prescribed by the legislative budget instructions. At the same time, when directed in the legislative budget instructions as provided in s. 216.023(3), each agency *shall submit to the Executive Office of the Governor, and each district court of appeal and the Marshal of the Supreme Court shall submit to the Chief Justice of the Supreme Court, who* shall submit *copies* to the legislative appropriations committees ~~and to the Executive Office of the Governor~~, in a format prescribed by the instructions, a long-term plan for the 5 years following the period of the short-term plan. The long-term plan shall outline forecasted agency facility needs. *The Chief Justice shall certify the final approved plan for the judicial branch to the Executive Office of the Governor which shall include the plan, without modification, in the state comprehensive plan.*

(3) Based on the plans submitted by each agency *or certified by the Chief Justice*, the Executive Office of the Governor shall prepare a state comprehensive plan for facility needs and related expenditures. The plan shall provide a 5-year schedule for preventive maintenance, replacement, improvement, or construction of facilities on a specific project-by-project basis.

(4) Each of the first 2 years of the plan referred to in subsection (2) shall comport with the requirements of s. 216.043.

(5) Each ~~agency~~ plan for years 3 through 5 shall provide the following information:

(a) A full explanation of the basis for each project, including a description of the function which requires the facility; an explanation of the inability of existing facilities to meet such requirements; historical background; alternatives; and anticipated changes in both initial and continuing operating costs.

(b) An application of standards and criteria to establish the scope of each project.

(c) An application of cost factors to all elements of each project to establish an estimate of funding requirements.

(d) A request for a legislative appropriation to provide such funding in the appropriate fiscal year, including the need for advance funding of programming and design activities.

Section 36. Section 216.016, Florida Statutes, is amended to read:

216.016 Evaluation of plans; determination of financing method.—

(1) Pursuant to the requirements of s. 216.044, the Department of General Services shall evaluate *state* ~~the~~ agency plans *and plans of the judicial branch.*

(2)(a) The Executive Office of the Governor shall develop a finance plan for meeting the state's infrastructure and fixed capital outlay needs.

(b) The Division of Bond Finance of the Department of General Services shall work with the Executive Office of the Governor and all agencies *and the judicial branch* to determine the most cost-beneficial and effective financing methods for the satisfaction of the capital facility needs described or identified in the state comprehensive plan for facility needs.

Section 37. Section 216.0165, Florida Statutes, is amended to read:

216.0165 Agency *and judicial branch* evaluation and justification.—

(1)(a) Each agency or entity identified in subsection (2) is periodically subject to the agency evaluation and justification review provided for in s. 11.513, in accordance with subsection (2) or as determined by the Legislative Auditing Committee pursuant to subsection (3).

(b) The Director of the Office of Policy Analysis and Agency Review, pursuant to the authority set forth in s. 11.513, shall timely notify each agency *or entity* that a periodic evaluation and review of the policy area and the agency's *or entity's* current budget and current and projected needs has been scheduled.

(c)1. Each such agency shall offer its complete cooperation to the consultant and the director to the end that the review may be accomplished.

2. Any person who willfully fails or refuses to furnish or produce any book, record, paper, document, data, or sufficient information necessary to a proper review, as scheduled by this section, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

3. Any officer who willfully fails or refuses to furnish or produce any book, record, paper, document, data, or sufficient information necessary to a proper review, as scheduled by this section, is subject to removal from office.

(d) Upon receipt of the consultant's report and the recommendations of the director as provided in s. 11.513(6) and (7), any agency *or entity* to which recommendations contained in the director's recommendations specifically apply shall provide its point-by-point responses to the director's recommendations as a separate document that must be submitted at the same time as the agency's budget request for the fiscal year commencing on July 1 of the second calendar year following the submission of the consultant's report. An agency *or entity* to which any of the director's recommendations specifically apply also shall submit its responses to the recommendations to the director, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, the House Minority Leader, the Legislative Auditing Committee, and the chairmen of the appropriate substantive committees of the Senate and the House of Representatives.

(e). The Senate and the House of Representatives shall prepare a point-by-point response to the recommendations contained in the report of the director on the legislative branch that is prepared and submitted pursuant to s. 11.513 and this section. The Governor shall prepare a point-by-point response to the recommendations contained in the report of the director on the Executive Office of the Governor that is prepared and submitted pursuant to s. 11.513 and this section. *The Chief Justice shall prepare a point-by-point response to the recommendations contained in the report of the director on the judicial branch that is prepared and submitted pursuant to s. 11.513 and this section.*

(2) Each agency or entity subject to the provisions of this section shall be subject to periodic evaluation and review no more often than once every 7 years or less often than once every 15 years. The ~~agency~~ evaluation and justification review of an agency *or entity* shall include all adjunct authorities, boards, committees, offices, and commissions within or connected to *the* ~~an~~ agency *or entity*, and all adjunct agencies *or entities* which are by law contained in or responsible to the agency which is the subject of the evaluation and review. The evaluation and review may include consideration of programs provided by other agencies which are integrally related to the programs administered by the agency *or entity* which is scheduled for evaluation and review. The evaluations and reviews shall be initiated in the following order, subject to revision by the Legislative Auditing Committee as provided in subsection (3):

(a) The Department of Revenue.

(b) The Department of Environmental Regulation.

(c) The Department of Natural Resources.

(d) The Game and Fresh Water Fish Commission.

(e) The Department of the Lottery.

(f) The Department of Corrections.

(g) The Florida Parole Commission.

(h) The Department of Health and Rehabilitative Services.

(i) The Department of Education.

(j) The Department of Professional Regulation.

(k) The Department of Transportation.

(l) The Department of Community Affairs.

(m) The Department of Legal Affairs.

(n) The Department of Law Enforcement.

(o) The Judicial Branch.

(p) State attorneys, public defenders, the Capital Collateral Representative, and the Justice Administration Commission.

(q)~~(p)~~ The Department of Banking and Finance.

(r)~~(q)~~ The Department of Administration.

(s)~~(r)~~ The Department of Business Regulation.

(t)~~(s)~~ The Department of Agriculture and Consumer Services.

(u)~~(t)~~ The Department of Commerce.

(v)~~(u)~~ The Department of State.

(w)~~(v)~~ The Department of Veterans' Affairs.

(x)~~(w)~~ The Department of Military Affairs.

(y)~~(x)~~ The Executive Office of the Governor.

(z)~~(y)~~ The Legislative Branch.

(aa)~~(z)~~ The Public Service Commission.

(bb)~~(aa)~~ The Department of Labor and Employment Security.

(cc)~~(bb)~~ The Department of Insurance.

(dd)~~(cc)~~ The Department of General Services.

(ee)~~(dd)~~ The Department of Highway Safety and Motor Vehicles.

(ff)~~(ee)~~ The Department of Citrus.

(3) The Legislative Auditing Committee may from time to time revise the order of evaluations and reviews or provide either for acceleration or deceleration of the total review cycle, provided that:

(a) No agency *or entity* shall be the subject of a periodic evaluation and review for a second time until each agency *or entity* on the schedule has been the subject of a periodic evaluation and review, except upon a two-thirds vote of the members appointed to the Legislative Auditing Committee. However, the programs of an agency *or entity* may be reviewed as part of the review of another agency *or entity* even if the agency *or entity* has previously been reviewed.

(b) The total period for the evaluations and reviews may not be reduced to a period of less than 7 years nor extended to a period of more than 15 years.

(c) Funds sufficient to permit an acceleration of the evaluations and reviews have been appropriated.

(d) The revision is approved by a two-thirds vote of the members appointed to the Legislative Auditing Committee.

(4) This section expires October 1, 2001, and must be reviewed by the Legislature in advance of that date.

Section 38. Section 216.023, Florida Statutes, is amended to read:

216.023 Legislative budget requests to be furnished by agencies.—

(1) The head of each *state* agency~~, except the state courts system as defined in s. 25.382,~~ shall submit a final legislative budget request to the Legislature and to the Governor, as chief budget officer of the state, in the form and manner prescribed in the budget instructions and at such time as specified by the Executive Office of the Governor, based on the agency's independent judgment of its needs. However, no state agency shall submit its final legislative budget request later than September 1 of each year.

(2) The *judicial branch* ~~state courts system~~ and the Division of Administrative Hearings shall submit their final legislative budget requests directly to the Legislature with a copy to the Governor, as chief budget officer of the state, in the form and manner as prescribed in the budget instructions. However, the final legislative budget requests shall be submitted no later than September 1 of each year.

(3) The Executive Office of the Governor and the appropriations committees of the Legislature shall jointly develop legislative budget instructions from which each agency *and the judicial branch*, pursuant to ss. 216.031 and 216.043, shall prepare its legislative budget request. The budget instructions shall be consistent with s. 216.141 and shall be transmitted to each agency *and to the judicial branch* no later than June 15 of each year. In the event that agreement cannot be reached between the Executive Office of the Governor and the appropriations committees of the Legislature regarding legislative budget instructions, the issue shall be resolved by the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(4) Each agency *and the judicial branch* shall submit for review a preliminary legislative budget request to the Executive Office of the Governor, in the form and manner prescribed in ss. 216.031 and 216.043, in accordance with the legislative budget instructions, and at such time as may be prescribed by the Executive Office of the Governor.

(5) The Executive Office of the Governor shall review the preliminary legislative budget request for technical compliance with the budget format provided for in the budget instructions. The Executive Office of

the Governor shall notify the agency *or the judicial branch* of any adjustment required. The agency *or judicial branch* shall make the appropriate corrections in preparing its final legislative budget request. If ~~the agency fails to make~~ the appropriate technical corrections *are not made in the* ~~in format in preparing its~~ final legislative budget requests, the Executive Office of the Governor may adjust the ~~agency legislative~~ budget request to incorporate the appropriate technical corrections in the format of the request.

(6) At any time after the Governor *and the Chief Justice submit their* ~~submits his~~ recommended *budgets* ~~budget~~ to the Legislature, the head of the agency *or judicial branch* may amend *his* ~~the~~ request by transmitting to the Governor and the Legislature *an* ~~the~~ amended request ~~of the agency,~~ in the form and manner prescribed in the legislative budget instructions.

(7)(a) The provisions of subsections (1) and (2) to the contrary notwithstanding, each agency subject to the provisions of this section shall submit its legislative budget request no later than September 1 of the year in which the agency is required to submit its point-by-point response pursuant to s. 216.0165(1)(d).

(b) Each agency *and branch* subject to the provisions of this section and s. 216.0165 shall provide as part of its budget request a point-by-point response to all funding recommendations prepared and submitted by the Director of the Office of Policy Analysis and Agency Review pursuant to s. 11.513. If the recommendations of the director contain recommendations that specifically apply to an agency *or branch* other than the agency *or branch* that is the subject of the evaluation and review, the agency that is not the subject of the evaluation and review shall provide as part of its budget request a point-by-point response to any funding recommendations which apply to such agency *or branch*. The point-by-point response to the director's recommended funding levels shall be displayed numerically as major issues in the agency's legislative budget request. Each point-by-point response to the director's funding recommendations shall be specifically cross-referenced to the agency's responses to the director's recommendations required in s. 216.0165(1)(d).

(c) The budget instructions required pursuant to subsection (3) shall include requirements that agency *or judicial branch* responses, major issue summaries contained in the Governor's recommended budget, and the Letter of Intent issued with the General Appropriations Act set the point-by-point responses apart as major issues in the following manner:

1. The director's recommendations for reduced funding shall be separately identified as the director's recommendations and treated as nonrecurring expenditures.

2. Agency requests to restore the director's recommendations for reduced funding shall be separately identified as agency requests to restore the director's recommendations and treated as improved programs.

3. The director's recommendations for increased funding shall be separately identified as the director's recommendations and treated as major issues for continuation of current programs.

4. All other agency requests that would provide funding levels above the director's recommendations shall be separately identified as agency requests for funding above the director's recommendations and treated as new or improved programs.

(d) By March 1 of the year following the submittal of an agency's budget request in accordance with the operation of this subsection and the evaluation and review of the agency pursuant to ss. 11.513 and 216.0165, the appropriate substantive committees of the Senate and the House of Representatives shall review the report of the consultant and the recommendations of the director submitted pursuant to s. 11.513 and the responses to the director's recommendations by the agencies that are the subject of the report and recommendations, and shall make recommendations for continuation, modification, or repeal of any of the agencies' programs that are affected by the consultant's report or the recommendations of the director. In developing their recommendations, such committees also shall consider the recommendations and responses made in the agencies' legislative budget requests as required by this subsection and in the Governor's recommended budget.

Section 39. Section 216.031, Florida Statutes, is amended to read:

216.031 Budgets for operational expenditures.—A legislative budget request, reflecting the independent judgment of the head of the state agency, *or of the Chief Justice of the Supreme Court,* with respect to the needs of the agency *or the judicial branch* for operational expenditures during the next fiscal year, shall be submitted by each head of a state agency *and by the Chief Justice of the Supreme Court* and shall contain the following:

(1) For each budget entity, a summary exhibit showing, for each appropriation category, for each fund, *1* ~~2~~ prior *year's* ~~years'~~ appropriations for general revenue, 1 prior year's actual expenditures and 1 current year's estimated expenditures, and the requested expenditures for the next fiscal year. The total number of positions for the budget entity shall be shown for each fiscal year of data for which positions are authorized, fixed, or requested. However, the agency budget request for the State University System shall be expressed in terms of the amounts for the various programs as prescribed in s. 240.271 and in terms of the specified appropriation categories, including the special units' budgets, prescribed in the prior appropriations act.

(2) For each program component within the budget entity, an exhibit showing, for each appropriation category, the summary explanation of expenditures for each detail issue describing the amounts and positions for the next fiscal year for continuation of current programs, for improved programs, and for new programs, with a summary showing totals by fund for the next fiscal year.

(3) For each trust fund within the budget entity, a schedule showing the trust funds available, providing the source of receipts, detail of nonoperating disbursements, operating expenditures, fixed capital outlay, and unencumbered cash balances, for 1 prior year's actual, the current year's estimated, and the request for the next fiscal year. In addition, for each trust fund established in connection with legislative action authorizing the collection of a fee or other charge to support a governmental service or activity being performed by the agency involved, there shall be submitted a schedule showing the full cost of such service or activity, the total fees or charges collected to fund such costs, and the amount of excess collections or any deficit. The sources and amounts of any funds used to cover a deficit shall also be shown. The service or activity being performed shall be reviewed by the appropriations committees in the Senate and House of Representatives for the express purpose of making adjustments in fees or other charges in order to make such activities as nearly self-supporting as possible.

(4) For each budget entity, a schedule showing detail of positions, providing for each class of positions within discrete organizational activities, by the collective bargaining unit and program component for the next fiscal year, the number of full-time equivalent positions, the estimated rate of salary, ~~the number of months of employment,~~ the amounts requested for new positions, and the number of new positions requested.

(5) Detailed information for the next fiscal year necessary for the Legislature and the Governor to evaluate:

(a) The effectiveness of current programs, including justification for those programs.

(b) The justification for increasing costs to continue the operations of current programs.

(c) The justification for proposed improvements in existing programs.

(d) The justification for proposed new programs.

(e) The projected cost of the requested program for the following fiscal year.

(f) The needs of the agency or of the judicial branch for operational expenditures, by order of priority.

(6) Additional information providing a detailed description of the request of the agency and the corresponding calculations needed to support the request.

(7) Workload and other performance indicators, as prescribed by the legislative budget instructions.

~~(8) The sum of money actually expended for contractual services, as defined in s. 287.012, by the agency for the previous year.~~

~~(9) A schedule listing each committee, however created; council; coordinating council; commission; and board of trustees that is adjunct to the~~

~~executive agency. The schedule shall show the name, number of meetings held in the past fiscal year, number of members, and expenses of each committee, council, coordinating council, commission, or board of trustees. The schedule shall further state the purpose of each committee, council, coordinating council, commission, or board of trustees and the statutory basis for each one's creation.~~

(8)~~(10)~~ An information resources management schedule showing the agency's *or judicial branch's* total budget request for information resources management. The schedule shall be in the format provided for in the legislative budget instructions. The budget request for information resources management shall identify, if applicable, which parts of the request are in response to any information resources management issues included in the legislative budget instructions pursuant to s. 282.305(1)(f). This subsection is applicable only to those state agencies which are under the purview of ss. 282.303-282.313 *and to the judicial branch.*

~~(11) The sum of money actually expended in the previous year for the production of publications as determined by the state agency and a schedule listing the publications discontinued or scheduled for discontinuance and the cost avoidance to be realized by such action.~~

(9) A report separately listing the sources of receipts into each trust fund and the amounts of such receipts. In addition, the report shall identify the administrative and program costs expended from the trust fund, including salaries, other personal services, operating capital outlay, fixed capital outlay, other expenses, contractual services, and transfers to other trust funds.

Either chairman of a legislative appropriations committee, or the Executive Office of the Governor *for state agencies,* may require the agency *or judicial branch* to address major issues separate from those outlined in s. 216.023, this section, and s. 216.043 for inclusion in the requests of the agency *or of the judicial branch.* The issues shall be submitted to the agency no later than July 30 of each year and shall be displayed in its requests as provided in the budget instructions. *The Executive Office of the Governor may request an agency, or the chairman of the appropriations committees of the Senate or House of Representatives may request any agency or the judicial branch, to submit no later than September 15 of each year a budget plan with respect to targets established by the Governor or either chairman. The target budget shall require each entity to establish an order of priorities for its budget issues and may include requests for multiple options for the budget issues. The target budget may also require each entity to submit a program budget or a performance-based budget in the format prescribed by the Executive Office of the Governor or either chairman; provided, however, the target budget format shall be compatible with the planning and budgeting system requirements set out in s. 216.141. Such a request shall not influence the agencies' or judicial branch's independent judgments in making legislative budget requests, as required by law.*

Section 40. Section 216.043, Florida Statutes, is amended to read:

216.043 Budgets for fixed capital outlay.—

(1) A legislative budget request, reflecting the independent judgment of the head of the agency *or of the Chief Justice of the Supreme Court* with respect to the needs of the agency *or of the judicial branch* for fixed capital outlay during the next fiscal year, shall be submitted by each head of an agency *and by the Chief Justice* and shall contain:

(a) An estimate in itemized form showing the amounts needed for fixed capital outlay expenditures, to include a detailed statement of program needs, estimated construction costs and square footage, site costs, operating capital necessary to furnish and equip for operating a new or improved facility, and the anticipated sources of funding during the next fiscal year.

(b) Proposed fixed capital outlay projects, including proposed operational standards related to programs and utilization, an analysis of continuing operating costs, and such other data as the Executive Office of the Governor deems necessary *for state agencies, or the Chief Justice deems necessary for the judicial branch,* to analyze the relationship of agency needs and program requirements to construction requirements. The plan shall also include the availability and suitability of privately constructed and owned buildings and facilities to meet the needs and program requirements of the agency *or judicial branch.*

(c) For any budget request for fixed capital outlay or operating capital outlay which is to be funded by a proposed state debt or obligation as defined in s. 216.0442, the information set forth in s. 216.0442(2).

(2) The legislative budget requests for fixed capital outlay shall be submitted as a product of an ongoing planning process which:

(a) Relates to program plans in an anticipatory manner so as to identify facility requirements sufficiently early to provide lead time for planning and construction without deterring the operation of the applicable program.

(b) Applies that lead time to the budget process.

(3) Each legislative budget request for fixed capital outlay submitted shall contain:

(a) A schedule of projects planned to meet the 4-year requirements of the agency *or judicial branch* and a schedule of anticipated funding for the initial fiscal year of the 4-year period.

(b) A full explanation of the basis for each project, including a description of the program which requires the facility; an explanation of the inability of existing facilities to meet such requirements; historical background; alternatives; and anticipated changes in operating costs, both initial and continuing.

(c) An application of standards and criteria to establish the scope of each project.

(d) An application of cost factors to all elements of each project to establish an estimate of funding requirements.

(e) A request for legislative appropriation to provide such funding in the appropriate fiscal year, including the need for advance funding of programming and design activities.

(f) A priority list of fixed capital outlay projects for which the construction of the project may be deferred for countercyclical purposes for a period not to exceed 12 months.

Section 41. Section 216.044, Florida Statutes, is amended to read:

216.044 Budget evaluation by Department of General Services.—

(1) Concurrently with the submission of the fixed capital outlay legislative budget request to the Executive Office of the Governor *or to the Chief Justice of the Supreme Court,* the agency *or judicial branch* shall submit a copy of the legislative budget request to the Department of General Services for evaluation.

(2) The Department of General Services shall advise the Executive Office of the Governor, *the Chief Justice,* and the Legislature regarding alternatives to the proposed fixed capital outlay project and make recommendations relating to the construction requirements and cost of the project. These recommendations shall be provided to the Legislature and Executive Office of the Governor at a time specified by the Governor, but not less than 90 days prior to the regular session of the Legislature. When evaluating alternatives, the Department of General Services shall include information as to whether it would be more cost-efficient to lease private property or facilities, to construct facilities on property presently owned by the state, or to acquire property on which to construct the facilities. In determining the cost to the state of constructing facilities on property presently owned by the state or the cost of acquiring property on which to construct facilities, the Department of General Services shall include the costs which would be incurred by a private person in acquiring the property and constructing the facilities, including, but not limited to, taxes and return on investment.

(3) The Department of General Services shall provide assistance to any state agency, *the judicial branch,* and the Executive Office of the Governor in fulfilling the requirements of s. 216.0442 as developed pursuant to ss. 216.031 and 216.043.

Section 42. Section 216.0442, Florida Statutes, is amended to read:

216.0442 Truth in bonding; definitions; summary of state debt; statement of proposed financing; truth-in-bonding statement.—

(1) As used in this section, the following words and terms shall have the following meanings, unless the context otherwise requires:

(a) "Costs of issuance" means all of those costs and expenses directly

incurred by or on behalf of any state agency *or the judicial branch* in the process of issuing or incurring a debt or obligation. Such costs of issuance shall include, but shall not be limited to, the costs of rating the debt or obligation, the costs of retaining professional services such as bond counsel or financial advisers, the amount of underwriter's discount, printing costs, and the costs of the entity responsible for issuing or incurring the debt or obligation.

(b) "Debt" means a bond, certificate, note, or other evidence of indebtedness, including, but not limited to, an agreement to pay principal and any interest thereon, whether in the form of a contract to repay borrowed money or otherwise, and includes a share or other interest in any such agreement.

(c) "Debt service" means the amounts due on any state debt or obligation for interest, any maturing principal, any required contributions to an amortization or sinking fund for a term debt or obligation, and any other continuing payments necessary or incidental to the repayment of a state debt or obligation.

(d) "Interest" means the compensation for the use or detention of money or its equivalent.

(e) "Interest rate" means the annual percentage of the outstanding state debt or obligation payable as interest.

(f) "Obligation" means an agreement to pay principal and interest thereon, other than a debt, whether in the form of a lease, lease purchase, installment purchase, or otherwise, and includes a share, participation, or other interest in any such agreement. However, the term "obligation" does not include an agreement having a term of less than 5 years, unless the principal is more than $5 million and the term is more than 2 years.

(g) "Outstanding state debt" means any state debt or obligation of which the principal has not been paid or for which an amount sufficient to provide for the payment of such state debt or obligation and the interest on such state debt or obligation to the maturity or early redemption of such state debt or obligation has not been set aside for the benefit of the holders of such state debt or obligation.

(h) "Principal" means the face value of the debt or obligation.

(i) "Proposed state debt or obligation" means any state debt or obligation proposed to be issued or incurred.

(j) "State debt or obligation" means a debt or obligation incurred or issued by or on behalf of the state or any state agency *or the judicial branch.*

(2) When required by statute to support the proposed debt financing of fixed capital outlay projects or operating capital outlay requests or to explain the issuance of a debt or obligation, one or more of the following documents shall be developed:

(a) A summary of outstanding state debt as furnished by the Comptroller pursuant to s. 216.102.

(b) A statement of proposed financing, which shall include the following items:

1. A listing of the purpose of the debt or obligation.

2. The source of repayment of the debt or obligation.

3. The principal amount of the debt or obligation.

4. The interest rate on the debt or obligation, which shall be as forecasted by the Economic Estimating Conference, as provided in s. 216.136, for the period during which the debt or obligation is to be sold.

5. A schedule of annual debt service payments for each proposed state debt or obligation.

6. The method of sale of the debt or obligation.

7. The costs of issuance of the debt or obligation, including a detailed listing of the amounts of the major costs of issuance.

(c) A truth-in-bonding statement, developed from the information compiled pursuant to this section, in substantially the following form:

The State of Florida is proposing to issue $ (insert principal) of debt or obligation for the purpose of (insert purpose). This debt or obligation is expected to be repaid over a period of (insert term of issue from subparagraph (b)5.) years. At a forecasted interest rate of (insert rate of interest from subparagraph (b)4.), total interest paid over the life of the debt or obligation will be $ (insert sum of interest payments).

(3) The failure of any state agency *or the judicial branch* to comply with the provisions of this section shall not affect the validity of any state debt or obligation.

(4) The documents prepared pursuant to this section are for illustrative purposes only and shall not affect or control the actual terms and conditions of the debt or obligation.

Section 43. Section 216.0445, Florida Statutes, is amended to read:

216.0445 Budget evaluation by the Information Resource Commission.—

(1) Concurrently with the submission of the preliminary legislative budget request to the Executive Office of the Governor, the agency shall submit to the Information Resource Commission for evaluation a copy of the information resources management schedule of the budget request. The executive administrator of the Information Resource Commission shall advise the Executive Office of the Governor and the Legislature if there are cost-effective alternatives to the proposed expenditures contained in the information resources management schedule of the budget request and shall make recommendations as to whether the associated costs contained in the schedule are reasonable and whether the proposed expenditures are compatible with the agency's approved Strategic Plan for Information Resources Management and the information resources management issues included in the legislative budget instructions, pursuant to s. 282.305(1)(f). The Executive Office of the Governor and the appropriations committees of the Legislature shall jointly prescribe the format and specify the budgetary factors to be used by the executive administrator in making recommendations regarding agency information resource management budget schedules. Such recommendations shall be provided to the Legislature and Executive Office of the Governor at a time specified by the Governor, but not less than 90 days prior to the regular session of the Legislature.

(2) The executive administrator *and the Chief Justice of the Supreme Court* shall seek the advice of and consult with the Division of Communications of the Department of General Services, as needed, in reviewing the communications portion of the schedule.

(3) The executive administrator *and the Chief Justice of the Supreme Court* shall identify and make recommendations regarding related information resources management issues which affect multiple agencies and those information resources management needs for which it is appropriate to contract with a private entity for services.

Section 44. Section 216.052, Florida Statutes, is created to read:

216.052 Legislative budget requests; appropriations; grants.—

(1) The budget request from each agency and from the judicial branch shall be reviewed by the Legislature. The review may allow for the opportunity to have information or testimony by the agency, the judicial branch, the Auditor General's Office, the Governor's Office of Planning and Budgeting, and the public regarding the proper level of funding for the agency in order to carry out its mission.

(2) In order to ensure an integrated state planning and budgeting process, the strategic plan should be reviewed by the Legislature.

(3) Each local government, private organization, or nonprofit organization requesting a state appropriation, for a program, service, or capital outlay initiative that has not been formally recommended under procedures established by law or that has been formally recommended under such procedures but has not been recommended by an agency or by the judicial branch, or that promotes only a local or regional interest, may be allowed the opportunity to provide information or testimony to the appropriate subcommittee of each appropriations committee. Each such request must include a fiscal note that shows the estimated cost of operations and capital outlay for the project. The fiscal note shall indicate the percentage of the projected costs of operations and capital outlay that is to be provided through state funds.

(4) Each appropriation to a local government, a private organization, or a nonprofit organization made pursuant to a request for a program, service, or capital outlay initiative that promotes a solely local or regional interest shall require that the community's support be tangibly demonstrated by evidence that the program or service expects to operate in a financially sound manner. Any other appropriation to a local government, a private organization, or a nonprofit organization made pursuant to a request as provided in subsection (3) should generally require local matching funds. The match must be based on the size and scope of the project and the applicant's ability to provide the match. In addition, the granting of state funds shall be used to encourage the establishment of community-based partnerships between the public sector and the private sector.

(5) The retention of interest earned on state funds or the amount of interest income earned shall be applied against the state entity's obligation to pay the contracted amount.

(6) Whenever possible, a loan must be made in lieu of a grant to a local government, a private organization, or a nonprofit organization. It is the intent of the Legislature that a revolving loan program shall be established so that the loan amount plus interest is paid back by the recipient to the state.

(7) Any private or nonprofit organization requesting funding shall provide information regarding its organization, including a copy of its current budget and a list of its board of directors.

(8) In addition to any other provision of law granting access to records and accounts, the Auditor General may, pursuant to his own authority hereby granted in this subsection or at the direction of the Legislative Auditing Committee, conduct audits of any direct-support organization or citizen support organization authorized by law. Independent audits of direct-support organizations and citizen support organizations conducted by certified public accountants shall be performed in accordance with rules promulgated by the Auditor General.

Section 45. Section 216.053, Florida Statutes, is created to read:

216.053 Summary information in the General Appropriations Act; construction of such information.—

(1) For informational purposes only, the General Appropriations Act shall contain summary information that covers specific appropriations and summarizes program areas.

(2) The purpose of the summary information is to help the public understand those budgetary decisions made by the Legislature and contained in the General Appropriations Act.

(3) Summary information does not operate to further change, earmark, or restrict specific appropriations made in the General Appropriations Act, does not constitute specific appropriations, and is not subject to the Governor's line-item veto.

(4) In drafting the General Appropriations Act, the Legislature shall ensure that all specific appropriations are displayed so as not to impede the Governor's authority under the State Constitution to line-item veto specific appropriations.

Section 46. Section 216.081, Florida Statutes, is amended to read:

216.081 Data on legislative *and judicial branch* expenses.—

(1) On or before September 1 in each year, in sufficient time to be included in the Governor's recommended budget, estimates of the financial needs of the legislative branch *and the judicial branch* during the ensuing fiscal year shall be furnished to the Governor pursuant to chapter 11.

(2) All of the data relative to the legislative branch *and to the judicial branch* shall be for information and guidance in estimating the total financial needs of the state for the ensuing fiscal year; none of these estimates shall be subject to revision or review by the Governor, and they must be included in his recommended budget.

Section 47. Section 216.091, Florida Statutes, is amended to read:

216.091 Statements by Comptroller to Governor.—

(1) On or before December 15, annually, the Comptroller shall furnish to the Governor the statements, classified and itemized in strict accordance with the budget classifications adopted by the Executive Office of the Governor, and consistent with the provisions of s. 216.023, as follows:

(a) A statement showing the balance standing to the credit of the several appropriations for each state agency, *the judicial branch,* and the legislative branch supported from any form of taxation or licenses, fees, imposts, or exactions at the end of the prior fiscal year.

(b) A statement showing the annual expenditures and revenues from each appropriation account and the total annual expenditures and revenues from all appropriation accounts in the prior fiscal year.

(c) Such other statements as the Governor shall request.

(2) Copies of the statements required by this section shall be furnished to the legislative appropriations committees as requested.

Section 48. Section 216.102, Florida Statutes, is amended to read:

216.102 Filing of financial information ~~by state agencies~~; handling by Comptroller; penalty for noncompliance.—

(1) On or before September 30 of each year, each agency supported by any form of taxation, licenses, fees, imposts, or exactions, *and the judicial branch,* shall, in the form and format prescribed by the Comptroller, file with the Comptroller the financial and other information necessary for the preparation of annual financial statements for the State of Florida as of June 30 in accordance with generally accepted accounting principles. In addition, each such agency *and the judicial branch* shall prepare financial statements showing the financial position and results of agency *or branch* operations as of June 30 for internal management purposes.

(2) It shall be the duty of the Comptroller to:

(a) Prepare and publish annual financial statements for the State of Florida in accordance with generally accepted accounting principles on or before December 31 annually.

(b) Furnish the Governor, the President of the Senate, and the Speaker of the House of Representatives with copies of the annual financial statements prepared pursuant to paragraph (a).

(3) Should any agency *or the judicial branch* fail to comply with the provisions of subsection (1), the Comptroller may refuse to honor salary claims for agency *or branch* fiscal and executive staff until the agency *or branch* corrects its deficiency.

(4) The Comptroller may prescribe rules to implement this section.

Section 49. Section 216.111, Florida Statutes, is amended to read:

216.111 Financial statements and schedules and other reports, submission by governmental entities.—Every state agency *and the judicial branch* shall submit balance sheets, financial statements and schedules, program performance reports, and other reports required for planning and programming in accordance with the state development plan as may be required ~~by the Executive Office of the Governor~~ under the rules and regulations *adopted* ~~promulgated~~ hereunder.

Section 50. Section 216.131, Florida Statutes, is amended to read:

216.131 Public hearings on legislative budgets.—The Governor *and the Chief Justice of the Supreme Court* shall *each* provide for at least one public hearing prior to submission of ~~his~~ budget recommendations to the Legislature on issues contained in agency legislative budget requests *or in the judicial branch budget request* and issues which may be included in ~~his~~ budget recommendations to the Legislature, which shall be held at such time as *the Governor or the Chief Justice* ~~he~~ may fix. The Governor may require the attendance at *his* ~~these~~ hearings of the heads or responsible representatives of all state agencies supported by any form of taxation or licenses, fees, imposts, or exactions.

Section 51. Section 216.135, Florida Statutes, is amended to read:

216.135 Use of official information by state agencies *and judicial branch.*—Each state agency *and the judicial branch* shall use the official information developed by the consensus estimating conferences in carrying out its duties under the state planning and budgeting system.

Section 52. Section 216.141, Florida Statutes, is amended to read:

216.141 Budget system procedures; planning and programming by state agencies.—

(1) The Executive Office of the Governor, in consultation with the appropriations committees of the Senate and House of Representatives and the Auditor General, and by utilizing the coding system of the State

Automated Management Accounting Subsystem ~~of Florida Accounting System~~, shall prescribe a planning and budgeting system, pursuant to s. 215.94(2), to provide for continuous planning and programming and for effective management practices for the efficient operations of all state agencies *and the judicial branch*. However, the planning and budgeting system shall be limited to the processing of information related to ss. 216.023, 216.031, 216.043, 216.102, 216.111, 216.121, 216.181, 216.182, and 216.192 and those applications relating to part I of chapter 23 which are funded by the Legislature. The Executive Office of the Governor may contract with the Legislature to develop the planning and budgeting system and to provide services to the Legislature for the support and use of the legislative appropriations system.

~~(2) The accounting system developed by the Auditor General pursuant to s. 11.46 is designated as the "State of Florida Accounting System." The Comptroller, as chief fiscal officer, shall use the State of Florida Accounting System for accounting purposes in the performance of and accounting for all of his constitutional and statutory duties and responsibilities. However, no state agency is relieved from the responsibility for maintaining accounting records necessary for effective management of its programs and functions. The Auditor General may appoint a committee of users for the purpose of advising him relative to the design and implementation of the State of Florida Accounting System. The State of Florida Accounting System shall be operational in all state agencies no later than July 1, 1980.~~

~~(3) The Comptroller, with the concurrence of the Auditor General, shall develop and implement a plan to implement the State of Florida Accounting System in all state agencies. This plan shall be presented by the Comptroller to the Legislative Auditing Committee no later than August 31, 1977. Thereafter, a revised plan and status report shall be submitted by him to the Legislative Auditing Committee no later than August 31 of each year, until 1980, at which time a final report will be issued. The Comptroller shall then incorporate the plan in his annual legislative budget requests to be submitted pursuant to s. 216.031.~~

(2)~~(4) The Auditor General shall retain all duties and responsibilities under s. 11.46. No changes or modifications shall be made to the State of Florida Accounting System without his approval until July 1, 1980, at which time the total responsibility for the operation of the State of Florida Accounting System shall be transferred to the Comptroller, pursuant to s. 17.14. Thereafter,~~ The Comptroller shall notify the Auditor General of any changes or modifications to the State *Automated Management Accounting Subsystem* ~~of Florida Accounting System~~.

~~(5) The Comptroller shall report quarterly to the President of the Senate and to the Speaker of the House as to the disposition of the funds expended by him in implementing this section. The Comptroller, in implementing the provisions of this section, shall contract with the Legislature for all data processing and teleprocessing equipment and services supporting the State of Florida Accounting System.~~

~~(6) No later than July 1, 1982, all data processing equipment utilized in implementing the provisions of this section shall be transferred to an agency within the executive branch of state government.~~

Section 53. Section 216.151, Florida Statutes, is amended to read:

216.151 Duties of the Executive Office of the Governor.—It shall be the duty of the Executive Office of the Governor to:

(1) Assist the Governor in making a detailed study of each of the several state agencies, with a view toward ascertaining and determining the needs thereof; whether changes should be made in existing organizations, their activities and methods of operation; what appropriation should be made therefor; whether the operations and activities of different agencies or within the same agencies should be combined, consolidated, or integrated or should be regrouped and rearranged, all to the end of securing greater economy without sacrificing efficiency in the operations of such agencies. In order to accomplish this study, the Executive Office of the Governor may request any or all agencies to submit a budget plan with respect to targets established by the Governor. Such a request shall not influence the agencies' independent judgments in making legislative budget requests, as required by law.

(2) Prepare an analysis of the legislative budget requests submitted by state agencies *and the judicial branch* covering their respective operational and fixed capital outlay requirements.

(3) Prepare for the Governor such other data as will reflect the financial condition of the state and its agencies at the close of the prior fiscal year and an estimate of what that condition will be at the close of the current fiscal year.

(4) Prepare a statement of policy to assure that fixed capital outlay appropriations recommended by the Governor will be consistent with recommended operational standards related to programs and utilization.

(5) Provide to the Legislature any information used to justify and evaluate the Governor's recommended balanced budget.

(6) Perform such other duties as may be required by law or by the Governor.

Section 54. Section 216.163, Florida Statutes, is amended to read:

216.163 Governor's recommended budget; form and content; declaration of collective bargaining impasses.—

(1) The Governor's recommended budget shall be referenced to the legislative budget requests prescribed in ss. 216.031 and 216.043 and shall be *consistent with the format of the current fiscal year general appropriations act or shall be* distinctly separated into *four* ~~two~~ sections.: *If separated into 4 sections,* Section One of the budget shall be entitled "Operations,"; ~~and~~ Section Two shall be entitled *"Revenue Sharing, Distributions and Transfers"* ~~"Fixed Capital Outlay."~~*; Section Three shall be entitled "Fixed Capital Outlay"; and Section Four shall be entitled "Debt Service."*

(2) The Governor's recommended budget shall also include:

(a) His recommendations for operating each state agency, *and those of the Chief Justice of the Supreme Court for operating the judicial branch,* for the next fiscal year. These recommendations shall be displayed by appropriation category within each budget entity, with detail by program component within each budget entity, and shall also include the legislative budget request of the corresponding agency.

(b)1. His recommendations *and those of the Chief Justice* for fixed capital outlay appropriations for the next fiscal year. These recommendations shall be displayed by budget entity and shall also include the legislative budget request of the corresponding agency.

2. For each specific fixed capital outlay project or group of projects or operating capital outlay requests recommended to be funded from a proposed state debt or obligation, he shall make available pursuant to s. 216.164(1)(a) the documents set forth in s. 216.0442(2).

(c) The evaluation of the fixed capital outlay request of each agency *and the judicial branch* and alternatives to the proposed projects as made by the Department of General Services pursuant to s. 216.044.

(d) A summary statement of the amount of appropriations requested by each state agency and as recommended by the Governor *and by the judicial branch.*

(e) A distinct listing of all nonrecurring appropriations recommended by the Governor *or the Chief Justice.*

(f) A listing of the general policies used to calculate the amounts required for salaries, other personal services, expenses, operating capital outlay, electronic data processing, and food products recommended by the Governor *or the Chief Justice.*

(g) Explanations and justification, expressed in terms of program-effectiveness measures, program-efficiency measures, workload, productivity adjustments, staffing standards, and any other criteria needed to evaluate the delivery of governmental services and to explain his recommendations *or the Chief Justice's recommendations,* and such other supporting schedules and exhibits as may be determined by him *or the Chief Justice.*

(h) With respect to the Department of Transportation, a reconciliation of his recommendations for the funding of the agency budget and tentative work program with the budget and tentative work program submitted by the department pursuant to s. 339.135 by project, by project phase, by department district, and by appropriation category.

(i) Any additional information which the Governor *or Chief Justice* feels is needed to justify his recommendations.

(3) At the same time that the Governor furnishes each senator and representative with a copy of his recommended balanced budget under s. 216.162(1), the Executive Office of the Governor shall electronically transmit to the legislative appropriations committees his recommended budget, the Exhibit B, Major Issues, and D-3a's.

(4) At the time the Governor is required to furnish copies of his recommended budget to each senator and representative under s. 216.162(1), he shall declare an impasse in all collective bargaining negotiations for which he is deemed to be the public employer and for which a collective bargaining agreement has not been executed. Within 14 days thereafter, he shall furnish the legislative appropriations committees with documentation relating to the last offer he made during such collective bargaining negotiations or recommended to a mediator or special master appointed to resolve the impasse.

Section 55. Section 216.164, Florida Statutes, is amended to read:

216.164 Governor's recommended budget; supporting information.—

(1) Not later than 14 days after the Governor submits his recommended budget to the Legislature pursuant to ss. 216.162 and 216.163, the Executive Office of the Governor shall make available:

(a) To the legislative appropriations committees an appropriations bill as recommended by the Governor, an economic impact statement as required of the Legislature pursuant to s. 11.075, and appropriate staff analyses or support materials used to develop the Governor's budget recommendations. Any proposed changes in the benefits provided under the state employee group health self-insurance plan shall be accompanied by a statement signed by an enrolled actuary indicating the amount by which monthly plan premiums would need to change if the proposed benefit changes were exclusively funded by a change in plan premiums.

(b) To the President of the Senate and the Speaker of the House of Representatives any additional legislation in bill form which will be needed to fully implement the Governor's recommended budget. Upon receipt, the President of the Senate and the Speaker of the House of Representatives shall transmit each such bill to the chairman of the appropriate committee.

(2) The Governor, upon request, shall promptly furnish to the Legislature any appropriate information relating to his recommendations.

(3) The Governor may provide to the Legislature a program budget or a performance-based budget for any state agency, in a form prescribed by the Executive Office of the Governor. Information submitted to the Legislature shall be presented in a fashion that will allow comparison of the requested information with the agency request, Governor's recommendations, and legislative appropriations by the automated legislative appropriation system/planning and budgeting system.

Section 56. Subsection (1) of section 216.172, Florida Statutes, is amended to read:

216.172 Meetings of legislative appropriations committees.—

(1) The appropriations committees of the Senate and of the House of Representatives, being in charge of appropriation measures, shall sit in open sessions while considering the budget. The committees may cause the attendance of agency heads or responsible representatives of the state agencies *and the judicial branch* to furnish such information and answer such questions as the committees shall require, and to these sessions shall be admitted, with the right to be heard, all persons interested in the estimates.

Section 57. Section 216.177, Florida Statutes, is amended to read:

216.177 Appropriations acts, statement of intent, violation, notice, review and objection procedures.—

(1) As soon as practicable, but no later than the 10th day before the end of the period allowed by law for veto consideration in any year in which an appropriation is made, the chairmen of the legislative appropriations committees shall jointly transmit:

(a) A statement of intent, including performance and workload measures as appropriate;

(b) The official list of General Revenue Fund appropriations determined in consultation with the Executive Office of the Governor to be nonrecurring; and

(c) The documents set forth in s. 216.0442(2)(a) and (c),

to the Executive Office of the Governor, the Comptroller, the Auditor General, *the Chief Justice of the Supreme Court,* and each state agency. The statement of intent constitutes a manifestation of how the Legislature, in its considered opinion as a representative of the people, thinks appropriations should be spent. The statement of intent is not a law and may not allocate or appropriate any funds, or amend or correct any provision, in the General Appropriations Act, but the statement of intent may provide additional explanation to the Executive Office of the Governor, the *judicial branch,* Administration Commission, and each affected state agency relative to the purpose, objectives, spending philosophy, and restrictions associated with any specific appropriation. The statement of intent shall compare the request of the agency *or of the judicial branch* or the recommendation of the Governor to the funds appropriated for the purpose of establishing intent in the development of the approved operating budget. A request for additional explanation and direction regarding the legislative intent of the General Appropriations Act during the fiscal year may be made only by and through the Executive Office of the Governor *for state agencies, and by and through the Chief Justice of the Supreme Court for the judicial branch,* as is deemed necessary. However, the Comptroller may also request further clarification of legislative intent pursuant to his responsibilities related to his preaudit function of expenditures.

(2)(a) Whenever notice of action to be taken by the Executive Office of the Governor, *the Chief Justice of the Supreme Court,* or the commission is required by this chapter, such notice shall be given to the chairmen of the legislative appropriations committees in writing, and shall be delivered to both such chairmen at least *14* ~~7~~ *consecutive* ~~working~~ days prior to the action referred to, unless a shorter period is approved in writing by both such chairmen. *Action* ~~The commission~~ shall not *be taken* ~~take action~~ on any budget item for which this chapter requires notice to the legislative appropriations committees without such notice having been provided, even though *there may be* ~~the commission may have~~ good cause for considering such item.

(b) If the chairmen of the legislative appropriations committees or the President of the Senate *and* ~~or~~ the Speaker of the House of Representatives *timely advise,* ~~object~~ in writing, ~~to~~ the Executive Office of the Governor, *the Chief Justice of the Supreme Court, or the Administration Commission* that *an action or a proposed action subject to the notice and review requirements of this chapter exceeds the delegated authority of the Executive Office of* ~~the General Appropriations Act, or a special appropriations act, has been violated or that such a violation has been proposed,~~ the Governor *for the executive branch, the Chief Justice for the judicial branch, or the Administration Commission, respectively, or is contrary to legislative policy and intent, the Governor, the Chief Justice of the Supreme Court, or the Administration Commission* ~~if he concurs with the chairmen's or presiding officers' objections,~~ shall void such action *and* ~~or~~ instruct the affected state agency *or entity of the judicial branch* to change immediately its spending action or spending proposal *until the Legislature addresses the issue* ~~to conform with such act.~~ *The written documentation shall indicate the specific reasons that an action or proposed action exceeds the delegated authority or is contrary to legislative policy and intent.* ~~If, in the judgment of the Governor, the General Appropriations Act or special appropriations act has not been violated or a violation of the General Appropriations Act or special appropriations act has not been proposed, the commission shall review the spending action or spending proposal. Such spending action or spending proposal may be affirmed by a two-thirds majority affirmative vote of the members present with the Governor voting in the affirmative. In the absence of an affirmative vote of two-thirds of the members present with the Governor voting in the affirmative, the commission shall void such action or instruct the affected state agency to cease such spending action or modify its spending proposal. In considering whether the General Appropriations Act has been or will be violated, the commission may also consider any documentation presented by both chairmen of the legislative appropriations committees, the presiding officer of either house, or the Governor. The Governor or either house of the Legislature may seek judicial review of the commission's action. Such review shall be de novo and shall not be limited to the record in the proceedings before the commission.~~

~~(c) If, based on documentation of legislative action which occurred prior to the General Appropriations Act becoming a law, the chairmen of the legislative appropriations committees or the President of the Senate or the Speaker of the House of Representatives object in writing to the~~

~~Executive Office of the Governor that a spending action or proposed spending action is inconsistent with the statement of intent, the Governor, if he concurs with the presiding officers' or chairmen's objections, may instruct the affected state agency to change immediately its spending action or spending proposal to conform with legislative intent. If the Governor does not direct the agency to change its spending action or proposed spending action, the commission shall review the spending action or spending proposal. Such spending action or proposal may be affirmed by a two-thirds affirmative vote of the members present with the Governor voting in the affirmative. In the absence of such vote the commission shall have determined that such action violated the statement of intent. The commission may void such action or instruct the affected state agency to cease such spending action or modify its proposed spending action so as to be consistent with the statement of intent. In considering whether the statement of intent has been or will be violated, the commission may also consider other documentation presented by both chairmen of the legislative appropriations committees, the presiding officer of either house, or the Governor. The Governor or either house of the Legislature may seek judicial review of the commission's action. Such review shall be de novo and shall not be limited to the record in the proceedings before the commission.~~

(2)~~(d)~~ The House of Representatives and the Senate shall provide by rule that any member of the House of Representatives or Senate may request, in writing, of either the President of the Senate or the Speaker of the House of Representatives or the chairman of the respective legislative appropriations committee to initiate the procedures of paragraph (b) ~~or paragraph (c)~~.

Section 58. Section 216.178, Florida Statutes, is amended to read:

216.178 General Appropriations Act; *format; procedure;* cost statement for new debt or obligation.—

(1) Any information contained in a conference committee report on a general or supplemental appropriations bill, on any other bill adopted by the same conference committee to implement a general or supplemental appropriations bill and effective for the same period as such appropriations bill, or on a revenue bill during any regular or special legislative session must be made available to the members of the Legislature and to the public at least 48 hours before the report may be voted on by the Senate or the House of Representatives.

(2) Effective June 30, 1993, the Office of Planning and Budgeting shall develop a final budget report that reflects the net appropriations for each budget item The report shall reflect actual expenditures for each of the 2 preceding fiscal years and the estimated expenditures for the current fiscal year In addition, the report must contain the actual revenues and cash balances for the preceding 2 fiscal years and the estimated revenues and cash balances for the current fiscal year. The report may also contain expenditure data, program objectives, and program measures for each state agency program. The report must be produced within 90 days after the beginning of the fiscal year. A copy of the report must be made available to each member of the Legislature, to the head of each state agency, to the Auditor General, and to the public.

(3) The Governor shall submit to the Secretary of State, along with the signed General Appropriations Act, a statement which sets forth the estimated cost of each new proposed state debt or obligation contained in the act. Each statement shall be written in substantially the following form:

The General Appropriations Act for fiscal year (insert years) authorizes the issuance of $ (insert principal) of debt or obligation at a forecasted interest rate of (insert rate of interest). The total interest paid over the life of this debt or obligation will be $ (insert sum of interest payments). Additionally, it is estimated that the 5-year operational costs associated with those capital outlay projects to be funded by the incurrence of this debt or obligation will be $ (insert costs).

Section 59. Section 216.179, Florida Statutes, is amended to read:

216.179 Reinstatement of vetoed appropriations by administrative means prohibited.—After the Governor has vetoed a specific appropriation for an agency *or the judicial branch*, neither the Governor, ~~nor~~ the *Administration Commission* ~~Cabinet~~, *nor the Chief Justice of the Supreme Court*, in their various statutory and constitutional roles, may authorize expenditures for or implementation in any manner of the programs that were authorized by the vetoed appropriation.

Section 60. Section 216.181, Florida Statutes, is amended to read:

216.181 Approved budgets for operations and fixed capital outlay.—

(1) The General Appropriations Act and any other acts containing appropriations shall be considered the original approved operating budgets for operational and fixed capital expenditures. *Amendments to the approved operating budgets for operational and fixed capital outlay expenditures from state agencies may be requested only through the Executive Office of the Governor and approved by the Governor or Administration Commission as provided in this chapter. Amendments from the judicial branch may be requested only through, and approved by, the Chief Justice of the Supreme Court. This includes*

~~(a) The Executive Office of the Governor may amend the approved operating budget, including~~ amendments which are necessary to implement the provisions of s. 216.212 or s. 216.221.

(2) Amendments to the original approved operating budgets for operational and fixed capital outlay expenditures must comply with the following guidelines in order to be approved by the Governor or Administration Commission as provided in this chapter for the Executive Branch and the Chief Justice for the Judicial Branch:

(a) The amendment must be consistent with legislative policy and intent.

(b) The amendment may not initiate or commence a new program, except as authorized by this chapter, or eliminate an existing program.

(c) Except as authorized in s. 216.292 or other provisions of this chapter, the amendment may not provide funding or increased funding for items which were funded by the Legislature in an amount less than that requested by the agency or Governor in the legislative budget request or which were vetoed by the Governor.

(d) For amendments that involve trust funds, there must be adequate and appropriate revenues available in the trust fund and the amendment must be consistent with the laws authorizing such trust funds and the laws relating to the use of the trust funds. However, a trust fund shall not be increased in excess of the original approved budget, except as provided in s. 216.181(10).

(e) The amendment shall not conflict with any provision of law.

(f) The amendment must not provide funding for any issue which was requested by the agency or branch in their legislative budget request and not funded in the General Appropriations Act.

(g) The amendment must include a written description of the purpose of the proposed change, an indication of why interim budget action is necessary, and the intended recipient of any funds for contracted services.

(h) The amendment must not provide general salary increases which the Legislature has not authorized in the General Appropriations Act or other laws.

(3) All amendments to original approved operating budgets, regardless of funding source, are subject to the notice and review procedures set forth in s. 216.177.

(4)(a) The Executive Office of the Governor *or the Chief Justice of the Supreme Court* may require the submission of a detailed plan from the agency *or entity of the judicial branch* affected, consistent with the General Appropriations Act, special appropriations acts, and the statement of intent before transferring and releasing the balance of a lump-sum appropriation. The provisions of this paragraph are subject to the notice *and*~~,~~ review~~, and objection~~ procedures set forth in s. 216.177.

(b) The Executive Office of the Governor may amend, without approval of the Administration Commission, *state* agency budgets to reflect the transferred funds based on the approved plans for lump-sum appropriations.

The Executive Office of the Governor shall transmit to each state agency *and*~~,~~ the Comptroller, and *the Chief Justice shall transmit to each judicial branch component and the Comptroller,* ~~with notice as provided in s. 216.177, the legislative appropriations committees~~ any *approved* amendments to the approved operating budgets.

(5)~~(2)~~ The Executive Office of the Governor may, for the purpose of improved contract administration, authorize the consolidation of two or

more fixed capital outlay appropriations for an agency, *and the Chief Justice of the Supreme Court for the judicial branch*, except for projects authorized under chapter 235, provided the original scope and purpose of each project are not changed.

(6)~~(3)~~ The original approved annual salary rate for the Division of Administrative Hearings shall be as set forth in the General Appropriations Act. This rate may be adjusted by the Executive Office of the Governor subject to the provisions of s. 120.65(2).

(7)~~(4)~~ As part of the approved operating budget, the Executive Office of the Governor shall furnish to each *state* agency, *and the Chief Justice of the Supreme Court shall furnish to the entity of the judicial branch,* an approved annual salary rate for each budget entity containing a salary appropriation. This rate shall be based upon the actual salary rate and shall be consistent with the General Appropriations Act or special appropriations acts. The annual salary rate shall be:

(a) Calculated based on the actual salary rate in effect on June 30, and the salary policy and the number of authorized positions as specified in the General Appropriations Act and special appropriations acts, or as provided pursuant to s. 216.177.

(b) Controlled by budget entity.

(c) Assigned to the number of authorized positions, which may not be transferred between budget entities unless the associated positions are also transferred pursuant to s. 216.262(1)(b).

(8)~~(5)~~(a) The calculation for the annual salary rate for vacant and newly authorized positions shall be *at no more than the midpoint of the range* ~~10 percent above the minimum~~ of the pay grade for the position or as provided in the General Appropriations Act.

(b) No agency *or the judicial branch* may exceed its maximum approved annual salary rate for the fiscal year. However, at any time during the fiscal year, an agency *or entity of the judicial branch* may exceed its approved rate for all budget entities by no more than 5 percent, provided that, by June 30 of every fiscal year, the agency *or entity of the judicial branch* has reduced its salary rate so that the salary rate for each budget entity is within the approved rate limit for that budget entity.

(9)~~(6)~~(a) The Executive Office of the Governor *and the Chief Justice of the Supreme Court* may increase or decrease the approved salary rate for positions ~~established by the Administration Commission and~~ for the purpose of implementing the General Appropriations Act, ~~and~~ special appropriations acts, *and*~~,~~ other adjustments ~~to the salary rate may be made by the Executive Office of the Governor~~ if they are deemed to be necessary and in the best interest of the state *and consistent with legislative intent and policy*. The provisions of this paragraph are subject to the notice *and*~~,~~ review~~, and objection~~ procedures set forth in s. 216.177.

(b)~~1.~~ Lump-sum salary bonuses may be provided only if specifically appropriated.

~~2. This paragraph shall take effect July 1, 1989.~~

(10)~~(7)~~ The Executive Office of the Governor may approve transfers of appropriations in the General Appropriations Act within any state trust fund *of an agency and the Chief Justice of the Supreme Court may approve such transfers for the judicial branch.* The Governor *and the Chief Justice of the Supreme Court* may establish nonoperating budgets if deemed necessary and in the best interest of the state *and consistent with legislative intent and policy*. The Executive Office of the Governor *and the Chief Justice of the Supreme Court* may approve changes in the amounts appropriated from state trust funds in excess of those in the approved operating budget only pursuant to the federal funds provisions of s. 216.212 or when grants and donations are received after *April 1* ~~June 1 or when deemed to be in the best interest of the state due to an emergency situation~~. The provisions of this subsection are subject to the notice, review, and objection procedures set forth in s. 216.177.

(11)~~(8)~~ Each state agency *and the judicial branch* shall develop the internal management procedures and budgets necessary to assure compliance with the approved operating budget.

~~(9) Any department under direct supervision of a member of the Cabinet or of a board consisting of the Governor and members of the Cabinet which contends that its approved operating budget is not consistent with legislative intent has the right to have the issue reviewed by the Administration Commission, which shall decide such issue by majority vote. The appropriations committees of the Legislature may advise the Administration Commission on the issue.~~

(12)~~(10)~~ The Executive Office of the Governor *and the Chief Justice of the Supreme Court* shall certify the amounts approved for operations and fixed capital outlay, together with any relevant supplementary materials or information, to the Comptroller; and such certification shall be the Comptroller's guide with reference to the expenditures of each state agency pursuant to s. 216.192.

(13)~~(11)~~ The provisions of this section do not apply to the budgets for the legislative branch.

(14)~~(12)~~(a) Funds provided in any specific appropriation in the General Appropriations Act may be advanced if the General Appropriations Act specifically so provides.

(b) Any agency, *or the judicial branch,* that has been authorized by the General Appropriations Act or expressly authorized by other law to make advances for program startup or advances for contracted services, in total or periodically, shall limit such disbursements to other governmental entities and not-for-profit corporations. The amount which may be advanced shall not exceed the expected cash needs of the contractor or recipient within the initial 3 months. Thereafter, disbursements shall only be made on a reimbursement basis. Any agreement that provides for advancements may contain a clause that permits the contractor or recipient to temporarily invest the proceeds, provided that any interest income shall either be returned to the agency or be applied against the agency's obligation to pay the contract amount. This paragraph does not constitute lawful authority to make any advance payment not otherwise authorized by laws relating to a particular agency or general laws relating to the expenditure or disbursement of public funds. The Comptroller may, after consultation with the legislative appropriations committees, waive the requirements of this paragraph *which apply to advances* if it is determined to be consistent with the intent of the approved operating budget.

Section 61. Section 216.192, Florida Statutes, is amended to read:

216.192 Release of appropriations; revision of budgets.—

(1) Unless otherwise provided in the General Appropriations Act, on July 1 of each fiscal year, 20 percent of the original approved operating budget of each agency *and of the judicial branch* shall be released until such time as ~~an~~ annual *plans* ~~plan~~ for quarterly releases for all appropriations *have* ~~has~~ been developed, approved, and furnished to the Comptroller by the Executive Office of the Governor *for state agencies and by the Chief Justice of the Supreme Court for the judicial branch.* The *plans* ~~plan~~, including ~~an~~ appropriate *plans* ~~plan~~ of releases for fixed capital outlay projects that corresponds with each project schedule, shall attempt to maximize the use of trust funds and shall be transmitted to the Comptroller by August 1 of each fiscal year. Such releases shall at no time exceed the total appropriations available to a state agency *or to the judicial branch*, or the approved budget for such agency *or the judicial branch* if less. The Comptroller shall enter such releases in his records in accordance with the release *plans* ~~plan~~ prescribed by the Executive Office of the Governor *and the Chief Justice*, unless otherwise amended as provided by law. The Executive Office of the Governor *and the Chief Justice* shall transmit a copy of the approved annual releases to the head of the state agency, the chairmen of the legislative appropriations committees, and the Auditor General. The Comptroller shall authorize all expenditures to be made from the appropriations on the basis of such releases and in accordance with the approved budget, and not otherwise. Expenditures shall be authorized only in accordance with legislative authorizations. Nothing herein precludes periodic reexamination and revision by the Executive Office of the Governor *or by the Chief Justice of the annual plans* ~~plan~~ for release of appropriations and the notifications of the parties of all such revisions.

(2) Any department under the direct supervision of a member of the Cabinet or of a board consisting of the Governor and members of the Cabinet which contends that the plan for releases of funds appropriated to it is contrary to the approved operating budget shall have the right to have the issue reviewed by the Administration Commission which shall decide such issue by majority vote. The appropriations committees of the Legislature may advise the Administration Commission on the issue.

(3) The Executive Office of the Governor shall make releases within the amounts appropriated and as requested for all appropriations to the legislative branch, and the provisions of subsections (1) and (2) shall not apply to the legislative branch.

(4) The legislative appropriations committees may advise the Comptroller, the Executive Office of the Governor, or the *Chief Justice* ~~commission~~ relative to the release of any funds under this section.

(5) The annual plans of releases authorized by this section may be considered by the Revenue Estimating Conference in preparation of the statement of financial outlook.

(6)~~(5)~~ The provisions of this section are subject to the notice *and*~~,~~ review~~, and objection~~ procedures set forth in s. 216.177.

Section 62. Section 216.195, Florida Statutes, is amended to read:

216.195 Impoundment of funds; restricted.—The Executive Office of the Governor, *the Chief Justice of the Supreme Court, any member of the Cabinet,* the Administration Commission, or any state agency shall not impound any appropriation except as necessary to avoid or eliminate a deficit pursuant to the provisions of s. 216.221. *The provisions of this section are subject to the notice and review procedures of s. 216.177.* The Governor or either house of the Legislature may seek judicial review of any action or proposed action which violates the provisions of this section.

Section 63. Section 216.212, Florida Statutes, is amended to read:

216.212 Budgets for federal funds; restrictions on expenditure of federal funds.—

(1) *The Executive Office of the Governor, the Office of the Comptroller, and the Office of the Treasurer shall develop and implement procedures for accelerating the drawdown of, and minimizing the payment of interest on, federal funds. The Executive Office of the Governor shall establish a clearinghouse for federal programs and activities. The clearinghouse shall develop the capacity to respond to federal grant opportunities and to coordinate the use of federal funds in the state.*

(a) Every state agency, when making a request or preparing a budget to be submitted to the Federal Government for funds, equipment, material, or services, shall submit such request or budget to the Executive Office of the Governor for approval before submitting it to the proper federal authority. However, the Executive Office of the Governor may specifically authorize any agency to submit specific types of grant proposals directly to the Federal Government.

(b) Every office or court of the judicial branch, when making a request or preparing a budget to be submitted to the Federal Government for funds, equipment, material, or services, shall submit such request or budget to the Chief Justice of the Supreme Court for approval before submitting it to the proper federal authority. However, the Chief Justice may specifically authorize any court to submit specific types of grant proposals directly to the Federal Government.

(2) When such federal authority has approved the request or budget, the state agency *or the judicial branch* shall *submit to the Executive Office of the Governor such documentation showing approval as that office prescribes. Beginning July 1, 1993, the Executive Office of the Governor must acknowledge each approved request or budget by entering that approval into an Automated Grant Management System developed in consultation with the chairmen of the House of Representatives and Senate appropriations committees.* ~~resubmit it for approval and release of funds as provided by ss. 216.181 and 216.192, unless funds have been included in the approved budget~~.

(3) Federal money appropriated by Congress or received from court settlements to be used for state purposes, whether by itself or in conjunction with moneys appropriated by the Legislature, may not be expended unless appropriated by the Legislature. However, the Executive Office of the Governor *or the Chief Justice of the Supreme Court* may, after consultation with the legislative appropriations committees, approve the receipt and expenditure of funds from federal sources *by state agencies or by the judicial branch.* Any federal programs requiring state matching funds which funds were eliminated, or were requested and were not approved, by the Legislature may not be implemented during the interim. However, federal and other fund sources for the State University System which do not carry a continuing commitment on future appropriations are hereby appropriated for the purpose received.

Section 64. Section 216.221, Florida Statutes, is amended to read:

216.221 Appropriations as maximum appropriations; adjustment of budgets to avoid or eliminate deficits.—

(1) All appropriations shall be maximum appropriations, based upon the collection of sufficient revenues to meet and provide for such appropriations. It is the duty of the Governor, as chief budget officer, to ensure that revenues collected will be sufficient to meet the appropriations and that no deficit occurs in any state fund.

(2) The Legislature shall annually provide direction in the General Appropriations Act regarding use of the Working Capital Fund to offset General Revenue Fund deficits.

(3) For purposes of preventing a deficit in the General Revenue Fund, all branches and agencies of government that receive General Revenue Fund appropriations shall participate in deficit reduction efforts. Absent specific direction in the General Appropriations Act, when budget reductions are required in order to prevent a deficit under the provisions of subsection (7), each branch shall reduce its General Revenue Fund appropriations by a proportional amount.

(4) For purposes of preventing a deficit in the General Revenue Fund, appropriations to the legislative branch that are voluntarily placed in their reserve by the President of the Senate or the Speaker of the House of Representatives, or by both, may not be reduced, but may be included in any deficit reduction plan.

(5)(a)~~(2)~~ If, in the opinion of the Governor, after consultation with the Revenue Estimating Conference, a deficit will occur in the General Revenue Fund, he shall so certify to the commission *and to the Chief Justice of the Supreme Court. No more than 30 days after certifying that a deficit will occur in the General Revenue Fund, the Governor shall develop for the Executive Branch, and the Chief Justice of the Supreme Court shall develop for the Judicial Branch, and provide to the commission and to the Legislature plans of action to eliminate the deficit.*

(b) In developing a plan of action to prevent deficits in accordance with subsection (7), the Governor and Chief Justice shall, to the extent possible, preserve legislative policy and intent, and, absent any specific direction to the contrary in the General Appropriations Act, the Governor and Chief Justice shall comply with the following guidelines for reductions in the approved operating budgets of the executive branch and the judicial branch:

1. Entire statewide programs previously established by the Legislature should not be eliminated.

2. Education budgets should not be reduced more than provided for in s. 215.16(2).

3. The use of nonrecurring funds to solve recurring deficits should be minimized.

4. Newly created programs that are not fully implemented and programs with critical audits should receive first consideration for reductions.

5. No agencies or branches of government receiving appropriations should be exempt from reductions.

6. When reductions in positions are required, the focus should be initially on vacant positions.

7. Any reductions applied to all agencies and branches should be uniformly applied.

8. Reductions that would cause substantial losses of federal funds should be minimized.

9. To the greatest extent possible, across-the-board, prorated reductions should be considered.

10. Reductions to statewide programs should occur only after review of programs that provide only local benefits.

11. Reductions in administrative and support functions should be considered before reductions in direct support services.

12. Maximum reductions should be considered in budgets for expenses including travel and in budgets for equipment replacement, outside consultants, and contracts.

13. Reductions in salaries for elected state officials should be considered.

14. Reductions that adversely affect the public health, safety, and welfare should be minimized.

15. The Working Capital Fund should not be reduced to a level that would impair the financial stability of this state.

16. Reductions in programs that are traditionally funded by the private sector and that may be assumed by private enterprise should be considered.

17. Reductions in programs that are duplicated among state agencies or branches of government should be considered. ~~The commission may, by affirmative action, reduce all approved state agency budgets and releases by a sufficient amount to prevent a deficit in any fund. In addition, for purposes of preventing a deficit in the General Revenue Fund, the commission may include in its deliberations but may not reduce any appropriations to the legislative branch that are voluntarily placed in their reserve by the President of the Senate or the Speaker of the House of Representatives or both. However, notwithstanding the provisions of s. 215.16(2), the commission shall implement any provision or priority provided in the General Appropriations Act related to this section as a method for eliminating the deficit in the General Revenue Fund. In the absence of any direction by the Legislature in the General Appropriations Act, the commission, pursuant to the provisions of s. 14.202, may reduce all approved state agency budgets and releases by a sufficient amount to prevent a deficit in any fund or may authorize the use of the Working Capital Fund only to prevent a deficit in the General Revenue Fund; however, the commission may not reduce agency budgets or releases to increase funds in or restore funds to the Working Capital Fund in excess of the amount determined by the first Revenue Estimating Conference held after the regular legislative session.~~

(6) If the Revenue Estimating Conference projects a deficit in the General Revenue Fund in excess of $300 million during a fiscal year or when the cumulative total of a series of projected deficits in the General Revenue Fund exceeds $300 million, the deficit shall be resolved by the Legislature.

(7) Deficits in the General Revenue Fund that do not meet the amounts specified by subsection (6) shall be resolved by the commission for the executive branch and the Chief Justice of the Supreme Court for the judicial branch. The commission and Chief Justice shall implement any directions provided in the General Appropriations Act related to eliminating deficits and to reduce agency and judicial branch budgets, including the use of those legislative appropriations voluntarily placed in reserve. In addition, the commission shall implement any directions in the General Appropriations Act relating to the use of the Working Capital Fund in deficit situations. When reducing state agency or judicial branch budgets, the commission or the Chief Justice, respectively, shall use the guidelines prescribed in subsection (5). The Executive Office of the Governor for the commission, and the Chief Justice for the judicial branch, shall implement the deficit reduction plans through amendments to the approved operating budgets in accordance with s. 216.181.

(8)~~(3)~~ The Comptroller also has the duty to ensure that revenues being collected will be sufficient to meet the appropriations and that no deficit occurs in any fund of the state.

(9)~~(4)~~ If, in the opinion of the Comptroller, after consultation with the revenue estimating conference, a deficit will occur, he shall report his opinion to the Governor in writing. In the event the Governor does not certify a deficit within 10 days *after* ~~from~~ the Comptroller's report ~~or in the event the commission does not act within 10 days from certification of a deficit by the Governor as provided by subsection (1)~~, the Comptroller shall report his findings and opinion to the commission *and the Chief Justice of the Supreme Court*. ~~The commission may, by majority vote, take sufficient action to ensure that no deficit will occur. In eliminating the deficit, the actions of the commission are limited to those provided in subsection (2).~~

~~(5) Any action taken pursuant to this section shall be reported to the legislative appropriations committees, and the committees may advise the Governor, the Comptroller, or the commission concerning such action. No less than 7 working days prior to any final action by the commission pursuant to this section, the proposed plan for such action shall be submitted to the legislative appropriations committees for review and consultation, and the committees may advise the commission concerning such action.~~

(10)~~(6)~~ Once a deficit is determined to have occurred and action is taken to reduce approved operating budgets and release authority, no action may be taken ~~by the commission~~ to restore the reductions, either directly or indirectly~~, including, but not limited to, motions to reconsider that restore the reductions, without complying with the notice, review, and objection procedures set forth in s. 216.177~~.

Section 65. Section 216.231, Florida Statutes, is amended to read:

216.231 Release of certain classified appropriations~~; approval of Administration Commission~~.—

(1)*(a)* Any appropriation to the Executive Office of the Governor which is classified as "emergency," as defined in s. 252.34(2), ~~or "deficiency"~~ may be released only with the approval of the Governor ~~and three other members of the Administration Commission~~. The state agency, *or the judicial branch,* desiring the use of *the emergency* ~~any such~~ appropriation shall submit to the Executive Office of the Governor application therefor in writing setting forth the facts from which the alleged need arises. The *Executive Office of the Governor* ~~commission~~ shall, at a public hearing, review such application promptly and approve or disapprove the applications the circumstances may warrant. All actions of the *Executive Office of the Governor* ~~commission~~ shall be reported to the legislative appropriations committees, and the committees may advise the *Executive Office of the Governor* ~~commission~~ relative to the release of such funds.

~~(a) The release of appropriated funds classified as "deficiency" shall be approved only when a General Revenue Fund appropriation for operations of a state agency is inadequate because the workload or cost of the operation exceeds that anticipated by the Legislature and a determination has been made by the Administration Commission that the deficiency will result in an impairment of the activities of an agency to the extent that the agency is unable to carry out its program as provided by the Legislature in the general appropriations acts. These funds may not be used for creation of any new agency or program, for increases of salary, or for the construction or equipping of additional buildings.~~

(b) The release of appropriated funds classified as "emergency" shall be approved only when an act or circumstance caused by an act of God, civil disturbance, natural disaster, or other circumstance of an emergency nature threatens, endangers, or damages the property, safety, health, or welfare of the state or its citizens, which condition has not been provided for in appropriation acts of the Legislature. Funds allocated for this purpose may be used to pay overtime pay to personnel of agencies called upon to perform extra duty because of any civil disturbance or other emergency as defined in s. 252.34(2) and to provide the required state match for federal grants under the federal Disaster Relief Act.

(2) The release of appropriated funds classified as "deficiency" shall be approved only when a General Revenue Fund appropriation for operations of a state agency or of the judicial branch is inadequate because the workload or cost of the operation exceeds that anticipated by the Legislature and a determination has been made by the commission that the deficiency will result in an impairment of the activities of an agency or of the judicial branch to the extent that the agency is unable to carry out its program as provided by the Legislature in the general appropriations acts. These funds may not be used for creation of any new agency or program, for increases of salary, or for the construction or equipping of additional buildings.

(3)~~(2)~~ Notwithstanding any other provisions of law, moneys appropriated in any appropriations act to the Governor for discretionary contingencies may be expended at his discretion to promote general government and intergovernmental cooperation and to enhance the image of the state. All funds expended for such purposes shall be accounted for, and a report showing the amounts expended, the names of the persons receiving the amounts expended, and the purpose of each expenditure shall be annually reported to the Auditor General and the legislative appropriations committees.

Section 66. Section 216.241, Florida Statutes, is amended to read:

216.241 Initiation or commencement of new programs; approval.—

~~(1)~~ *A* ~~No~~ state agency *or the judicial branch* may *not* initiate or commence any new program, including any new federal program or initiative, or make changes in its current programs, as provided for in the appropriations act, that require additional financing unless funds have been specifically appropriated by the Legislature or unless the commission *or the*

Chief Justice of the Supreme Court expressly approves such new program or changes. The commission *and the Chief Justice* shall give notice as provided in s. 216.177 prior to approving such new program or changes. ~~Each such approval pursuant to this section shall be given by two-thirds vote of the commission members present with the Governor voting in the affirmative in any instance when the President of the Senate or the Speaker of the House of Representatives or the chairmen of the legislative appropriations committees object in writing. In the absence of an objection, the provisions of s. 14.202 apply. Each approval shall be reported to the legislative appropriations committees.~~

(2) No changes which are inconsistent with the approved operating budget shall be made to existing programs. The provisions of this subsection are subject to the notice, review, and objection procedures set forth in s. 216.177.

Section 67. Section 216.251, Florida Statutes, is amended to read:

216.251 Salary appropriations; limitations.—

(1) The annual rate of salary of any officer or employee filling the position specifically named in an item in the appropriations acts shall be as provided in one of the following paragraphs:

(a) In the amount appropriated for such position;

(b) The amount appropriated in an item for the named positions in that item, shall be divided by the indicated number of such positions, and the resulting quotient shall be the annual rate of salary of each such position; or

(c) Within the amounts appropriated where such salary may be otherwise fixed pursuant to law.

(2)(a) The salary for each position not specifically indicated in the appropriations acts shall be as provided in one of the following subparagraphs:

1. Within the classification and pay plans provided for in chapter 110.

2. Within the classification and pay plans established by the Board of Trustees for the Florida School for the Deaf and the Blind of the Department of Education and approved by the State Board of Education for academic and academic administrative personnel.

3. Within the classification and pay plan approved and administered by the Board of Regents for those positions in the State University System.

4. Within the classification and pay plan approved by the Senate, the House of Representatives, the Joint Legislative Management Committee, or the Legislative Auditing Committee, as the case may be, for employees of the Legislature.

5. Within the approved classification and pay plan for the judicial branch.

~~6.~~5. The salary of all positions not specifically included in this subsection shall be set by the commission *or by the Chief Justice for the judicial branch.*

(b) Salary payments shall be made only to employees filling established positions included in the agency's *or judicial branch's* approved budgets and amendments thereto as may be provided by law; provided, however:

1. Reclassification of established positions may be accomplished when justified in accordance with the established procedures for reclassifying positions; or

2. When the Division of Risk Management of the Department of Insurance has determined that an employee is entitled to receive a temporary partial disability benefit or a temporary total disability benefit pursuant to the provisions of s. 440.15 and there is medical certification that the employee cannot perform the duties of the employee's regular position, but the employee can perform some type of work beneficial to the agency, the agency may return the employee to the payroll, at his or her regular rate of pay, to perform such duties as the employee is capable of performing, even if there is not an established position in which the employee can be placed. Nothing in this subparagraph shall abrogate an employee's rights under chapter 440 or chapter 447, nor shall it adversely affect the retirement credit of a member of the Florida Retirement System in the membership class he was in at the time of, and during, his disability.

Section 68. Section 216.262, Florida Statutes, is amended to read:

216.262 Authorized positions.—

(1)(a) Unless otherwise expressly provided by law, the total number of authorized positions may not exceed the total provided in the appropriations acts. In the event any state agency *or entity of the judicial branch* finds that the number of positions so provided is not sufficient to administer its authorized programs, it may file an application with the Executive Office of the Governor *or the Chief Justice*; and, if the ~~agency and the~~ office *or Chief Justice certifies that* ~~certify~~ there are no authorized positions available for addition, deletion, or transfer within the agency as provided in paragraph *(c)*~~(b)~~ *and recommends an increase in the number of positions*, the commission *or the Chief Justice* may, after a public hearing, authorize an increase in the number of positions for the following reasons only:

1. To implement or provide for continuing federal grants or changes in grants not previously anticipated;

~~2. To implement lump-sum appropriations made by the Legislature; however, the number of positions shall be limited to the number authorized in the appropriation act for each lump sum;~~

2.~~3.~~ To meet emergencies pursuant to s. 252.36;

3.~~4.~~ To satisfy new federal regulations or changes therein;

4.~~5.~~ To take advantage of opportunities to reduce operating expenditures or to increase the revenues of the state; and

5.~~6.~~ To authorize positions which were not fixed by the Legislature through error in drafting the appropriations acts~~, after consultation with the chairmen of the legislative appropriations committees~~.

The provisions of this paragraph are subject to the notice *and*, review~~, and objection~~ procedures set forth in s. 216.177. A copy of the application, the certification, and the final authorization shall be filed with the legislative appropriations committees and with the Auditor General. ~~The legislative appropriations committees may advise the commission relative to any authorization for increasing the number of positions.~~

(b) The Administration Committee and the Chief Justice may, after a public hearing, delete supervisory or managerial positions within a department and establish direct service delivery positions in excess of the number of supervisory or managerial positions deleted. The salary rate for all positions authorized under this paragraph may not exceed the salary rate for all positions deleted under this paragraph. Positions affected by changes made under this paragraph may be funded only from identical funding sources.

(c)~~(b)~~*1.* The Executive Office of the Governor, under such procedures and qualifications as it deems appropriate, shall, upon agency request, delegate to any state agency ~~or department~~ authority to add and delete authorized positions or transfer authorized positions from one budget entity to another budget entity within the same division, and may approve additions and deletions of authorized positions or transfers of authorized positions within the state agency when such changes would enable the agency to administer more effectively its authorized and approved programs. *The additions or deletions must be consistent with the intent of the approved operating budget, must be consistent with legislative policy and intent, and must not conflict with specific spending policies specified in the General Appropriations Act.*

2. The Chief Justice of the Supreme Court shall have the authority to establish procedures for the judicial branch to add and delete authorized positions or transfer authorized positions from one budget entity to another budget entity, and to add and delete authorized positions within the same budget entity, when such changes are consistent with legislative policy and intent and do not conflict with spending policies specified in the General Appropriations Act.

(d)~~(c)~~ No individual employed by a state agency *or by the judicial branch* may hold more than one employment during his normal working hours with the state, such working hours to be determined by the head of the state agency affected, unless approved by the department *or by the Chief Justice of the Supreme Court, respectively.*

(e)~~(d)~~ No individual employed by a state agency *or by the judicial branch* may fill more than a total of one full-time equivalent established position, receive compensation simultaneously from any appropriation other than appropriations for salaries, or receive compensation simultaneously from more than one state agency unless approved by the department *or by the Chief Justice, respectively,* during each fiscal year.

(f)~~(e)~~ No perquisites may be furnished by a state agency *or by the judicial branch* unless approved by the Division of Personnel Management Services *or by the Chief Justice, respectively,* during each fiscal year. Whenever a state agency *or the judicial branch* is to furnish those things defined as perquisites herein, the Department of Administration *or the Chief Justice, respectively,* shall approve the kind and monetary value of such perquisites before they may be furnished.

(g)~~(f)~~ If goods and services are to be sold to officers and employees of a state agency *or of the judicial branch* rather than being furnished as perquisites, the kind and selling price thereof shall be approved by the department *or by the Chief Justice, respectively,* during each fiscal year before such sales are made. The selling price may be deducted from any amounts due by the state to any person receiving such things. The amount of cash so deducted shall be faithfully accounted for. This provision does not apply to sales to officers or employees of items generally sold to the public and does not apply to meals which may be provided without charge to volunteers under a volunteer service program approved by the department.

(2) The Executive Office of the Governor *and the Chief Justice* shall report all such approvals made pursuant to subsection (1) and the reasons for such approvals to the legislative appropriations committees and the Auditor General.

(3) The provisions of paragraphs (1)(c) and (d) do not apply to an individual filling a position the salary of which has been specifically fixed or limited by law. Unless specifically authorized by law, an individual filling or performing the duties of a position the salary of which has been specifically fixed or limited by law may not receive compensation from more than one appropriation, or in excess of the amount so fixed or limited by law, regardless of any additional duties performed by him in any capacity or position. However, this subsection does not prohibit additional compensation from an educational appropriation to any person holding a position the salary of which is specifically fixed or limited by law, provided such compensation does not exceed payment for more than one course of instruction during any one academic term and that such compensation is approved as provided in paragraphs (1)(c) and (d). Any compensation received by any person pursuant to the provisions of this subsection shall not be computed as a part of average final compensation for retirement purposes under the provisions of chapter 121.

(4) No full-time position shall be filled by more than the equivalent of one full-time officer or employee, except as provided for in rules to be adopted by the Department of Administration *or by the Chief Justice, respectively.*

Section 69. Section 216.271, Florida Statutes, is amended to read:

216.271 Revolving funds.—

(1) No revolving fund may be established pursuant to s. 18.101(2), unless approved by the Comptroller during each fiscal year.

(2) When the Comptroller approves a revolving or petty cash fund for making refunds or other payments, such fund shall be established from an account within the appropriate fund to be known as "payments for revolving funds from funds not otherwise appropriated." Reimbursements made from revolving or petty cash funds shall be made in strict accordance with the provisions of s. 215.26(2). The Comptroller may restrict the types of uses of any revolving fund established pursuant to this section.

(3) Vouchers for reimbursement of expenditures from revolving funds established under this section shall be presented in a routine manner to the Comptroller for approval and payment, the proceeds of which shall be returned to the revolving or petty cash fund involved.

(4) The revolving or petty cash fund authorized herein shall be properly maintained and accounted for by the agency *or by the judicial branch* requesting the fund and, upon the expiration of the need therefor, shall be returned in the amount originally established to the appropriate fund for credit to the payments for revolving funds account therein.

(5) Reimbursement to the revolving fund for uninsured losses and theft may be made from the fund in which the responsible operating department is budgeted. Such reimbursement shall be submitted consistent with procedures specified by the Comptroller.

Section 70. Section 216.272, Florida Statutes, is amended to read:

216.272 Working Capital *Trust Funds* ~~Fund~~.—

(1) There *are* ~~is~~ hereby created ~~a~~ Working Capital *Trust Funds* ~~Fund to be established by the Executive Office of the Governor~~ for the purpose of providing sufficient funds for the operation of data processing centers. Such funds shall be created from moneys budgeted for data processing services and equipment by those agencies *and the judicial branch* to be served by the data processing center.

(2) The funds so allocated shall be in an amount sufficient to finance the center's operation; however, each agency *or judicial branch* served by the center shall contribute an amount equal to its proportionate share of cost of operating such data processing center. Each agency *or judicial branch* utilizing the services of the data processing center shall pay such moneys into the *appropriate* Working Capital *Trust* Fund on a quarterly basis or such other basis as may be determined by the Executive Office of the Governor *or the Chief Justice as appropriate.*

Section 71. Section 216.275, Florida Statutes, is amended to read:

216.275 Clearing accounts.—No clearing account may be established outside the State Treasury pursuant to s. 18.101(1) unless approved by the Treasurer during the fiscal year. Each agency, *or the judicial branch,* desiring to maintain a clearing account outside the State Treasury shall submit a written request to do so to the Treasurer in accordance with the format and manner prescribed by the Treasurer. The Treasurer shall maintain a listing of all clearing accounts approved during the fiscal year.

Section 72. Section 216.292, Florida Statutes, is amended to read:

216.292 Appropriations nontransferable; exceptions.—

(1) Funds provided in the General Appropriations Act or as otherwise expressly provided by law shall be expended only for the purpose for which appropriated, except that if deemed necessary such moneys may be transferred as provided in subsections (2) and (3) when it is determined to be in the best interest of the state. Appropriations for fixed capital outlay may not be expended for any other purpose, and appropriations may not be transferred between state agencies, *or between a state agency and the judicial branch,* unless specifically authorized by law.

(2) The head of each department *or the Chief Justice of the Supreme Court,* whenever it is deemed necessary by reason of changed conditions, may transfer appropriations funded from identical funding sources, except appropriations for fixed capital outlay, and transfer the amounts included within the total original approved budget and releases as furnished pursuant to ss. 216.181 and 216.192, as follows:

(a) Between categories of appropriations within a budget entity, if no category of appropriation is increased or decreased by more than 5 percent of the original approved budget *or $25,000, whichever is greater,* by all action taken under this subsection.

(b) Additionally, between budget entities within identical categories of appropriations, if no category of appropriation is increased or decreased by more than 5 percent of the original approved budget *or $25,000, whichever is greater,* by all action taken under this subsection.

(c) Such authorized revisions must be consistent with the intent of the approved operating budget, *must be consistent with legislative policy and intent, and must not conflict with specific spending policies specified in the General Appropriations Act.*

Such authorized revisions, together with related changes, if any, in the plan for release of appropriations, shall be transmitted by the state agency *or judicial branch* to the Comptroller for entry in his records in the manner and format prescribed by the Executive Office of the Governor in consultation with the Comptroller. A copy of such revision shall be furnished to the Executive Office of the Governor *or the Chief Justice,* the chairmen of the legislative committees, and the Auditor General.

(3)(a) Transfers of appropriations for operations from the General Revenue Fund in excess of those provided in subsection (2) but within a state agency *or within the judicial branch* may be authorized by the commission *for the executive branch and the Chief Justice for the judicial branch,* pursuant to the request of the agency filed with the Executive Office of the Governor, *or pursuant to the request of an entity of the judicial branch filed with the Chief Justice of the Supreme Court,* if deemed necessary and in the best interest of the state *and consistent with legislative policy and intent.* The provisions of this paragraph are subject to the notice, review, and objection procedures set forth in s. 216.177.

(b) When an appropriation for a named fixed capital outlay project is found to be in excess of that needed to complete that project, *at the request of the Executive Office of the Governor for state agencies or the Chief Justice of the Supreme Court for the judicial branch* the excess may be transferred, with the approval of the commission *or the Chief Justice*, to another project for which there has been an appropriation in the same fiscal year from the same fund and within the same department where a deficiency is found to exist. Further, a fixed capital outlay project may not be initiated without a specific legislative appropriation, nor may the scope of a fixed capital outlay project be changed by the transfer of funds. The provisions of this paragraph are subject to the notice, review, and objection procedures set forth in s. 216.177.

(4) Upon request of a department to, and approval by, the Comptroller, funds appropriated may be transferred to accounts established for disbursement purposes upon release of such appropriation ~~by the Executive Office of the Governor~~. Such transfer may only be made to the same appropriation category and the same funding source from which the funds are transferred.

(5) ~~The Executive Office of the Governor may approve~~ Any *transfers* ~~transfer~~ from the Working Capital Fund to the General Revenue Fund *may be approved* provided such *transfers were* ~~transfer was~~ identified or contemplated by the Legislature in the original approved budget.

(6)(a) Should any state agency *or the judicial branch* become more than 90 days delinquent on reimbursements due to the Unemployment Compensation Trust Fund, the Department of Labor and Employment Security shall certify to the Comptroller the amount due; and the Comptroller shall~~, upon approval of the Executive Office of the Governor,~~ transfer the amount due to the Unemployment Compensation Trust Fund from any funds of the agency available.

(b) Should any state agency *or the judicial branch* become more than 90 days delinquent in paying the Division of Risk Management of the Department of Insurance for insurance coverage, the Department of Insurance may certify to the Comptroller the amount due; and the Comptroller shall~~, upon approval of the Executive Office of the Governor,~~ transfer the amount due to the Division of Risk Management from any funds of the agency *or the judicial branch* available.

(7) Moneys appropriated in the General Appropriations Act for the purpose of paying for services provided by the state communications system in the Division of Communications of the Department of General Services shall be paid by the user agencies, *or the judicial branch,* within 45 days after the billing date. ~~Upon approval of the Executive Office of the Governor,~~ Billed amounts not paid by the user agencies, *or the judicial branch,* shall be transferred by the Comptroller from the user agencies to the Communications Working Capital Trust Fund.

(8) The *Comptroller* ~~Executive Office of the Governor~~ shall report all such *transfers* ~~approvals~~ and the reasons for such *transfers* ~~approvals~~ to the legislative appropriations committees. ~~The committees may advise the commission relative to any transfers made hereunder.~~

(9) Where any reorganization has been authorized by the Legislature and the necessary adjustments of appropriations and positions have not been provided in the General Appropriations Act, the Administration Commission may approve, *consistent with legislative policy and intent,* the necessary transfers to accomplish the purposes of such reorganization *within state agencies. The Chief Justice of the Supreme Court may approve such transfers for the judicial branch.*

Section 73. Section 216.301, Florida Statutes, is amended to read:

216.301 Appropriations; undisbursed balances.—

(1)(a) Any balance of any appropriation, except an appropriation for fixed capital outlay, which is not disbursed but which is expended or contracted to be expended shall, at the end of each fiscal year, be certified by the head of the affected state agency or the *judicial or* legislative *branches* ~~branch~~, on or before August 1 of each year, to the Executive Office of the Governor, showing in detail the obligees to whom obligated and the amounts of such obligations. On or before September 1 of each year, the Executive Office of the Governor shall review and approve or disapprove, *consistent with legislative policy and intent,* any or all of the items and amounts certified by the head of the affected state agency and shall approve all items and amounts certified *by the Chief Justice of the Supreme Court for the judicial branch and* by the legislative branch and shall furnish the Comptroller, the legislative appropriations committees, and the Auditor General a detailed listing of the items and amounts approved as legal encumbrances against the undisbursed balance of such appropriation. The review shall assure that trust funds have been fully maximized. Any such encumbered balance remaining undisbursed on December 31 of the same calendar year in which such certification was made shall revert to the fund from which appropriated and shall be available for reappropriation by the Legislature. In the event such certification is not made and an obligation is proven to be legal, due, and unpaid, then the obligation shall be paid and charged to the appropriation for the current fiscal year of the state agency or the legislative *or judicial* branch affected.

(b) Any balance of any appropriation, except an appropriation for fixed capital outlay, for any given fiscal year remaining after charging against it any lawful expenditure shall revert to the fund from which appropriated and shall be available for reappropriation by the Legislature.

(c) Each department *and the judicial branch* shall maintain the integrity of the General Revenue Fund. Appropriations from the General Revenue Fund ~~for any state agency~~ contained in the original approved budget may~~, with the approval of the Executive Office of the Governor,~~ be transferred to the proper trust fund for disbursement. Any reversion of appropriation balances from programs which receive funding from the General Revenue Fund and trust funds shall be transferred to the General Revenue Fund within 15 days after such reversion, unless otherwise provided by federal or state law, including the General Appropriations Act. The *Executive Office of the Governor or the Chief Justice of the Supreme Court* ~~commission~~ shall determine the *state agency or judicial branch* programs which are subject to this paragraph. This determination shall be subject to the legislative consultation and objection process in this chapter. The Education Enhancement Trust Fund shall not be subject to the provisions of this section.

(2)(a) Any balance of any appropriation for fixed capital outlay not disbursed but expended or contracted or committed to be expended shall, at the end of each fiscal year, be certified by the head of the affected state agency or the legislative *or judicial* branch, on or before August 1 of each year, to the Executive Office of the Governor, showing in detail the commitment or to whom obligated and the amount of such commitment or obligation. On or before September 1 of each year, the Executive Office of the Governor shall review and approve or disapprove, *consistent with legislative policy and intent,* any or all of the items and amounts certified by the head of the affected state agency and shall approve all items and amounts certified by the *Chief Justice of the Supreme Court and* by the legislative branch and shall furnish the Comptroller, the legislative appropriations committees, and the Auditor General a detailed listing of the items and amounts approved as legal encumbrances against the undisbursed balances of such appropriations. In the event such certification is not made and the balance of the appropriation has reverted and the obligation is proven to be legal, due, and unpaid, then the same shall be presented to the Legislature for its consideration.

(b) Such certification as herein required shall be in the form and on the date approved by the Executive Office of the Governor. Any balance not so certified shall revert to the fund from which appropriated and shall be available for reappropriation.

(3) Notwithstanding the provisions of subsection (2), the unexpended balance of any appropriation for fixed capital outlay subject to but not under the terms of a binding contract or a general construction contract prior to February 1 of the second fiscal year of the appropriation shall revert on February 1 of such year to the fund from which appropriated and shall be available for reappropriation. The Executive Office of the Governor shall, not later than February 20 of each year, furnish the Comptroller, the legislative appropriations committees, and the Auditor General a report listing in detail the items and amounts reverting under the authority of this subsection, including the fund to which reverted and the agency affected.

Section 74. Section 216.311, Florida Statutes, is amended to read:

216.311 Unauthorized ~~agency~~ contracts in excess of appropriations; penalty.—

(1) No agency *or branch* of ~~the~~ state government shall contract to spend, or enter into any agreement to spend, any moneys in excess of the amount appropriated to such agency *or branch* unless specifically authorized by law, and any contract or agreement in violation of this chapter shall be null and void.

(2) Any person who willfully contracts to spend, or enters into an agreement to spend, any money in excess of the amount appropriated to the agency *or branch* for whom the contract or agreement is executed is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 75. Section 216.321, Florida Statutes, is amended to read:

216.321 Construction of chapter 216 as unauthorized expenditures and disbursements.—Nothing contained in any legislative budget or operating budget shall be construed to be an administrative or legislative construction affirming the existence then of the lawful authority to make an expenditure or disbursement for any purpose not otherwise authorized by laws of the particular agency, *judicial branch,* or legislative branch and the general laws relating to the expenditure or disbursement of public funds.

Section 76. Section 216.345, Florida Statutes, is amended to read:

216.345 Professional or other organization membership dues; payment.—

(1) A state department, agency, bureau, commission, or other component of state government *or the judicial branch,* upon approval by the ~~agency~~ head or the designated agent thereof, may utilize state funds for the purpose of paying dues for membership in a professional or other organization only when such membership is essential to the statutory duties and responsibilities of the state agency.

(2) Upon certification by a professional or other organization that it does not accept institutional memberships, the agency *or branch* may authorize the use of state funds for the payment of individual membership dues when such membership is essential to the statutory duties and responsibilities of the state agency *or judicial branch* by which the individual is employed. However, approval shall not be granted to pay membership dues for maintenance of an individual's professional or trade status in any association or organization, except in those instances where agency *or branch* membership is necessary and purchase of an individual membership is more economical.

(3) Each agency *and the judicial branch* shall promulgate specific criteria to be used to determine justification for payment of such membership dues.

(4) The agency *and the judicial branch* shall report all such payments made pursuant to subsection (1) to the Comptroller, the Executive Office of the Governor, the chairmen of the Senate Appropriations Committee and the House Appropriations Committee, and the Auditor General on or before September 30 of each year.

(5) Payments for membership dues are exempt from the provisions of part I of chapter 287.

Section 77. Section 216.347, Florida Statutes, is amended to read:

216.347 Disbursement of grants and aids appropriations for lobbying prohibited.—*A* ~~No~~ state agency, *a* ~~or~~ water management district, *or the judicial branch may not* ~~shall~~ authorize or make any disbursement of grants and aids appropriations pursuant to a contract or grant to any person or organization unless the terms of the grant or contract prohibit the expenditure of funds for the purpose of lobbying the Legislature, *the judicial branch,* or a state agency. The provisions of this section are supplemental to the provisions of s. 11.062 and any other law prohibiting the use of state funds for lobbying purposes. However, for the purposes of this section and s. 11.062, the payment of funds for the purpose of registering as a lobbyist shall not be considered a lobbying purpose.

Section 78. Section 216.349, Florida Statutes, is amended to read:

216.349 Financial review of grants and aids appropriations; audit or attestation statement.—

(1) Before disbursing any funds from a grants and aids appropriation pursuant to a grant or contract, the state agency, *or the judicial branch,* authorized by the appropriations act to administer the funds and the Comptroller must independently ensure that the proposed expenditure is in accordance with all legal and regulatory requirements and find that the terms of the grant or contract specifically prohibits the use of funds for the purpose of lobbying the Legislature, *the judicial branch,* or a state agency.

(2) Any local governmental entity, nonprofit organization, or for-profit organization that is awarded funds from a grants and aids appropriation by a state agency shall:

(a) If the *amounts received exceed* ~~amount exceeds~~ $100,000, have *an* ~~a grant specific~~ audit performed in accordance with the rules of the Auditor General promulgated pursuant to s. 11.45;

(b) If the *amounts received exceed* ~~amount exceeds~~ $25,000 but *do* ~~does~~ not exceed $100,000, have *an* ~~a grant specific~~ audit performed in accordance with the rules of the Auditor General promulgated pursuant to s. 11.45 or have a statement prepared by an independent certified public accountant which attests that the receiving entity or organization has complied with the provisions of the grant; or

(c) If the *amounts received do* ~~amount does~~ not exceed $25,000, have the head of the entity or organization attest, under penalties of perjury, that the entity or organization has complied with the provisions of the grant.

All audits performed or attestation statements prepared under this subsection shall be filed with the granting agency and with the Auditor General.

Section 79. Subsection (3) of section 235.4235, Florida Statutes, is amended to read:

235.4235 Financing of approved capital projects.—

(3) No transfers between appropriations shall be made without prior approval ~~by the Administration Commission~~ under the provisions of chapter 216.

Section 80. Section 240.2094, Florida Statutes, is amended to read:

240.2094 State University System management flexibility.—

(1) Notwithstanding the provisions of ss. 216.031, 216.181, 216.262, and 240.271 to the contrary and pursuant to the provisions of s. 216.351, *but subject to any guidelines imposed in the General Appropriations Act,* funds for the operation of the State University System shall be requested and appropriated within budget entities, program components, program categories, lump sums, or special categories. Funds appropriated to the State University System for each program category, lump sum, or special category may be transferred to traditional categories for expenditure by the Board of Regents. The Board of Regents shall provide each university an approved budget based upon the appropriations act, and the universities shall develop an annual operating budget that allocates funds by program component and traditional expenditure category.

(2) Notwithstanding the provisions of s. 216.181 and pursuant to the provisions of s. 216.351, *but subject to any requirements imposed in the General Appropriations Act,* no lump-sum plan is required to implement the special categories, program categories, or lump-sum appropriations. Upon release of the special categories, program categories, or lump-sum appropriations ~~by the Executive Office of the Governor~~ to the Board of Regents, the Comptroller, upon the request of the Board of Regents, shall transfer or reallocate funds to or among accounts established for each university within each budget entity, for disbursement purposes. The Board of Regents shall maintain records to account for the original appropriation.

(3) Notwithstanding the provisions of ss. 216.031, 216.181, 216.251, and 216.262 to the contrary and pursuant to the provisions of s. 216.351, *but subject to any requirements imposed in the General Appropriations Act,* the Board of Regents shall establish the authorized positions and initial approved salary rate and may amend such positions and rate, within the maximum number of total positions and salary rate authorized annually in the appropriations act.

Section 81. Section 287.20, Florida Statutes, is amended to read:

287.20 Applicability of this part.—The provisions of this part apply to motor vehicles, watercraft, and aircraft owned, leased, or acquired in any manner by any state agency, *or the judicial branch,* as defined in s. 216.011.

Section 82. Paragraph (e) of subsection (5) of section 411.204, Florida Statutes, is repealed.

Section 83. Subsection (5) of section 946.40, Florida Statutes, is amended to read:

946.40 Use of prisoners in public works.—

(5) Ten dollars of the monthly cost of supervision fee imposed under s. 948.09(1) and paid by a person under community control, probation, pretrial intervention, or parole supervised by the Department of Corrections shall be deposited into the General Revenue Fund and paid to the Department of Corrections for the administration of the Inmate Work Program as created by this act. ~~Within the dollars generated under this subsection, the Administration Commission is authorized to establish positions in excess of the number fixed by the Legislature for the administration of this program.~~

Section 84. Present subsections (2), (3), (4), and (5) of section 218.385, Florida Statutes, are renumbered as subsections (4), (5), (6), and (7), respectively, and new subsections (2), (3), and (8) are added to that section to read:

218.385 Local government bonds; sale.—

(2) Prior to the award of bonds all proposals for the purchase of any bonds offered by a unit of local government as defined in s. 218.369 shall include a truth-in-bonding statement in substantially the following form:

The (insert unit of local government) is proposing to issue $ (insert principal) of debt or obligation for the purpose of (insert purpose). This debt or obligation is expected to be repaid over a period of (insert term of issue) years. At a forecasted interest rate of (insert rate of interest), total interest paid over the life of the debt or obligation will be $ (insert sum of interest payments).

(3) Truth-in-bonding statements shall also include language in substantially the following form:

The source of repayment or security for this proposal is the (insert the unit of local government) existing (insert fund). Authorizing this debt or obligation will result in $ (insert the annual amount) of (insert unit of local government) (insert fund) moneys not being available to finance the other services of the (insert unit of local government) each year for (insert the length of the debt or obligation).

(8) The truth-in-bonding statements prepared pursuant to this section are for informational purposes only and shall not affect or control the actual terms and conditions of the debt or obligations.

Section 85. Section 110.1245, Florida Statutes, is amended to read:

110.1245 Meritorious service awards program.—

(1) The Department of Administration shall *set policy, develop procedures, and* ~~adopt,~~ promote~~, and implement~~ a program of meritorious service awards, *incentives, and recognition* to employees who:

(a) Propose procedures or ideas which are adopted and which will result *in increasing productivity,* in eliminating or reducing state expenditures or improving operations, or in generating additional revenues, provided such proposals are placed in effect and can be implemented under current statutory authority; or

(b) By their superior accomplishments, make exceptional contributions to the efficiency, economy, or other improvement in the operations of the state government.

Every state agency, unless otherwise provided by law, shall participate in the program. *The Chief Justice shall have the authority to establish a meritorious service awards program for employees of the judicial branch within the parameters established in this section.* The component of the program specified in paragraph (a) shall apply to all employees within the Career Service System, *the Selected Exempt Service System, and comparable employees within the judicial branch.* The component of the program specified in paragraph (b) shall apply to all employees of the state. No award granted under the component of the program described in paragraph (a) shall exceed ~~the greater of $2,000 or~~ 10 percent of the first year's actual savings or actual revenue increase, *up to $5,000, plus applicable taxes,* unless a larger award is made by the Legislature, and shall be paid from the appropriation available to the *judicial branch or* state agency affected by the award or from any specific appropriation therefor. No award granted under the component of the program described in paragraph (b) shall exceed $1,000 *plus applicable taxes. The judicial branch or* an agency may award savings bonds or other items in lieu of cash awards, provided that the cost of such item does not exceed the limits specified in this subsection. In addition, *the judicial branch or* a state agency may award certificates, pins, plaques, letters of commendation, and other tokens of recognition of meritorious service to an employee eligible for recognition under either component of the program, provided that the award *may* ~~shall~~ not *cost in excess of* ~~exceed~~ $50 *each plus applicable taxes.*

(2) The department *and the judicial branch* shall submit to the President of the Senate and the Speaker of the House of Representatives by *April 1* ~~February 1~~ of each year a report which outlines each agency's level of participation in the meritorious service awards program ~~described in subsection (1)~~. The report shall include*, but not be limited to*:

(a) The number of proposals made.

(b) The number of awards made to employees for adopted proposals.

(c) The actual cost savings realized as a result of implementing employee proposals.

(d) Total expenditures incurred by the agency for providing awards to employees for adopted proposals.

(e) The number of employees recognized for superior accomplishments.

(f) The number of employees recognized for continuous satisfactory service to the state.

(3) Each department head is authorized to incur expenditures to award suitable framed certificates, pins, and other tokens of recognition to retiring state employees whose service with the state has been satisfactory, in appreciation and recognition of such service. Such awards may not cost in excess of $50 each *plus applicable taxes.*

(4) Each department head is authorized to incur expenditures to award suitable framed certificates, pins, or other tokens of recognition to state employees who have achieved increments of 5 ~~continuous~~ years of satisfactory service in the agency *or to the state,* in appreciation and recognition of such service. Such awards may not cost in excess of $10 each *plus applicable taxes.*

(5) Each department head is authorized to incur expenditures not to exceed $50 each *plus applicable taxes* for suitable framed certificates, plaques, or other tokens of recognition to any appointed member of a state board or commission whose service to the state has been satisfactory, in appreciation and recognition of such service upon the expiration of such board or commission member's final term in such position.

Section 86. Section 409.085, Florida Statutes, is hereby repealed.

Section 87. Subsection (2) of section 186.002, Florida Statutes, is amended to read:

186.002 Findings and intent.—

(2) The intent of this act is that the state comprehensive plan guide state and regional agency policies, especially those policies dealing with land use, water resources, and transportation system development. It is intended that state agency *strategic* ~~functional~~ plans be effectively coordinated to facilitate the orderly, positive management of growth consistent with the public interest. It is also intended that the implementation of state and regional plans enhance the quality of life of the citizens of the state.

Section 88. Subsections (6) and (7) of section 186.003, Florida Statutes, are amended to read:

186.003 Definitions.—As used in ss. 186.001-186.031 and 186.801-186.911, the term:

(6) "State agency" means ~~the Executive Office of the Governor,~~ each executive department, the Game and Fresh Water Fish Commission, the Parole Commission, and the Department of Military Affairs.

(7) "State agency *strategic* ~~functional~~ plan" means *the statement of priority directions that an agency will take to carry out its mission within the context of the state comprehensive plan and any other statutory mandates and authorizations given to the agency,* ~~the agency program policies and objectives and administrative directions contained within the plan prepared~~ pursuant to *ss.* ~~s.~~ 186.021-*186.022.*

Section 89. Section 186.021, Florida Statutes, as amended by section 7 of chapter 91-429, Laws of Florida, is amended to read:

186.021 State agency *strategic* ~~functional~~ plans.—

(1) *A state agency strategic plan shall be a statement of the priority directions an agency will take to carry out its mission within the context of the state comprehensive plan and any other statutory mandates and authorizations given to the agency.* ~~A state agency functional plan must contain, at a minimum, a statement of the policies guiding the programs and functions of the agency and must specify those objectives against which the achievement by the agency of its policies and the goals and policies for the state comprehensive plan will be evaluated. A state agency functional plan must also identify specific agency programs that support and further the goals and policies of the growth management portion of the state comprehensive plan.~~ Each state agency *strategic* ~~functional~~ plan must identify infrastructure and capital improvement needs associated with agency programs, *and shall specify those objectives against which there shall be evaluated the achievement by the agency of its goals and the goals of the state comprehensive plan. The state agency strategic plan shall be consistent with and shall further the goals of the state comprehensive plan.*

(2) *A state agency strategic plan shall be developed with a 5-year outlook and shall provide the strategic framework within which an agency's legislative budget request and the agency Strategic Information Resource Management Plan are developed. An agency's budget and its Strategic Information Resource Management Plan shall be designed to further the agency's strategic plan.* ~~Each state agency functional plan must include performance measures that provide methods and criteria to measure the agency's performance in conducting its activities and in achieving its goals. The performance measures shall be developed by the agency in consultation with the legislative standing committees that are responsible for the subject areas included in the performance measures.~~

(3) All amendments, revisions, or updates to a state agency *strategic* ~~functional~~ plan shall be prepared in the same manner as the original and shall be prepared as needed because of changes in the state comprehensive plan or changes in the statutory authority and responsibility of the agency.

(4) The Department of Environmental Regulation, with regard to the plan required by s. 373.036, and the state land planning agency, with regard to the plan defined in s. 380.031(17), and the Information Resource Commission, with regard to the plan defined in s. 282.3061, shall prepare revisions to such plans no later than 6 months after the adoption of revisions to the state comprehensive plan or by June 1 of each even-numbered year, whichever is later.

Section 90. Section 186.022, Florida Statutes, as amended by section 8 of chapter 91-429, Laws of Florida, is amended to read:

186.022 State agency *strategic* ~~functional~~ plans; *preparation, form, and review* ~~consistency with state comprehensive plan.~~—

(1) *Beginning in 1992, 3 months prior to the annual submission of its final agency legislative budget request pursuant to s. 216.023(1)* ~~Within 1 year of the adoption of the state comprehensive plan, and by November 1 of each odd-numbered year thereafter,~~ each state agency, except as provided in s. 186.021*(4)*, shall prepare and submit its agency *strategic* ~~functional~~ plan to the Executive Office of the Governor. Prior to the submission of *its* ~~the~~ agency *strategic plan* ~~functional plans~~ to the Governor, each agency shall hold public workshops on the proposed agency *strategic* ~~functional~~ plan, and shall allow at least a 21-day period for public comment. *At a minimum,* adequate public notice shall be assured by publication of notice of hearing and comment period in the Florida Administrative Weekly. *Public participation shall be further encouraged by the development of procedures in the instructions.*

~~(2) The Executive Office of the Governor shall review the proposed state agency functional plans for consistency with the state comprehensive plan, and shall, within 60 days, return a proposed agency functional plan to the agency, together with any proposed revisions. The Executive Office of the Governor shall consider the findings of the Statewide Health Council's review of the consistency of the health components of agency functional plans with the health element of the state comprehensive plan in formulating proposed revisions to the agency functional plans.~~

(2)~~(3)~~ Each agency *strategic* ~~functional~~ plan must be in a form and manner prescribed in *written* instructions prepared by the Executive Office of the Governor after consultation with the President of the Senate and the Speaker of the House of Representatives. Each agency *strategic* ~~functional~~ plan must identify ~~the financial resources necessary to implement the provisions of the plan and must identify~~ the specific legislative authority necessary to implement the *provisions of the plan* ~~elements of the proposed functional plan~~. An agency may only implement those portions of its *strategic* ~~functional~~ plan that are consistent with existing statutory or constitutional authority and for which funding, if needed, is available consistent with the provisions of chapter 216. *An agency's* ~~Financial resources necessary to implement the policies and goals of the state comprehensive plan must be clearly identified and coordinated between each agency functional plan and the~~ budget *request* ~~requests and recommendations~~ prescribed in s. 216.023(1) *shall identify the financial resources necessary to further the provisions of the agency's strategic plan.* ~~Each agency functional plan must include performance measures for each program that measure the agency's achievement of the program's goals and objectives.~~

(3) The Executive Office of the Governor shall review the state agency strategic plans to ensure they are consistent with the state comprehensive plan and other requirements as specified in the written instructions. In its review, the Executive Office of the Governor shall consider all comments received in formulating required revisions. This shall include the findings of the Statewide Health Council's review of the consistency of the health components of agency strategic plans with the health element of the state comprehensive plan. Within 60 days, reviewed plans shall be returned to the agency, together with any required revisions.

(4) The state agency shall, within 30 days of the return of its ~~proposed~~ state agency *strategic* ~~functional~~ plan, incorporate all revisions *required* ~~recommended~~ by the Governor, or shall petition the Administration Commission to resolve any disputes regarding the consistency of the state agency *strategic* ~~functional~~ plan or the revisions recommended by the Governor with the state comprehensive plan *or the written instructions*. The Administration Commission shall resolve any disputes within *60* ~~45~~ days of the petition.

(5) Any differences between state agencies regarding the programs, policies, or *strategic* ~~functional~~ plans of such agencies shall be mediated by the *Executive Office of the* Governor.

(6) Each agency shall transmit copies of its *strategic* ~~functional~~ plan and all *written* ~~public~~ comments on its plan to the President of the Senate and the Speaker of the House of Representatives not later than 30 days prior to the next regular session of the Legislature.

(7) Agency *strategic* ~~functional~~ plans developed pursuant to this chapter are not rules and therefore are not subject to the provisions of chapter 120.

(8) Each agency shall submit by September 1 of each year an annual performance report to the Executive Office of the Governor, with copies to the President of the Senate, the Speaker of the House of Representatives, and the Auditor General. The purpose of this report is to evaluate the attainment of the agency objectives in the agency strategic plan.

Section 91. Paragraph (a) of subsection (3) of section 11.45, Florida Statutes, as amended by section 2 of chapter 91-429, Laws of Florida, is amended to read:

11.45 Definitions; duties; audits; reports.—

(3)(a)1. The Auditor General shall annually make financial audits of the accounts and records of all state agencies, as defined in this section, of all district school boards, and of all district boards of trustees of community colleges. Nothing herein shall limit the Auditor General's discretionary authority to conduct performance audits of these governmental entities as authorized in subparagraph 2. Nothing in this section shall be construed as prohibiting a district school board from selecting an independent auditor to perform a financial audit as defined in paragraph (1)(b) notwithstanding the notification provisions of this section.

2. The Auditor General may at any time make financial audits and performance audits of the accounts and records of all governmental entities created pursuant to law. The audits referred to in this subparagraph shall be made whenever determined by the Auditor General, whenever directed by the Legislative Auditing Committee, or whenever otherwise required by law or concurrent resolution. District school boards and expressway and bridge authorities may require that the annual financial audit of its accounts and records be completed within 12 months after the end of its fiscal year. In the event that the Auditor General may not be able to meet that requirement, the Auditor General shall notify the school board or the expressway and bridge authority pursuant to subparagraph 4.

3.a. The Auditor General shall complete a performance audit of each new major program and each major modification to an existing program specifically identified in the General Appropriations Act, and any new major program or major modification to an existing program which becomes law but which is not specifically identified in the General Appropriations Act, within 3 years after the date when such program or modification becomes law, unless such program or modification has been subject during the 3-year period to an evaluation and review pursuant to ss. 11.513 and 216.0165 The chairmen of the appropriations committees and the appropriate substantive committees of the Senate and the House of Representatives shall provide the Legislative Auditing Committee with a list of the new major programs and major modifications to existing programs provided for in the General Appropriations Act or any other act within 10 days after the General Appropriations Act or the other act becomes law. The Legislative Auditing Committee shall arrange the lists of programs and modifications in order of priority before directing the Auditor General to conduct the performance audits. If the Auditor General conducts a preliminary review of a program or modification and determines that a performance audit is unnecessary, the Auditor General shall submit a letter stating the reasons why such audit is unnecessary to the Legislative Auditing Committee for its review and approval.

b. In addition to any other audits performed under subparagraph 2. and this subparagraph, the Auditor General shall perform an evaluation of the implementation of the recommendations prepared for each agency that has been reviewed under the provisions of s. 216.0165. Such evaluation must begin no later than 2 years after the beginning of the fiscal year that next follows the submission of the budget requests submitted pursuant to s. 216.023(7). The Auditor General shall maintain a schedule of performance audits of state programs sufficient to audit all major state programs within a 10-year period, taking into consideration the schedule established according to s. 216.0165(2) or the schedule determined by the Legislative Auditing Committee pursuant to s. 216.0165(3), unless directed otherwise by the Legislative Auditing Committee. In conducting a performance audit of a state program, the Auditor General, when appropriate, shall identify and comment upon alternatives for accomplishing the goals of the program being audited. Such alternatives may include funding techniques and, if appropriate, shall describe how other states or governmental units accomplish similar goals.

4. If by July 1 in any fiscal year a district school board or local governmental entity has not been notified that a financial audit for that fiscal year will be performed by the Auditor General pursuant to subparagraph 2., each municipality with either revenues or expenditures of more than $100,000, each special district with either revenues or expenditures of more than $25,000, each special district issuing, or which has outstanding, bonds with face value greater than $500,000 with an original maturity date in excess of 1 year from the time of issuance, and each county agency shall, and each district school board may, require that an annual financial audit of its accounts and records be completed, within 12 months after the end of its respective fiscal year, by an independent certified public accountant retained by it and paid from its public funds. A management letter shall be prepared and included as a part of each financial audit report. The county audit shall be one document that includes a separate audit of each county agency. The county audit shall be a single report. The governing body of a county shall be responsible for selecting an independent certified public accountant to audit the county agencies of the county according to the following procedure:

a. In each noncharter county, an auditor selection committee shall be established, consisting of the county officers elected pursuant to s. 1(d), Art. VIII, State Constitution, and one member of the board of county commissioners or its designee.

b. The committee shall publicly announce, in a uniform and consistent manner, each occasion when auditing services are required to be purchased. Public notice must include a general description of the audit and must indicate how interested certified public accountants can apply for consideration.

c. The committee shall encourage firms engaged in the lawful practice of public accounting who desire to provide professional services to submit annually a statement of qualifications and performance data.

d. Any certified public accountant desiring to provide auditing services must first be qualified pursuant to law. The committee shall make a finding that the firm or individual to be employed is fully qualified to render the required services. Among the factors to be considered in making this finding are the capabilities, adequacy of personnel, past record, and experience of the firm or individual.

e. The committee shall adopt procedures for the evaluation of professional services, including, but not limited to, capabilities, adequacy of personnel, past record, experience, and such other factors as may be determined by the committee to be applicable to its particular requirements.

f. The public shall not be excluded from the proceedings under this subparagraph.

g. The committee shall evaluate current statements of qualifications and performance data on file with the committee, together with those that may be submitted by other firms regarding the proposed audit, and shall conduct discussions with, and may require public presentations by, no fewer than three firms regarding their qualifications, approach to the audit, and ability to furnish the required services.

h. The committee shall select no fewer than three firms deemed to be the most highly qualified to perform the required services after considering such factors as the ability of professional personnel; past performance; willingness to meet time requirements; location; recent, current, and projected workloads of the firms; and the volume of work previously awarded to the firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms. If fewer than three firms desire to perform the services, the committee shall recommend such firms as it determines to be qualified.

i. Nothing in this subparagraph shall be construed to prohibit a contract for a period in excess of 1 year.

j. If the board of county commissioners receives more than one proposal for the same engagement, the board may rank, in order of preference, the firms to perform the engagement. The firm ranked first may then negotiate a contract with the board giving, among other things, a basis of its fee for that engagement. If the board is unable to negotiate a satisfactory contract with that firm, negotiations with that firm shall be formally terminated, and the board shall then undertake negotiations with the second-ranked firm. Failing accord with the second-ranked firm, negotiations shall then be terminated with that firm and undertaken with the third-ranked firm. Negotiations with the other ranked firms shall be undertaken in the same manner. The board, in negotiating with firms, may reopen formal negotiations with any one of the three top-ranked firms, but it may not negotiate with more than one firm at a time. The board shall also negotiate on the scope and quality of services. In making such determination, the board shall conduct a detailed analysis of the cost of the professional services required in addition to considering their scope and complexity. For contracts over $50,000, the board shall require the firm receiving the award to execute a truth-in-negotiation certificate stating that the rates of compensation and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Such certificate shall also contain a description and disclosure of any understanding that places a limit on current or future years' audit contract fees, including any arrangements under which fixed limits on fees will not be subject to reconsideration if unexpected accounting or auditing issues are encountered. Such certificate shall also contain a description of any services rendered by the certified public accountant or firm of certified public accountants at rates or terms that are not customary. Any auditing service contract under which such a certificate is required must contain a provision that the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the board determines the contract price was increased due to inaccurate or incomplete factual unit costs. All such contract adjustments shall be made within 1 year following the end of the contract. This sub-subparagraph shall apply to audits covering the 1982-1983 fiscal year, and the procedure in this sub-subparagraph may be used by any county for subsequent audits. If there is a conflict between this sub-subparagraph and s. 473.317, this sub-subparagraph shall prevail.

k. If the board is unable to negotiate a satisfactory contract with any of the selected firms, the committee shall select additional firms, and the board shall continue negotiations in accordance with this subsection until an agreement is reached.

l. At the conclusion of the audit field work, the independent certified public accountant shall discuss with the head of each county agency and the chairman of the board of county commissioners or his designee or with the chairman of the district school board or his designee, as appropriate, all of the auditor's comments pertaining to that agency which will be included in the audit report containing the auditor's comments for the

areas within their responsibility. If the officer is not available to discuss the auditor's comments, their discussion is presumed when the comments are delivered in writing to his office.

m. The officer's written statement of explanation or rebuttal concerning the auditor's comments, including corrective action to be taken, shall be filed with the governing body of the county and with the Auditor General within 30 days after the delivery of the financial audit report.

n. Each district school board or expressway and bridge authority that elects to utilize an independent audit shall select an auditor by using the same selection procedure as outlined under sub-subparagraphs b.-k. The district school board or expressway and bridge authority selection committee shall be set by policy of that respective district school board or expressway and bridge authority. The district school board reports shall be presented to the superintendent of schools and the chairman of the school board in that district and filed with the district school board and the Auditor General in conformity with sub-subparagraphs l. and m., and expressway and bridge authority reports shall be presented to the chairman of the expressway and bridge authority and the Auditor General.

o. The Auditor General, in consultation with the Board of Accountancy, shall adopt rules for the form and conduct of all local governmental entity audits. Such rules must include, but are not limited to, requirements for the reporting of information necessary to carry out the purposes of the Local Government Financial Emergency and Accountability Act, chapter 79-183, Laws of Florida.

The procedures under sub-subparagraphs a.-k. do not apply to audit agreements or contracts entered into before July 1, 1983.

5. Any financial audit report required under subparagraph 4. shall be submitted to the Auditor General within 30 days after completion of the audit but no later than 12 months after the end of the fiscal year of the governmental entity and district school board. If the Auditor General does not receive the financial audit within such period, he shall notify the Legislative Auditing Committee that such governmental entity has not complied with this subparagraph. Following notification of failure to submit the required audit, a hearing shall be scheduled by the committee for the purpose of receiving testimony addressing the failure of local governmental entities to comply with the reporting requirements of this section. After the hearing, the committee shall determine which local governmental entities will be subjected to further state action. If it finds that one or more local governmental entities should be subjected to further state action, the committee shall:

a. In the case of a local governmental entity, request the Department of Revenue and the Department of Banking and Finance to withhold any funds payable to such governmental entity until the required financial audit is received by the Auditor General.

b. In the case of a special district, notify the Department of Community Affairs that the special district has failed to provide the required audits. Upon receipt of notification, the Department of Community Affairs shall proceed pursuant to ss. 189.421 and 189.422.

6. The Auditor General, in consultation with the Board of Accountancy, shall review all audits made pursuant to this paragraph by an independent certified public accountant.

7. In conducting a performance audit of any agency, the Auditor General shall use the Agency *Strategic* ~~Functional~~ Plan of the agency in evaluating the performance of the agency. ~~The Auditor General shall evaluate the performance of the agency against the performance measures established by the agency in its agency functional plan prepared pursuant to ss. 186.021 and 186.022 and shall also evaluate whether the performance measures provide effective criteria by which to measure the performance of the agency.~~

Section 92. Subsection (4) of section 24.122, Florida Statutes, is amended to read:

24.122 Exemption from taxation; state preemption; inapplicability of other laws.—

(4) Any state or local law providing any penalty, disability, restriction, or prohibition for the possession, manufacture, transportation, distribution, advertising, or sale of any lottery ticket, including chapter 849, shall not apply to the tickets of the state lottery operated pursuant to this act; nor shall any such law apply to the possession of a ticket issued by any other government-operated lottery. In addition, activities of the department under this act are exempt from the provisions of:

(a) Chapter 616, relating to public fairs and expositions.

(b) Sections 365.02, 365.03, and 365.05, relating to use of wire services.

(c) Chapter 946, relating to correctional work programs.

(d) Chapter 282, relating to communications and data processing.

~~(e) Sections 186.021 and 186.022, relating to agency functional plans.~~

(e)~~(f)~~ Section 110.131, relating to other personal services.

Section 93. Section 282.003, Florida Statutes, is amended to read:

282.003 Short title.—This chapter may be cited as the "Information Resources Management *and Paperwork Reduction* Act."

Section 94. Subsections (2) through (10) of section 282.004, Florida Statutes, are renumbered as subsections (3) through (11), respectively, and a new subsection (2) is added to said section to read:

282.004 Legislative intent with respect to information resources management *and paperwork reduction*.—The Legislature finds and declares that:

(2) The state should minimize the paperwork burden associated with the collection and dissemination of government information for individuals, small businesses, educational institutions, state agencies, and local governments.

Section 95. Subsections (18) and (19) are added to section 282.303, Florida Statutes, to read:

282.303 Definitions.—For the purposes of ss. 282.303-282.313, the term:

(18) "Reporting requirement" means a statutory provision that specifically requires a state governmental entity to prepare or have prepared on a regular or periodic basis a written account or record for the purpose of informing persons outside of the state governmental entity of matters relevant to the official business of the state governmental entity. The term does not include requirements for the preparation of legislative budget requests or the preparation of brochures, newsletters, handbooks, manuals, pamphlets, flyers, directories, or other similar documents.

(19) "State governmental entity" means any department, agency, or other unit of organization of the executive branch of state government, a unit of organization of the legislative branch of state government, a unit of organization of the judicial branch of state government, the State Board of Community Colleges, the Board of Regents, and the Public Service Commission.

Section 96. Subsection (1) of section 282.305, Florida Statutes, is amended to read:

282.305 Information Resource Commission; Board of Regents; powers and duties.—

(1) The Information Resource Commission shall:

(a) Provide overall leadership and coordination of information resources management within the executive branch of state government.

(b) After consultation with the Bureau of Archives and Records Management of the Division of Library and Information Services of the Department of State:

1. Coordinate the planning by state executive agencies, excluding the State University System, for the review and evaluation of reporting requirements and forms to assist in the reduction of unnecessary paperwork, and provide technical assistance for such planning.

2. Provide technical assistance, upon request, to other state governmental entities in planning the review and evaluation of reporting requirements and forms to assist in the reduction of unnecessary paperwork.

(c)~~(b)~~ Require all departments, as the executive administrator may prescribe, to report to the commission the use of information technology resources, the impact of those resources on the duties and functions of the department, the cost incurred, the information produced, and the procedures followed in obtaining information technology resources.

(d)~~(c)~~ Develop, publish, monitor, and ensure compliance with policies, procedures, and standards relating to information resources management.

(e)~~(d)~~ Coordinate and provide for an information resources management *and paperwork reduction* training program designed to serve the technical and managerial needs of government.

(f)~~(e)~~ Provide technical and managerial assistance relating to information resources management *and paperwork reduction* when requested by a department.

(g)~~(f)~~ Identify, develop, and recommend to the Executive Office of the Governor and the appropriations committees of the Legislature, by June 15 of each year, issues relating to information resources management to be considered for inclusion in the legislative budget instructions to the agencies prepared pursuant to s. 216.023(3).

(h)~~(g)~~ Adopt rules to implement this act.

(i)~~(h)~~ Contract with other governmental agencies and persons pursuant to part I of chapter 287.

(j)~~(i)~~ Ensure implementation of and compliance with provisions relating to the Florida Fiscal Accounting Management Information System information resources management plan established pursuant to s. 215.96 and require a department, when applicable, to submit a detailed report as to the reasons for its failure to implement or comply with such provisions. The report shall be in a format prescribed by the commission.

Section 97. Section 282.3051, Florida Statutes, is created to read:

282.3051 Review of reporting requirements and forms.—

(1) The Legislature finds it to be in the public interest, for the continued efficient and cost-effective operation of state government, that a systematic review be conducted of the need for, and the benefit derived from, reporting requirements and forms associated with the collection and dissemination of government information. Furthermore, it is important that an evaluation be made of such reporting requirements and forms to ensure that state governmental entities are developing and providing information in an efficient manner and that public funds are used wisely in preparing such reports and forms. The Legislature finds that:

(a) While the collection and dissemination of information by state governmental entities is necessary to ensure that the public and other governmental entities have access to government information, the various reporting requirements placed on state governmental entities may hinder the effective and efficient functioning of their operations.

(b) New reporting requirements and new forms should be created only when they are determined to be essential to the furtherance of public purposes, and their number should be kept to a minimum to achieve those purposes.

(c) Reporting requirements and forms should be modified or eliminated when they are no longer necessary.

(d) The Legislature and the public should be kept informed of the number and purposes of reporting requirements and should be provided with information on the availability of reports.

(2)(a) Each state governmental entity shall identify, review, and evaluate any reporting requirements and forms which it recommends should be modified or eliminated. By January 1, 1993, each state governmental entity shall provide to the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, the House Minority Leader, and the Joint Legislative Information Technology Resources Committee such recommendations, if any, and a summary of the activities undertaken by the state governmental entity to reduce paperwork.

(b) By November 1 of every other year thereafter, each state governmental entity shall provide the information required in paragraph (a) in its annual performance report as provided in s. 282.312(1).

(c) By November 1 of every other year thereafter, each state governmental entity that is not required by s. 282.312(1) to prepare an annual performance report shall provide the information required in paragraph (a) to the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, the House Minority Leader, and the Joint Legislative Information Technology Resources Committee.

(3)(a) Each state governmental entity shall determine, at a minimum, the following as part of the review and evaluation process for reporting requirements:

1. What specific report is required?

2. To whom is the report provided?

3. What is the cost, including the cost of staff time, of preparing, producing, and disseminating the report, to the extent it is possible to estimate such cost?

4. Does the report duplicate information that is readily available in other reports or documents?

5. Does the report meet any of the criteria provided in paragraph (b)?

6. Would the absence of the report adversely affect the public's right and ability to obtain the information provided in the report?

7. Would the absence of the report adversely affect the efficient operation of the program for which the report is required?

8. Is it feasible and practicable to prepare, store, retrieve, and disseminate the required report or report information by computerized means?

(b) A reporting requirement should be continued only if it:

1. Allows the state to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the reporting requirement;

2. Provides the primary or most useful means by which the public can obtain or gain access to the information for which a report is required; or

3. Provides the Legislature, state governmental entities, and other interested entities and persons with an efficient and effective means of obtaining information and recommendations on a particular subject area or the implementation of a governmental program.

(c) Reporting requirements that are created in the same year that this act takes effect need not be subject to the initial review and evaluation pursuant to this section.

(4) In order to reduce the amount of paperwork, each state governmental entity shall, to the extent possible:

(a) Eliminate unnecessary and duplicative forms.

(b) Integrate information systems between programs and agencies to reduce the paperwork burden on individuals.

(c) Simplify data collection.

(d) Require that information collected be necessary for performance of agency functions without being duplicative of other information accessible to the agency.

(e) Coordinate information gathering, where possible, through such techniques as one-stop permitting, licensing, and public services.

Section 98. The Information Resource Commission shall coordinate the development of a pilot project to eliminate or reduce forms and paperwork through the use of electronic creation, transmission, and storage of documents. A final report on the pilot project shall be completed by October 1, 1992, and submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, the House Minority Leader, and the Joint Legislative Information Technology Resources Committee.

Section 99. Subsections (1) and (2) of section 282.3061, Florida Statutes, are amended to read:

282.3061 State Strategic Plan for Information Resources Management.—

(1) The executive administrator of the Information Resource Commission shall prepare for the commission's review and approval a State Strategic Plan for Information Resources Management by February 1 of each even-numbered year. The plan shall accurately reflect and provide for the implementation of the goals and policies of the State Comprehensive Plan. The State Strategic Plan for Information Resources Management shall:

(a) Provide a strategic direction for information resources management *and paperwork reduction* by state government for the ensuing 4 fiscal years.

(b) Establish state goals and objectives relating to information resources management *and paperwork reduction.*

(c) Provide long-range policy guidelines for the state in achieving integrated and efficient information resources management *and paperwork reduction.*

(d) Identify major statewide issues relating to improved information resources management *and paperwork reduction* by state government.

(e) Identify the priorities for new SUNCOM Network services to be implemented by the Division of Communications of the Department of *Management* ~~General~~ Services.

(2) In developing the State Strategic Plan for Information Resources Management, the executive administrator shall assess the current practices of state agencies regarding information resources management, ~~and~~ current and future information resources management technologies and practices and their potential application in state government, *and paperwork reduction.* In addition, the executive administrator shall consult with the Division of Communications of the Department of *Management* ~~General~~ Services as to the direction of development of communications and communications services in the state and in the industry.

Section 100. Paragraph (b) of subsection (1) of section 282.3062, Florida Statutes, is amended to read:

282.3062 Annual Report on Information Resources Management.—

(1) By February 1 of each year, the Information Resource Commission shall prepare an Annual Report on the information resources management activities of state government based on the Annual Performance Reports submitted by the departments. The Annual Report on Information Resources Management shall:

(b) Describe major accomplishments of the state and each department in information resources management *and paperwork reduction.*

Section 101. Paragraph (b) of subsection (1) of section 282.307, Florida Statutes, is amended to read:

282.307 Strategic Plan for Information Resources Management; penalty for noncompliance.—

(1)

(b) The plan shall include:

1. A statement of the department's mission, goals, and objectives.

2. A statement of the strategic objectives of the department relating to information resources management *and paperwork reduction* for the next 4 fiscal years, commencing with the ensuing odd-numbered fiscal year, which help achieve the department's mission, goals, and objectives and a description of how these strategic objectives support and further the goals and policies of the State Strategic Plan for Information Resources Management approved by the commission.

3. The major projects required to meet the strategic information resource management *and paperwork reduction* objectives, the major resources required for those projects, the estimated schedule for the proposed projects, and the estimated total costs of the projects.

4. The information architecture of the department, to include a common application component and a common data structure component.

5. The technology architecture of the department, to include a computing component, a data network component, and an infrastructure component.

6. A summary of the communications needs of the department and the estimated cost of meeting those needs for the next 2 fiscal years commencing with the ensuing odd-numbered fiscal year.

7. Other planning components that the commission may prescribe.

Section 102. Section 282.311, Florida Statutes, is amended to read:

282.311 Information resource managers.—Each department executive director, secretary, or Cabinet officer; the executive director of the Justice Administrative Commission; and the state attorney and public defender for each judicial circuit, or their designees, shall serve as the information resource managers who are responsible for developing information resources management *and paperwork reduction* policies for their respective agencies in conformance with policies, standards, and rules established by the commission and shall coordinate all agency information resources management activities of their agencies. In addition, each information resource manager is responsible for the preparation of the Strategic Plan for Information Resources Management and the Annual Performance Report required in this chapter; shall serve as a liaison with the commission and the Division of Communications of the Department of *Management* ~~General~~ Services; and must approve all information resources management procurements of his agency which have a purchase price in excess of the threshold amount for CATEGORY THREE purchases provided in s. 287.017. The Chief Justice of the Supreme Court and the Chancellor of the Board of Regents or their designees shall serve as the managers for the state courts system and the State University System, respectively.

Section 103. Paragraph (b) of subsection (1) of section 282.312, Florida Statutes, is amended to read:

282.312 Annual Performance Reports.—

(1)(a) By November 1 of each year, and, for the State University System, within 30 days after completion of the expenditure analyses developed pursuant to s. 240.271(4), each information resource manager shall prepare and submit to the Information Resource Commission an Annual Performance Report describing the agency's information resources management activities for the previous fiscal year. Following consultation with the Legislative Information Technology Resource Committee, the commission shall prescribe the format for the Annual Performance Report; except for the report on the information resources management of the State University System, the format of which shall be prescribed by the Chancellor of the Board of Regents, with the consultation of the committee. However, those sections of the report dealing with expenditures shall use the data codes and chart of accounts prescribed for use within all agencies by the State Automated Management Accounting Subsystem.

(b) The Annual Performance Report shall contain the following:

1. An assessment of the progress made toward implementing the agency's projects in its Strategic Plan for Information Resources Management.

2. An assessment of the progress made toward implementing the agency's legislative appropriation for information resources management.

3. A comparison of the agency's estimated expenditures for information resources management for the prior fiscal year and the appropriations for those resources contained in the agency's approved budget. Major differences between the expenditures and the approved budget shall be noted and justified.

4. An inventory list, by major categories, of the agency's communications and information technology resources, and specifically identifying the resources acquired during the previous fiscal year.

5. An assessment of opportunities for agency participation in multiagency information resources management activities.

6. A summary of the activities undertaken to reduce paperwork, and any recommendations for modifying or eliminating reporting requirements and forms pursuant to s. 282.3051.

Section 104. Section 286.001, Florida Statutes, is amended to read:

286.001 Reports statutorily required ~~of executive agency or officer~~; filing, maintenance, retrieval, and provision of copies.—

(1) Unless otherwise specifically provided by law, any agency or officer of the executive, *legislative, or judicial branches* ~~branch~~ of state government, *the State Board of Community Colleges, the Board of Regents, or the Public Service Commission* required by law to make reports *regularly or* periodically shall be construed to have fulfilled such requirement upon filing *an abstract of the report* ~~a notice of filing, as scheduled by law, with the Executive Office of the Governor and~~ with the *statutorily designated recipients of the report and an abstract and one copy of the*

report with the Division of Library and Information Services of the Department of State. The ~~person or agency to which the report is to be directed, which notice of filing provides indexing information and an~~ abstract of the contents of such report *shall be* no more than one-half page in length. The actual *report* ~~reports~~ shall be retained by the reporting agency or officer, and copies of the *report* ~~reports~~ shall be provided to interested parties *and the statutorily designated recipients of the report* upon request~~, in accordance with guidelines established by the Executive Office of the Governor under subsection (2)~~

(2) With respect to reports statutorily required of agencies or officers within the executive, *legislative, or judicial branches* ~~branch~~ of state government, *the State Board of Community Colleges, the Board of Regents, or the Public Service Commission,* it is the duty of the *division, in addition to its duties under s. 257.05,* ~~Executive Office of the Governor~~ to:

~~(a) Receive notices of filing with respect to such reports.~~

~~(b) Index such notices of filing alphabetically by subject of report, by reporting agency or officer, and by receiving agency or officer.~~

~~(c) Establish guidelines with respect to:~~

~~1. The appropriate procedure for requesting copies of such reports.~~

~~2. The timely provision, by the reporting agency or officer, of copies of such reports, upon receipt of a request properly made and any fee applicable to such provision.~~

~~3. The establishment of appropriate fees, based upon actual costs of materials, handling, and postage, which fees may be charged by reporting agencies or officers for providing such copies.~~

~~4. The exemption from fee provisions of agencies or officers to whom reports are required by law to be directed.~~

(a)~~(d)~~ Regularly compile and update *bibliographic* ~~index~~ information on such reports ~~and publish such information, together with a summary of the guidelines established under paragraph (c),~~ for distribution as provided in paragraph *(b)* ~~(e)~~. *Such bibliographic information may be included in the bibliographies prepared by the division pursuant to s. 257.05(3)(c).*

(b)~~(e)~~ Provide for *at least* quarterly ~~or semiannual~~ distribution of *bibliographic information* ~~published indexes~~ on reports *to*:

1. ~~To~~ Agencies and officers within the executive, legislative, and judicial branches of state government, *the State Board of Community Colleges, the Board of Regents, and the Public Service Commission,* free of charge; and

2. ~~To~~ Other interested parties, upon request properly made and upon payment of *the actual cost of duplication pursuant to s. 119.07(1)* ~~an appropriate fee for such provision, which fee, based upon actual costs incurred, shall be determined by the office~~.

(3) As soon as practicable, the administrative head of each executive, *legislative, or judicial* agency *and each agency of the State Board of Community Colleges, the Board of Regents, and the Public Service Commission* required by law to make reports periodically shall *ensure* ~~assure~~ that those reports are created, stored, managed, updated, ~~and~~ retrieved, *and disseminated* through electronic means.

(4) Nothing in this section shall be construed to waive or modify the requirement in s. 257.05(2) pertaining to the provision of copies of public documents to the division.

Section 105. Section 216.031, Florida Statutes, is amended to read:

216.031 Budgets for operational expenditures.—A legislative budget request, reflecting the independent judgment of the head of the state agency *and the Chief Justice* with respect to the needs of the agency *and judicial branch* for operational expenditures during the next fiscal year, shall be submitted by each head of a state agency *and the Chief Justice* and shall contain the following:

(1) For each budget entity, a summary exhibit showing, for each appropriation category, for each fund, 2 prior years' appropriations for general revenue, 1 prior year's actual expenditures and 1 current year's estimated expenditures, and the requested expenditures for the next fiscal year. The total number of positions for the budget entity shall be shown for each fiscal year of data for which positions are authorized, fixed, or requested. However, the agency budget request for the State University System shall be expressed in terms of the amounts for the various programs as prescribed in s. 240.271 and in terms of the specified appropriation categories, including the special units' budgets, prescribed in the prior appropriations act.

(2) For each program component within the budget entity, an exhibit showing, for each appropriation category, the summary explanation of expenditures for each detail issue describing the amounts and positions for the next fiscal year for continuation of current programs, for improved programs, and for new programs, with a summary showing totals by fund for the next fiscal year.

(3) For each trust fund within the budget entity, a schedule showing the trust funds available, providing the source of receipts, detail of nonoperating disbursements, operating expenditures, fixed capital outlay, and unencumbered cash balances, for 1 prior year's actual, the current year's estimated, and the request for the next fiscal year. In addition, for each trust fund established in connection with legislative action authorizing the collection of a fee or other charge to support a governmental service or activity being performed by the agency involved, there shall be submitted a schedule showing the full cost of such service or activity, the total fees or charges collected to fund such costs, and the amount of excess collections or any deficit. The sources and amounts of any funds used to cover a deficit shall also be shown. The service or activity being performed shall be reviewed by the appropriations committees in the Senate and House of Representatives for the express purpose of making adjustments in fees or other charges in order to make such activities as nearly self-supporting as possible.

(4) For each budget entity, a schedule showing detail of positions, providing for each class of positions within discrete organizational activities, by the collective bargaining unit and program component for the next fiscal year, the number of full-time equivalent positions, the estimated rate of salary, the number of months of employment, the amounts requested for new positions, and the number of new positions requested.

(5) Detailed information for the next fiscal year necessary for the Legislature and the Governor to evaluate:

(a) The effectiveness of current programs, including justification for those programs.

(b) The justification for increasing costs to continue the operations of current programs.

(c) The justification for proposed improvements in existing programs.

(d) The justification for proposed new programs.

(e) The projected cost of the requested program for the following fiscal year.

(6) Additional information providing a detailed description of the request of the agency and the corresponding calculations needed to support the request.

(7) Workload and other performance indicators, as prescribed by the legislative budget instructions.

(8) The sum of money actually expended for contractual services, as defined in s. 287.012, by the agency for the previous year.

(9) A schedule listing each committee, however created; council; coordinating council; commission; and board of trustees that is adjunct to the executive agency. The schedule shall show the name, number of meetings held in the past fiscal year, number of members, and expenses of each committee, council, coordinating council, commission, or board of trustees. The schedule shall further state the purpose of each committee, council, coordinating council, commission, or board of trustees and the statutory basis for each one's creation.

(10) An information resources management schedule showing the agency's total budget request for information resources management. The schedule shall be in the format provided for in the legislative budget instructions. The budget request for information resources management shall identify, if applicable, which parts of the request are in response to any information resources management issues included in the legislative budget instructions pursuant to s. 282.305(1)~~(f)~~. This subsection is applicable only to those state agencies which are under the purview of ss. 282.303-282.313.

(11) The sum of money actually expended in the previous year for the production of publications as determined by the state agency and a schedule listing the publications discontinued or scheduled for discontinuance and the cost avoidance to be realized by such action.

Either chairman of a legislative appropriations committee or the Executive Office of the Governor may require the agency *or the Chief Justice* to address major issues separate from those outlined in s. 216.023, this section, and s. 216.043 for inclusion in the requests of the agency. The issues shall be submitted to the agency no later than July 30 of each year and shall be displayed in its requests as provided in the budget instructions.

Section 106. Subsection (1) of section 216.0445, Florida Statutes, is amended to read:

216.0445 Budget evaluation by the Information Resource Commission.—

(1) Concurrently with the submission of the preliminary legislative budget request to the Executive Office of the Governor, the agency shall submit to the Information Resource Commission for evaluation a copy of the information resources management schedule of the budget request. The executive administrator of the Information Resource Commission shall advise the Executive Office of the Governor and the Legislature if there are cost-effective alternatives to the proposed expenditures contained in the information resources management schedule of the budget request and shall make recommendations as to whether the associated costs contained in the schedule are reasonable and whether the proposed expenditures are compatible with the agency's approved Strategic Plan for Information Resources Management and the information resources management issues included in the legislative budget instructions, pursuant to s. 282.305(1)~~(f)~~. The Executive Office of the Governor and the appropriations committees of the Legislature shall jointly prescribe the format and specify the budgetary factors to be used by the executive administrator in making recommendations regarding agency information resource management budget schedules. Such recommendations shall be provided to the Legislature and Executive Office of the Governor at a time specified by the Governor, but not less than 90 days prior to the regular session of the Legislature.

Section 107. Subsections (12) through (18) of section 287 012, Florida Statutes, are renumbered as subsections (13) through (19), respectively, and a new subsection (12) is added to said section to read:

287.012 Definitions.—The following definitions shall apply in this part:

(12) "Local purchasing source" means any person who, or place of business which, provides or proposes to provide a commodity or contractual service to an agency, which person or business has a principal place of business located within the State of Florida.

Section 108. Paragraph (a) of subsection (2) of section 287.042, Florida Statutes, is amended to read:

287.042 Powers, duties, and functions.—The division shall have the following powers, duties, and functions:

(2)(a) To plan and coordinate purchases in volume and to negotiate and execute purchasing agreements and contracts for commodities and contractual services under which ~~the division shall require~~ state agencies *shall* ~~to~~ make purchases *pursuant to s. 287.056,* and under which a county, municipality, or other local public agency may make purchases. Purchases by any county, municipality, or other local public agency under the provisions in the state purchasing contracts, and purchases, from the corporation operating the correctional work programs, of products or services that are subject to paragraph (1)(f), are exempt from the competitive sealed bid requirements otherwise applying to their purchases.

Section 109. Section 287.056, Florida Statutes, is created to read:

287.056 Agency purchases from agreements and contracts executed by the division and from local purchasing sources; Auditor General review.—

(1) Agencies shall purchase commodities and contractual services from the purchasing agreements and contracts negotiated and executed by the division, as authorized in s. 287.042(2), when the cost of such purchase exceeds the threshold amount provided in s. 287.017 for CATEGORY TWO.

(2)(a) For purchases that do not exceed the threshold amount provided in s. 287.017 for CATEGORY TWO, agencies may purchase a commodity or contractual service from a local purchasing source if the cost of such commodity or contractual service is less than that provided by the agreements and contracts negotiated and executed by the division. In calculating the cost of a commodity or contractual service to be purchased from a local purchasing source, the agency shall include all delivery costs and any administrative costs associated with negotiating, preparing, and executing the contract for such commodity or contractual service.

(b) Before purchasing a commodity or contractual service from a local purchasing source, the agency shall consider whether the specifications, terms, and conditions for such commodity or contractual service meet or exceed the specifications, terms, and conditions negotiated and executed by the division.

(3)(a) For each purchase of a commodity or contractual service by an agency from a local purchasing source when such commodity or contractual service was available through the agreements and contracts negotiated and executed by the division, the agency shall document and justify how such purchase provided a cost savings to the state.

(b) Such documentation and justification shall be included on or attached to copies of purchase orders filed in the agency fiscal office and filed with the State Comptroller in support of a payment request. In addition, each agency which purchases commodities or contractual services pursuant to this section shall report any cost savings to the state realized during the previous fiscal year and a listing of the purchase order numbers for such purchases to the Auditor General by August 31 of each year.

(c) When authorized to audit the administrative services function of any state agency, the Auditor General shall include, as part of that review, a sample of the documentation and justification attached to purchase orders which are filed in the agency fiscal office as required by this subsection. If the Auditor General finds that the savings identified by the agency have not been adequately documented, that no actual savings were realized, or that the agency has not complied with the provisions of this section, he shall include a statement of fact in his audit report on the agency. The Auditor General shall also review the provisions of ss. 287.042(2) and 287.056 to determine the fiscal savings impact of these provisions on state purchasing, and report his findings and recommendations to the Legislature by January 1, 1994.

(4) This section shall not apply to purchases of information technology resources as defined in s. 287.073.

(5) This section expires October 1, 1997, and shall be reviewed by the Legislature in advance of that date. As part of its oversight function, the Legislature shall annually review the fiscal impact of s. 287.056 on the state contracting process to ensure that the provisions of this section support the intent of chapter 287 to provide equitable and economical state purchasing.

Section 110. Department of Health and Rehabilitative Services Budget and Personnel Flexibility Pilot Project.—

(1) There is hereby created a pilot project within the Department of Health and Rehabilitative Services to test the application and implementation of flexible budget and personnel policies in a large state agency and other components of the Health and Rehabilitative Services Reorganization Act of 1992. The pilot project shall take place during the 3-year period beginning July 1, 1992, and ending June 30, 1995.

(2) By October 1, 1992, the Department of Health and Rehabilitative Services in cooperation with the Auditor General shall develop a research design, including goals and measurable objectives for the pilot project, which will provide the Legislature with a quantitative evaluation of all policies that are tested. The department shall utilize the monitoring mechanisms and reports developed in the design and provide these reports to the Auditor General. The Auditor General shall evaluate and report the progress of the pilot project to the House and Senate Appropriation Committees quarterly and during the consideration of the department's annual legislative budget request.

(3) Notwithstanding the provisions of chapter 216, Florida Statutes, to the contrary, during the pilot project, the head of the Department of Health and Rehabilitative Services may transfer appropriations between categories of appropriations and budget entities as provided in section 216.292(2)(a) and (b), Florida Statutes, by 5 percent or $250,000, whichever is greater.

(a) All such transfers:

1. Must be consistent with legislative intent.

2. May not initiate or commence a new program or eliminate an existing program.

3. May not restore funding for items that were reduced by the Legislature or vetoed by the Governor.

4. May not negatively affect client services or operations.

5. May not involve appropriation categories that are subject to the Social Services Estimating Conference.

6. Must provide adequate and appropriate revenues for trust fund authority.

7. Must maintain all state and federal restrictions on trust fund transfers.

8. Must be consistent with the district's performance contract.

9. Must not conflict with statutes, rules, or regulations.

10. Must be reported to the legislative appropriations committees through the provisions of chapter 216, Florida Statutes and subject to the provisions of section 216.177, Florida Statutes.

(b) Twenty percent of any unobligated appropriation for salaries and benefits, expenses, other personal services, operating capital outlay, and special categories remaining at the end of a fiscal year shall be available to the Department of Health and Rehabilitative Services as nonrecurring salary bonuses for state employees, for purchases of productivity-enhancing technology, and for community services initiatives. Funds used for such purposes may be certified forward.

(c) The Department of Health and Rehabilitative Services may be exempt from section 216.262(1)(a) and (b), Florida Statutes, as it relates to the positions and appropriations for district human services delivery established in the Health and Rehabilitative Services Reorganization Act of 1992 and for purposes of section 216.181(4)(b), Florida Statutes, positions for district human services may be considered one budget entity. If the department elects to exercise this exemption and authority, it shall:

1. Identify and document all authorized positions, including positions assigned to county health units, and their associated salary rates as of June 30, 1992, prior to any changes to its existing positions or salary structure, that are affected by this exemption.

2. Include in its legislative budget request a schedule showing the maximum salary rates associated with those positions affected by the exemption as of June 30, 1992, and as of the date of the submittal of each budget request.

3. Submit bimonthly reports to the legislative appropriations committees on the changes in the number of positions affected by the exemption.

(4) In addition to the transfer authority provided in paragraph (3)(a), the department may transfer up to 0.25 percent of the General Revenue appropriations for administrative cost of any budget entity within the department and the necessary administrative positions to establish the Office of Evaluation as described in s. 20.19(2), Florida Statutes. The expenses of the department for independent contracting or consultation and the salaries and expenses associated with staff authorized in the General Appropriations Act or established through transfer pursuant to this subsection for outcome evaluation and program effectiveness functions shall be paid from funds transferred pursuant to this subsection.

Section 111. This act shall take effect July 1, 1992.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to state planning and budgeting; amending s. 11.513, F.S.; repealing provisions that authorize agency evaluations and reviews to be conducted by consultants; revising the list of recipients for evaluation and justification review reports; amending s. 216.0165, F.S.; revising the list of recipients for agency responses; providing for the Legislative Auditing Committee to establish the order in which agencies are reviewed; repealing provisions that require the Senate and House of Representatives and the Governor to prepare responses to the evaluation and review; repealing s. 11.511(5), F.S., which provides for the Director of the Office of Policy Analysis and Agency Review to hire consultants to perform agency evaluation and justification reviews; repealing s. 17.31, F.S., relating to annual reports of trust funds; creating s. 17.32, F.S.; requiring the Comptroller to provide reports of trust funds to the Legislature annually; amending ss. 18.10, 18.125, 215.195, 215.22, 215.26, 215.28, 215.29, 215.31, 215.32, 215.322, 215.34, 215.405, 215.422, 215.48, 215.49, 215.51, 215.515, 215.53, 215.85, 215.92, 215.94, 216.011, 216.015, 216.0152, 216.0154, 216.0158, 216.016, 216.0165, 216.023, 216.031, 216.043, 216.044, 216.0442, 216.0445, 216.081, 216.091, 216.102, 216.111, 216.131, 216.135, 216.141, 216.151, 216.163, 216.172, 216.177, 216.179, 216.181, 216.192, 216.195, 216.212, 216.221, 216.231, 216.241, 216.251, 216.262, 216.271, 216.275, 216.292, 216.301, 216.311, 216.321, 216.345, 216.347, 216.349, 287.20, F.S.; providing that certain budgetary procedures that apply to agencies of the executive branch of government also apply to the judicial branch; amending ss. 216.111, 216.177, 216.181, 216.292, F.S.; deleting certain powers and duties of the Executive Office of the Governor relating to budgetary matters; amending s. 110.1099, F.S.; deleting a provision that allows educational leaves of absence to be granted only when the Legislature has provided specific funding for such leaves; amending s. 215.32, F.S.; providing for transferring moneys in trust funds into the Working Capital Fund under certain circumstances; providing for transfer into the General Revenue Fund of unappropriated cash balances in trust funds; providing exceptions; specifying minimum balances for moneys in the Working Capital Fund; repealing s. 215.3205, F.S., relating to abolishing trust funds; providing for the abolishment of specified trust funds; creating s. 215.3207, F.S.; providing criteria for creation of trust funds; amending s. 215.93, F.S.; requiring the Florida Fiscal Accounting Management Information System to become operational; amending s. 216.011, F.S.; providing definitions; amending s. 216.0165, F.S.; providing for evaluation of certain judicial offices; amending s. 216.031, F.S.; prescribing contents of legislative budget requests; creating s. 216.052, F.S.; providing for review of legislative budget requests; prescribing guidelines on grants and loans to local entities; providing for audits of support organizations; creating s. 216.053, F.S.; providing for summary information in the general appropriations acts; amending s. 216.141, F.S.; deleting provisions relating to duties of the Comptroller; amending s. 216.163, F.S.; providing for organization of Governor's recommended budget; amending s. 216.164, F.S.; providing for the Governor to recommend a program budget or performance-based budget; amending s. 216.177, F.S.; deleting certain powers of legislative appropriations committee chairmen; amending s. 216.178, F.S.; providing for format of appropriations acts; amending s. 216.181, F.S.; providing for amendments to approved budgets; providing guidelines; amending s. 216.212, F.S.; providing for budgeting of federal funds; amending s. 216.221, F.S.; prescribing duties of the Governor and the Chief Justice of the Supreme Court with respect to actions to prevent budget deficits; requiring reductions in certain General Revenue appropriations under certain circumstances; providing for an appropriation from the Working Capital Fund to offset deficits; providing guidelines in reducing operating budgets; providing for resolution by the Legislature of certain deficits; amending s. 216.262, F.S.; prescribing duties with respect to authorized positions; amending s. 216.272, F.S.; creating additional working capital trust funds; amending s. 235.4235, F.S.; deleting an Administration Commission approval requirement; amending s. 240.2094, F.S.; providing that funds for the State University System are subject to guidelines imposed in general appropriations acts; repealing s. 411.204(5)(e), F.S., relating to a transfer of funds for evaluation of handicap prevention, early childhood, and early assistance; amending s. 946.40, F.S.; deleting powers of the Administration Commission with respect to the number of positions for prisoners in public works; amending s. 218.385, F.S.; providing for a truth-in-bonding statement before issue of local government bonds; amending s. 110.1245, F.S.; revising provisions relating to the meritorious service awards program; repealing s. 409.085, F.S., relating to appropriations to the Department of Health and Rehabilitative Services and transfer of surplus funds; amending s. 186.002, F.S.; providing legislative findings and intent with respect to state agency strategic plans; amending s. 186.003, F.S.; providing definitions; amending s. 186.021, F.S.; providing for content of state agency strategic plans; amending s. 186.022, F.S.; providing for preparation and review of state agency strategic plans and deleting requirements for agencies to prepare functional plans; amending s. 11.45, F.S.; requiring the Auditor General to use an agency's strategic plan in evaluating the agency's performance; amending s. 24.122, F.S.; deleting the exemption of the Department of the Lottery from requirements for agency functional plans; amending s. 282.003, F.S.; revising the title of the Information Resources Management Act to include paperwork reduction; amending s. 282.004, F.S.; providing legislative intent regarding minimizing the paperwork burden;

amending s. 282.303, F.S.; providing definitions; amending s. 282.305, F.S.; providing duties of the Information Resource Commission regarding assistance for the review of required forms and reporting requirements and paperwork reduction; creating s. 282.3051, F.S.; providing legislative findings with respect to state government reporting requirements and required forms; directing state governmental entities to periodically identify, review, and evaluate certain reporting requirements and forms and make recommendations for the modification or elimination thereof; providing criteria for evaluation of reporting requirements and required forms; directing such entities to take specified paperwork reduction actions; directing the Information Resource Commission to coordinate development of a pilot project to eliminate or reduce forms and paperwork and report thereon; amending ss. 282.3061, 282.3062, and 282.307, F.S.; including paperwork reduction in the State Strategic Plan for Information Resources Management, the Annual Report on Information Resources Management, and the Strategic Plan for Information Resources Management submitted by each department; amending s. 282.311, F.S.; providing duties of information resource managers regarding paperwork reduction; amending s. 282.312, F.S.; requiring that Annual Performance Reports include information relating to paperwork reduction and reporting requirements; amending s. 286.001, F.S.; providing that specified governmental agencies required to make regular or periodic reports may file an abstract thereof with the designated recipient and an abstract and copy with the Division of Library and Information Services; providing duties of the division and removing responsibilities of the Executive Office of the Governor; directing agency heads to ensure that reports are created, managed, and disseminated through electronic means; amending ss. 216.031 and 216.0445, F.S.; correcting references; amending s. 287.012, F.S.; defining the term "local purchasing source"; amending s. 287.042, F.S.; authorizing the Division of Purchasing to negotiate and execute contracts for state purchases; creating s. 287.056, F.S.; allowing state agencies to make purchases from a local purchasing source for certain purchases if such purchases cost less; providing that administrative costs and the specifications, terms, and conditions developed by the division be considered in evaluating such purchases; providing for review by the Auditor General; providing an exception; providing for future review and expiration of s. 287.056, F.S.; providing for an annual review of the fiscal impact of s. 287.056, F.S.; providing for establishment of a work group to review certain functions in the Department of Management Services; providing for membership; providing duties; providing for a report; providing an expiration date; creating a pilot project in the Department of Health and Rehabilitative Services to test certain flexible budget and personnel policies; providing duties of the department; providing criteria for the pilot project; authorizing the department to use certain appropriations for certain purposes; providing an exemption from certain budget requirements for certain positions and appropriations of the department; authorizing the department to transfer certain funds to establish an Office of Evaluation; providing for payment of certain expenses from such funds; providing an effective date.

On motion by Senator Gardner, by two-thirds vote **CS for HB 497** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motions by Senator Thurman, by two-thirds vote **CS for HB 1903** was withdrawn from the Committees on Agriculture; and Finance, Taxation and Claims.

On motion by Senator Thurman—

CS for HB 1903—A bill to be entitled An act relating to plant industry; amending s. 369.25, F.S., relating to aquatic plant permits under the Department of Natural Resources; providing for regulation of nonnursery cultivation of aquatic plants; amending s. 581.011, F.S.; defining "aquatic plant" and "noxious aquatic plant"; modifying definition of "nursery"; amending s. 581.031, F.S.; providing additional powers and duties of the Department of Agriculture and Consumer Services; creating s. 581.035, F.S.; preempting to the Department of Agriculture and Consumer Services regulatory authority over nurseries; amending s. 581.131, F.S.; providing for notice of plant nursery registration renewal; providing a penalty; creating s. 581.145, F.S.; providing for aquatic plant nursery registration; requiring special permits for activities involving prohibited aquatic plants; providing restrictions; reenacting s. 581.211, F.S., relating to penalties for violations of chapter 581, F.S., to incorporate a reference; amending s. 586.045, F.S., relating to beekeeping; providing registration, renewal, and late renewal fees; providing an effective date.

—a companion measure, was substituted for **SB 1838** and read the second time by title. On motion by Senator Thurman, by two-thirds vote **CS for HB 1903** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32 Nays—None

On motions by Senator Crenshaw, by two-thirds vote **CS for CS for HB 337** was withdrawn from the Committees on Judiciary, Community Affairs and Appropriations.

On motion by Senator Crenshaw—

CS for CS for HB 337—A bill to be entitled An act relating to jurors; amending s. 40.013, F.S.; revising language with respect to exemptions for prior juror service; amending s. 40.24, F.S.; providing for a juror compensation and reimbursement policy; providing for certain employers to compensate employees summoned to jury duty; providing for compensation for certain jurors; amending s. 40.41, F.S.; revising language with respect to the length of service of petit jurors; amending s. 905.37, F.S.; eliminating a statutory cross reference; providing effective dates.

—a companion measure, was substituted for **CS for SB 490** and read the second time by title. On motion by Senator Crenshaw, by two-thirds vote **CS for CS for HB 337** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motions by Senator Meek, by two-thirds vote **HB 1231** was withdrawn from the Committees on Judiciary and Appropriations.

On motion by Senator Meek—

HB 1231—A bill to be entitled An act relating to the Florida Evidence Code; creating s. 90.6065, F.S.; requiring interpreters used by the courts of this state to be certified or designated as otherwise qualified and delineating the circumstances for the use of each; requiring the State Courts Administrator to establish the requirements for certification and for designation as otherwise qualified and to maintain a master list of certified and otherwise qualified interpreters for use by the courts; providing applicability to existing provisions of law governing court interpreters; providing a time period for currently employed interpreters to be certified or designated as otherwise qualified; providing an effective date.

—a companion measure, was substituted for **SB 1154** and read the second time by title. On motion by Senator Meek, by two-thirds vote **HB 1231** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

CS for HB 1753—A bill to be entitled An act relating to employment; providing that it is unlawful to discriminate through any employment action because an individual is a user of legal agricultural products; providing an exception; providing an effective date.

—was read the second time by title. On motion by Senator Meek, by two-thirds vote **CS for HB 1753** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29 Nays—7

THE PRESIDENT PRESIDING

RECONSIDERATION

On motion by Senator Langley, the Senate reconsidered the vote by which **CS for HB 1753** passed.

On motion by Senator Meek, **CS for HB 1753** was read by title, passed and certified to the House. The vote on passage was:

Yeas—24 Nays—16

HB 1397—A bill to be entitled An act relating to speed measuring devices; amending s. 316.1906, F.S.; redefining the term "radar" to include laser-based speed-measurement systems; providing an effective date.

—was read the second time by title.

Senator Crotty moved the following amendment:

Amendment 1 (with Title Amendment)—On page 1, line 13, insert:

Section 1. Subsection (81) is added to section 316.003, Florida Statutes, to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(81) TRAFFIC CONTROL SIGNAL PHOTOGRAPHIC SYSTEM.—An electronic system consisting of a photographic camera and a vehicle sensor installed to work in conjunction with an official traffic control signal to automatically produce two or more photographs of each vehicle proceeding beyond the legal stop line at an intersection while facing a red indicator.

Section 2. Traffic control signal photographic systems.—

(1) Any county or municipality may enact an ordinance providing for the enforcement of section 316.075 or section 316.076, Florida Statutes, by means of a traffic control signal photographic system as defined in section 316.003(81), Florida Statutes. Any photograph produced by such system is admissible as evidence in any court proceeding arising from a violation of section 316.075 or section 316.076, Florida Statutes.

(2) The owner of a vehicle who is issued a citation pursuant to the provisions of this section is responsible and liable for payment of any fine or other charge due as a result of a violation of section 316.075 or section 316.076, Florida Statutes, unless the owner furnishes evidence that the vehicle was, at the time of such violation, in the care, custody, or control of another person, in which case the person who was in actual control of the vehicle may be issued the citation.

(3) A traffic citation for a violation of section 316.075 or section 316.076, Florida Statutes, may be issued based on photographic evidence. In such cases, the citation may be issued by mailing it to the owner of the vehicle which was photographed violating such section. The citation shall be mailed to the vehicle owner's current address, which address shall be obtained from the Division of Motor Vehicles of the Department of Highway Safety and Motor Vehicles.

(4) The provisions of section 318.21, Florida Statutes, shall not apply to a violation of section 316.075 or section 316.076, Florida Statutes, which is enforced pursuant to an ordinance enacted under the provisions of this section. If such violation occurs within a municipality or a special improvement district of the Seminole Indian Tribe or Miccosukee Indian Tribe, all civil penalties received shall be distributed to such municipality or special improvement district. If such violation occurs within the unincorporated area of a county that is not within a special improvement district of the Seminole Indian Tribe or Miccosukee Indian Tribe, all civil penalties received shall be retained by such county.

Section 3. Subsection (6) is added to section 316.075, Florida Statutes, to read:

316.075 Traffic control signal devices.—Except for automatic warning signal lights installed or to be installed at railroad crossings, whenever traffic, including municipal traffic, is controlled by traffic control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend, and the lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(6) This section may be enforced by means of a traffic control signal photographic system as provided in section 2 of this act.

Section 4. Subsection (4) is added to section 316.076, Florida Statutes, to read:

316.076 Flashing signals.—Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

(4) This section may be enforced by means of a traffic control signal photographic system as provided in section 2 of this act.

Section 5. Subsection (3) of section 316.650, Florida Statutes, is amended to read:

316.650 Traffic citations.—

(3) Every traffic enforcement officer, upon issuing a traffic citation to an alleged violator of any provision of the motor vehicle laws of this state or of any traffic ordinance of any city or town, shall deposit the original and one copy of such traffic citation or, in the case of a traffic enforcement agency which has an automated citation issuance system, shall provide an electronic facsimile with a court having jurisdiction over the alleged offense or with its traffic violations bureau within 5 days after issuance to the violator. *For the purposes of enforcing s. 316.075 or s. 316.076, a traffic citation may be issued by sending it to the current mailing address of the owner of the vehicle that was photographed, pursuant to section 2 of this act, violating such section, which address shall be obtained from the Division of Motor Vehicles of the Department of Highway Safety and Motor Vehicles.*

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike line 2 and insert: An act relating to uniform traffic control; amending s. 316.003, F.S.; defining the term "traffic control signal photographic system"; authorizing traffic control signal photographic systems; authorizing counties and municipalities to enact ordinances providing for traffic control signal photographic systems; providing for the requirements of such ordinances; providing for the distribution of fines received for the violation of such ordinances; amending ss. 316.075, 316.076, F.S.; providing for their enforcement by means of a traffic control signal photographic system; amending s. 316.650, F.S., to conform;

POINT OF ORDER

Senator Weinstein raised a point of order that pursuant to Rule 7.1, **Amendment 1** contained language of a bill not reported favorably by a Senate committee and was therefore out of order.

RULING ON POINT OF ORDER

The President ruled the point well taken and the amendment out of order.

On motion by Senator Crotty, by two-thirds vote **HB 1397** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—2

SENATOR CHILDERS PRESIDING

CS for SB 1882—A bill to be entitled An act relating to comprehensive planning; amending s. 163.3174, F.S.; prescribing the local planning agency's duties with respect to plan amendments; amending s. 163.3177, F.S.; prohibiting certain rule challenges prior to a specified date; amending s. 163.3184, F.S.; redefining the term "affected person"; specifying certain time limits; providing duties of certain persons with respect to plan amendments; providing for preservation of issues by intervenors; providing for resolution of issues through compliance agreements; amending s. 163.3187, F.S.; revising procedures for reviewing small scale amendments; prescribing powers and duties of the state land planning agency with respect to plan amendments; amending s. 163.3191, F.S.; prescribing a date for initial evaluation and appraisal reports; amending s. 380.06, F.S.; amending the criteria for presuming whether a substantial deviation has been created and determining whether further development-of-regional-impact review is therefore required; requiring an evaluation of the development-of-regional-impact program; providing for continued validity of existing agreements; providing severability; providing an effective date.

—was read the second time by title.

Senator Grizzle moved the following amendment:

Amendment 1 (with Title Amendment)—On page 2, line 1, strike everything after the enacting clause and insert:

Section 1. Subsection (3) of section 163.3167, Florida Statutes, is amended to read:

163.3167 Scope of act.—

(3) When a local government has not prepared all of the required elements or has not amended its plan as required by subsection (2), the regional planning agency having responsibility for the area in which the

local government lies shall prepare and adopt by rule, pursuant to chapter 120, the missing elements or adopt by rule amendments to the existing plan in accordance with this act by July 1, 1989, or within 1 year after the dates specified or provided in subsection (2) and the state land planning agency review schedule, whichever is later. The regional planning agency shall provide at least 90 days' written notice to any local government whose plan it is required by this subsection to prepare, prior to initiating the planning process. At least 90 days before the adoption by the regional planning agency of a comprehensive plan, or element or portion thereof, pursuant to this subsection, the regional planning agency shall transmit a copy of the proposed comprehensive plan, or element or portion thereof, to the local government and the state land planning agency for written comment. The state land planning agency shall review and comment on such plan, or element or portion thereof, in accordance with s. 163.3184(6). Subsections (6), (7), and (8) of s. 163.3184 shall be applicable to the regional planning agency as if it were a governing body. Existing comprehensive plans shall remain in effect until they are amended pursuant to subsection (2), this subsection, ~~or~~ s. 163.3187, *or s. 163.3189*.

Section 2. Subsection (1) and paragraph (a) of subsection (4) of section 163.3174, Florida Statutes, are amended to read:

163.3174 Local planning agency.—

(1) The governing body of each local government, individually or in combination as provided in s. 163.3171, shall designate and by ordinance establish a "local planning agency," unless the agency is otherwise established by law. The governing body may designate itself as the local planning agency pursuant to this subsection. The governing body shall notify the state land planning agency of the establishment of its local planning agency. The local planning agency shall prepare the comprehensive plan *or plan amendment* after hearings to be held after due public notice and shall make recommendations to the governing body regarding the adoption *or amendment of the plan* ~~of such plan or element or portion thereof~~. The agency may be a local planning commission, the planning department of the local government, or other instrumentality, including a countywide planning entity established by special act or a council of local government officials created pursuant to s. 163.02, provided the composition of the council is fairly representative of all the governing bodies in the county or planning area; however:

(a) If a joint planning entity is in existence on the effective date of this act which authorizes the governing bodies to promulgate and enforce a land use plan effective throughout the joint planning area, that entity shall be the agency for those local governments until such time as the authority of the joint planning entity is modified by law.

(b) In the case of chartered counties, the planning responsibility between the county and the several municipalities therein shall be as stipulated in the charter.

(4) The local planning agency shall have the general responsibility for the conduct of the comprehensive planning program. Specifically, the local planning agency shall:

(a) Be the agency responsible for the preparation of the comprehensive plan *or plan amendment* and shall make recommendations to the governing body regarding the adoption *or amendment* of such plan ~~or element or portion thereof~~. During the preparation of the plan *or plan amendment* and prior to any recommendation to the governing body, the local planning agency shall hold at least one public hearing, with due public notice, on the proposed plan or *plan amendment* ~~element or portion thereof~~. The governing body in cooperation with the local planning agency may designate any agency, committee, department, or person to prepare the comprehensive plan or *plan amendment* ~~any element thereof~~, but final recommendation of the adoption of such plan *or plan amendment* to the governing body shall be the responsibility of the local planning agency.

Section 3. Subsections (13) and (23) of section 163.3164, Florida Statutes, are amended to read:

163 3164 Definitions.—As used in this act:

(13) "Local planning agency" means the agency designated to prepare the comprehensive plan *or plan amendments* required by this act.

(23) "Public facilities" means major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities, *and spoil disposal sites for maintenance dredging located in the intracoastal waterways, except for spoil disposal sites owned or used by ports listed in s. 403.021(9)(b).*

Section 4. Subsection (10) of section 163.3221, Florida Statutes, is amended to read:

163.3221 Definitions.—As used in ss. 163.3220-163.3243:

(10) "Local planning agency" means the agency designated to prepare a comprehensive plan *or plan amendment* pursuant to the "Florida Local Government Comprehensive Planning and Land Development Regulation Act."

Section 5. Paragraph (b) of subsection (3), paragraph (h) of subsection (6), and paragraph (k) of subsection (10) of section 163.3177, Florida Statutes, are amended, and subsection (11) is added to said section, to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(3)

(b) 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*, except that corrections, updates, and modifications concerning costs; revenue sources; 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 element may be accomplished by ordinance and shall not be deemed to be amendments to the local comprehensive plan. All public facilities shall be consistent with the capital improvements element.

(6) In addition to the requirements of subsections (1)-(5), the comprehensive plan shall include the following elements:

(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 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, and with the state comprehensive plan, 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 on the state comprehensive plan, as the case may require.

2. To foster coordination between special districts and local general-purpose governments as local general-purpose governments implement local comprehensive plans, each independent special district shall submit a public facilities report to the appropriate local government as required by s. 189.415.

(10) The Legislature recognizes the importance and significance of chapter 9J-5, F.A.C., the Minimum Criteria for Review of Local Government Comprehensive Plans and Determination of Compliance of the Department of Community Affairs that will be used to determine compliance of local comprehensive plans. The Legislature reserved unto itself the right to review chapter 9J-5, F.A.C., and to reject, modify, or take no action relative to this rule. Therefore, pursuant to subsection (9), the Legislature hereby has reviewed chapter 9J-5, F.A.C., and expresses the following legislative intent:

(k) *So that local governments are able to prepare and adopt comprehensive plans with knowledge of the rules that will be applied to determine consistency of the plans with provisions of this part,* it is the intent of the Legislature that there should be no doubt as to the legal standing of chapter 9J-5, F.A.C., at the close of the 1986 legislative session. Therefore, the Legislature declares that changes made to chapter 9J-5, F.A.C., prior to October 1, 1986, shall not be subject to rule challenges under s. 120.54(4), or to drawout proceedings under s. 120.54(17). The entire chapter 9J-5, F.A.C., as amended, shall be subject to rule challenges under s. 120.56, as nothing herein shall be construed to indicate approval or disapproval of any portion of chapter 9J-5, F.A.C., not specifically addressed herein. No challenge pursuant to s. 120.56 may be filed *from* ~~after~~ July 1, 1987 *through April 1, 1993.* Any ~~subsequent~~ amendments to chapter 9J-5, F.A.C., exclusive of the amendments adopted prior to October 1, 1986 pursuant to this act, shall be subject to the full chapter 120 process. All amendments shall have effective dates as provided in chapter 120 and submission to the President of the Senate and Speaker of the House of Representatives shall not be required.

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

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

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

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

(e) The department shall implement the provisions of this subsection by rule.

Section 6. Section 163.3179, Florida Statutes, is created to read:

163.3179 Family homestead.—A local government may include in its comprehensive plan a provision allowing the use of a parcel of property solely as a homestead by an individual who is the grandparent, parent, stepparent, adopted parent, sibling, child, stepchild, adopted child, or grandchild of the person who conveyed the parcel to said individual, notwithstanding the density or intensity of use assigned to the parcel in the plan. Such a provision shall apply only once to any individual.

Section 7. Section 163.3184, Florida Statutes, is amended to read:

163.3184 Process for adoption of comprehensive plan or *plan* amendment ~~thereto~~.—

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

(a) "Affected person" includes the affected local government; persons owning property, residing, or owning or operating a business within the boundaries of the local government whose plan is the subject of the review; and adjoining local governments that can demonstrate that ~~adoption of~~ the plan *or plan amendment will* ~~as proposed would~~ produce substantial impacts on the increased need for publicly funded infrastructure or substantial impacts on areas designated for protection or special treatment within their jurisdiction. Each person, other than an adjoining local government, in order to qualify under this definition, shall also have submitted oral or written *comments, recommendations, or* objections *to the local government* during the *period of time beginning with the transmittal hearing for the plan or plan amendment and ending with the adoption of the plan or plan amendment* ~~local government review and adoption proceedings~~.

(b) "In compliance" means consistent with the requirements of ss. 163.3177, 163.3178, and 163.3191, the state comprehensive plan, the appropriate regional policy plan, and rule 9J-5, F.A.C., where such rule is not inconsistent with chapter 163, part II.

(2) COORDINATION.—Each comprehensive plan or plan amendment proposed to be adopted pursuant to this part shall be transmitted, adopted, and reviewed in the manner prescribed in this section. The state land planning agency shall have responsibility for plan review, coordination, and the preparation and transmission of comments, pursuant to this section, to the local governing body responsible for the comprehensive plan.

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

(a) Each local governing body shall~~, immediately following a public hearing pursuant to subsection (15),~~ transmit ~~10 copies of~~ the complete proposed comprehensive plan or plan amendment to the state land planning agency for written comment *immediately following a public hearing pursuant to subsection (15) as specified in the agency's procedural rules.* The local governing body shall also transmit a copy of the complete proposed comprehensive plan or plan amendment to any other unit of local government or government agency in the state that has filed a written request with the governing body for *the* ~~such~~ plan~~, element,~~ or plan amendment.

(b) A local governing body shall not transmit portions of a plan or plan amendment *unless it has previously provided to all state agencies designated by the state land planning agency a complete copy of its adopted comprehensive plan pursuant to subsection (7) and as specified in the agency's procedural rules.* In the case of comprehensive plan amendments, the local governing body shall transmit to the state land planning agency ~~only~~ the *materials specified in the agency's procedural rules* ~~elements proposed to be amended along with the complete amendment~~ and in cases in which the plan amendment is a result of an evaluation and appraisal report adopted pursuant to s. 163.3191, a copy of the evaluation and appraisal report. Local governing bodies shall consolidate all proposed plan amendments into a single submission for each of the two plan amendment adoption times during the calendar year pursuant to s. 163.3187.

(4) INTERGOVERNMENTAL REVIEW.—The state land planning agency, upon receipt of a local government's complete proposed comprehensive plan or plan amendment shall transmit, within 5 working days after such receipt, a copy of the plan or plan amendment to various government agencies, as appropriate, for response or comment, including, but not limited to, the Department of Environmental Regulation, the Department of Natural Resources, the Department of Transportation, the water management district, and the regional planning council, and, in the case of municipal plans, to the county land planning agency. The governmental agencies shall provide comments to the state land planning agency within 45 days after receipt of the plan or plan amendments. The appropriate regional planning council shall also provide its written comments to the state land planning agency within 45 days after receipt of the plan or plan amendments 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 plan.

(5) REGIONAL AND COUNTY REVIEW.—The review of the regional planning council pursuant to subsection (4) shall be primarily in the context of the relationship and effect of the locally submitted plan or plan amendments on any regional policy plan developed pursuant to s. 186.507. A regional planning council shall not, however, review and comment on a comprehensive plan it prepared itself unless the plan has been changed by the local government subsequent to the preparation of the plan by the regional planning agency. The review of the county land planning agency pursuant to subsection (4) shall be primarily in the context of the relationship and effect of the locally submitted plan or plan amendment on any county comprehensive plan element.

(6) STATE LAND PLANNING AGENCY REVIEW.—The state land planning agency, upon receipt of comments from the various government agencies, shall have 45 days to review comments from the various government agencies along with a local government's comprehensive plan or plan amendment. During that period, the state land planning agency shall transmit in writing its comments to the local government along with any objections and any recommendations for modifications.

(7) LOCAL GOVERNMENT REVIEW OF COMMENTS; ADOPTION OF PLAN OR AMENDMENTS AND TRANSMITTAL.—The local government shall review the written comments submitted to it by the state land planning agency, and any other person, agency, or government. Any comments, recommendations, or objections and any reply *to them* ~~thereto~~ shall be public documents, a part of the permanent record in the matter, and admissible in any proceeding in which the comprehensive plan or plan amendment may be at issue. The local government, upon receipt of written comments from the state land planning agency, shall have *120* ~~60~~ days to adopt or adopt with changes the proposed comprehensive plan or s. 163.3191 plan amendments. In the case of comprehensive plan amendments other than those proposed pursuant to s. 163.3191, the local government shall have 60 days to adopt the amend-

ment, adopt the amendment with changes, or determine that it will not adopt the amendment. The adoption of the proposed plan or plan amendment or the determination not to adopt a plan amendment, other than a plan amendment proposed pursuant to s. 163.3191, shall be made in the course of a public hearing pursuant to subsection (15). The local government shall transmit ~~5 copies of~~ the adopted comprehensive plan or *adopted*~~, in the case of~~ plan *amendment* ~~amendments, 5 copies of the element amended and the text of the amendment~~ to the state land planning agency *as specified in the agency's procedural rules* within *10* ~~5~~ working days after adoption. The local governing body shall also transmit a copy of the adopted comprehensive plan or plan amendment to *the regional planning agency and to* any other unit of local government or governmental agency in the state that has filed a written request with the governing body for a copy of *the* ~~such~~ plan~~, element,~~ or plan amendment.

(8) NOTICE OF INTENT.—

(a) The state land planning agency, upon receipt of a local government's adopted comprehensive plan or plan amendment, shall have 45 days for review and to determine if the plan or plan amendment is in compliance with this act. The state land planning agency may not find a local plan *or plan amendment* to be not in compliance unless the state land planning agency has participated in the public hearing pursuant to subsection (7) if requested to do so by the applicable local government. The agency's determination of compliance shall be only based upon one or both of the following:

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

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

(b) During the 45-day period provided for in this subsection, the state land planning agency shall issue, through a senior administrator *or* ~~other than~~ the secretary, as specified in the agency's procedural rules, a notice of intent to find that the *plan or plan amendment* ~~local action~~ is in compliance or not in compliance. A notice of intent shall be issued by publication of notice in the manner required by paragraph (15)(c) and by mailing a copy to the local government and to persons who request notice. Notwithstanding the content requirements of paragraph (15)(c), the content of the notice shall be sufficient to inform the public of the action taken.

(9) PROCESS IF LOCAL PLAN OR AMENDMENT IS IN COMPLIANCE.—

(a) If the state land planning agency issues a notice of intent to find that the comprehensive plan *or plan amendment* transmitted pursuant to s. 163.3167, *s. 163.3187, s. 163.3189,* or s. 163.3191 is in compliance with this act, any affected person~~, within 21 days after the publication of notice,~~ may file a petition with the agency pursuant to s. 120.57 *within 21 days after the publication of notice.* In this proceeding the local plan or plan amendment shall be determined to be in compliance if the local government's determination of compliance is fairly debatable.

(b) The hearing shall be conducted by a hearing officer of the Division of Administrative Hearings of the Department of Administration, who shall hold the hearing in the *county of and convenient to the* affected local jurisdiction and submit a recommended order to the state land planning agency. The state land planning agency shall allow 10 days for the filing of exceptions to the recommended order and shall issue a final order within 30 days after receipt of the recommended order if the state land planning agency determines that the plan *or plan amendment* is in compliance. If the state land planning agency determines that the plan or plan amendment is not in compliance, the agency shall submit, within 30 days after receipt, the recommended order to the Administration Commission for final agency action.

(10) PROCESS IF LOCAL PLAN OR AMENDMENT IS NOT IN COMPLIANCE.—

(a) If the state land planning agency issues a notice of intent to find the comprehensive plan or plan amendment not in compliance with this act, the notice of intent shall be forwarded to the Division of Administrative Hearings of the Department of Administration, which shall conduct a proceeding under s. 120.57 in the *county of and convenient to the* affected local jurisdiction. The parties to the proceeding shall be the state land planning agency, the affected local government, and any affected person who intervenes. *No new issue may be alleged as a reason to find a plan or plan amendment not in compliance in an administrative pleading filed more than 21 days after publication of notice unless the party seeking that issue establishes good cause for not alleging the issue within that time period. Good cause shall not include excusable neglect.* In the proceeding, the local government's determination that the comprehensive plan or plan amendment is in compliance is presumed to be correct. The local government's determination shall be sustained unless it is shown by a preponderance of the evidence that the comprehensive plan or plan amendment is not in compliance. The local government's determination that elements of its plans are related to and consistent with each other shall be sustained if the determination is fairly debatable.

(b) The hearing officer assigned by the division shall submit a recommended order to the Administration Commission for final agency action.

(11) ADMINISTRATION COMMISSION.—

(a) If the Administration Commission, upon a hearing pursuant to subsection (9) or subsection (10), finds that the comprehensive plan or plan amendment is not in compliance with this act, the commission shall specify remedial actions which would bring the comprehensive plan or plan amendment into compliance. The commission may direct state agencies not to provide funds to increase the capacity of roads, bridges, or water and sewer systems within the boundaries of those local governmental entities which have comprehensive plans or plan elements that are determined not to be in compliance. The commission order may also specify that the local government shall not be eligible for grants administered under the following programs:

1. The Florida Small Cities Community Development Block Grant Program, as authorized by ss. 290.0401-290.049.

2. The Florida Recreation Development Assistance Program, as authorized by chapter 375.

3. Revenue sharing pursuant to ss. 206.60, 210.20, and 218.61 and part I of chapter 212, to the extent not pledged to pay back bonds.

(b) If the local government is one which is required to include a coastal management element in its comprehensive plan pursuant to s. 163.3177(6)(g), the commission order may also specify that the local government is not eligible for funding pursuant to s. 161.091. The commission order may also specify that the fact that the coastal management element has been determined to be not in compliance shall be a consideration when the Department of Natural Resources considers permits under s. 161.053 and when the Board of Trustees of the Internal Improvement Trust Fund considers whether to sell, convey any interest in, or lease any sovereignty lands or submerged lands until the element is brought into compliance.

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

(13) EXCLUSIVE PROCEEDINGS.—The proceedings under this section shall be the sole proceeding or action for a determination of whether a local government's plan, element, or amendment is in compliance with this act.

(14) AREAS OF CRITICAL STATE CONCERN.—No proposed local government comprehensive plan or plan amendment which is applicable to a designated area of critical state concern shall be effective until it has been reviewed and approved as provided in s. 380.05.

(15) PUBLIC HEARINGS.—

(a) The procedure for transmittal of a complete proposed comprehensive plan or plan amendment pursuant to subsection (3) and for adoption of a comprehensive plan or plan amendment pursuant to subsection (7) shall be by affirmative vote of not less than a majority of the total membership of the governing body in the manner prescribed by this subsection. The adoption of a comprehensive plan or plan amendment shall be

by ordinance. For the purposes of transmitting or adopting a comprehensive plan or plan amendment, the notice requirements in chapters 125 and 166 are superseded by this subsection.

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

1. The first public hearing shall be held at the transmittal stage pursuant to subsection (3). It shall be held on a weekday approximately 7 days after the day that the first advertisement is published. The intention to hold and advertise a second public hearing shall be announced at the first public hearing.

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

Except as provided in paragraph (c), the advertisement shall state the date, time, place of the meeting, the subject of the meeting, and the place or places within the boundaries of local governmental entity where the proposed comprehensive plan or plan amendment may be inspected by the public. The advertisement shall also advise that interested parties may appear at the meeting and be heard regarding the transmittal or adoption of the comprehensive plan or plan amendment.

(c) If the proposed comprehensive plan or plan amendment changes the permitted uses of land or changes land-use categories, the required advertisements shall be no less than one-quarter page in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper of general paid circulation in the *local government's jurisdiction* ~~county~~ and of general interest and readership in the community, not one of limited subject matter, pursuant to chapter 50. Whenever possible, the advertisement shall appear in a newspaper that is published at least 5 days a week, unless the only newspaper in the community is published less than 5 days a week. The advertisement shall be in substantially the following form:

NOTICE OF CHANGE OF LAND USE

The . . . (name of local governmental unit) . . . proposes to change the use of land within the area shown in the map in this advertisement.

A public hearing on the proposal will be held on . . . (date and time) . . . at . . . (meeting place) . . ..

The advertisement shall also contain a geographic location map which clearly indicates the area covered by the proposal. The map shall include major street names as a means of identification of the area.

(16) COMPLIANCE AGREEMENTS.—

(a) At any time following the issuance of a notice of intent to find a comprehensive plan or plan amendment not in compliance with this part or after the initiation of a hearing pursuant to subsection (9), the state land planning agency and the local government may voluntarily enter into a compliance agreement to resolve one or more of the issues raised in the proceedings. Affected persons who have initiated a formal proceeding or have intervened in a formal proceeding may also enter into the compliance agreement. All parties granted intervenor status shall be provided reasonable notice of the commencement of a compliance agreement negotiation process and a reasonable opportunity to participate in such negotiation process. Negotiation meetings with local governments or intervenors shall be open to the public. The state land planning agency shall provide each party granted intervenor status with a copy of the compliance agreement within 10 days after the agreement is executed. The compliance agreement shall list each portion of the plan or plan amendment which is not in compliance, and shall specify remedial actions which the local government must complete within a specified time in order to bring the plan or plan amendment into compliance, including adoption of all necessary plan amendments. The compliance agreement may also establish monitoring requirements and incentives to ensure that the conditions of the compliance agreement are met.

(b) Upon filing by the state land planning agency of a compliance agreement executed by the agency and the local government with the Division of Administrative Hearings, any administrative proceeding under s. 120.57 regarding the plan or plan amendment covered by the compliance agreement shall be stayed.

(c) Prior to its execution of a compliance agreement, the local government must approve the compliance agreement at a public hearing advertised at least 10 days before the public hearing in a newspaper of general circulation in the area in accordance with the advertisement requirements of subsection (15).

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

(e) The state land planning agency, upon receipt of a plan amendment adopted pursuant to a compliance agreement, shall issue a cumulative notice of intent addressing both the compliance agreement amendment and the plan or plan amendment that was the subject of the agreement, in accordance with subsection (8).

(f) If the local government adopts a comprehensive plan amendment pursuant to a compliance agreement and a notice of intent to find the plan amendment in compliance is issued, the state land planning agency shall forward the notice of intent to the Division of Administrative Hearings and the pending s. 120.57 proceeding concerning the plan or plan amendment shall be dismissed by the hearing officer as to the department. Any affected person may challenge the plan or plan amendment which is the subject of the cumulative notice of intent by filing a petition with the agency as provided in subsection (9). If the local government adopts a comprehensive plan amendment pursuant to a compliance agreement and a notice of intent to find the plan amendment not in compliance is issued, the state land planning agency shall forward the notice of intent to the Division of Administrative Hearings, which shall consolidate the proceeding with the pending proceeding and immediately set a date for hearing in the pending s. 120.57 proceeding. Affected persons who are not a party to the underlying s. 120.57 proceeding may challenge the plan amendment adopted pursuant to the compliance agreement by filing a petition pursuant to subsection (9) or subsection (10).

(g) If the local government fails to adopt a comprehensive plan amendment pursuant to a compliance agreement, the state land planning agency shall notify the Division of Administrative Hearings, which shall set the hearing in the pending s. 120.57 proceeding at the earliest convenient time.

(h) This subsection does not prohibit a local government from amending portions of its comprehensive plan other than those which are the subject of the compliance agreement. However, such amendments to the plan may not be inconsistent with the compliance agreement.

(i) Nothing in this subsection is intended to limit the parties from entering into a compliance agreement at any time before the final order in the proceeding is issued, provided that the provisions of paragraph (c) shall apply regardless of when the compliance agreement is reached.

(j) Nothing in this subsection is intended to force any party into settlement against its will or to preclude the use of other informal dispute resolution methods, such as the services offered by the Florida Growth Management Dispute Resolution Consortium, in the course of or in addition to the method described in this subsection.

Section 8. Paragraph (c) of subsection (1) of section 163.3187, Florida Statutes, is amended, paragraphs (d) and (e) are added to said subsection, subsection (2) is amended, and subsection (5) is added to said section, 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 under the following conditions:

1. The proposed amendment is a residential land use of *10* ~~5~~ acres or less and a density of *10* ~~5~~ units per acre or less or involves other land use categories, singularly or in combination with residential use, of *10* ~~3~~ acres or less and:

a. The cumulative effect of the above *amendments* ~~condition~~ shall not exceed *60* ~~30~~ acres annually;

b. The proposed amendment does not involve the same property more than once a year; and

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

~~2. The local government shall provide a semiannual report to the state land planning agency by July 1 and by December 31 of each calendar year summarizing the type and frequency of use of the exemptions and the action taken on each by the local government; and~~

2.~~3.~~ A local government is not required to comply with the *quarter-page publication* requirements of s. 163.3184(15)(c), for plan amendments pursuant to this paragraph if the local government substantially complies with the *content* provisions in s. 163.3184(15)(c) in *an* ~~a legal~~ advertisement in a newspaper of general circulation within the local government's jurisdiction.

3. The state land planning agency may adopt rules to establish alternative procedures for public notice concerning plan amendments pursuant to this paragraph. The alternative notice procedure, which shall be in lieu of the requirements of subparagraph 2., shall:

a. Provide for widespread public notice in the affected jurisdiction.

b. Emphasize notice to the public in the area where public facilities and services, natural resources, recreational activities, and existing affordable housing may be affected by the proposed change.

c. Consider the cost of public notice as it relates to the size and type of development which the amendment would allow.

d. Not be in a legal advertisement.

4. Plan amendments adopted pursuant to paragraph (1)(c) *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 as provided herein. The state land planning agency shall conduct an abbreviated review without providing written comments and issue a notice of intent to find the plan amendment in compliance or not in compliance within 90 days of receipt of the amendment. Notice of the decision by the state land planning agency shall be published in a newspaper of general circulation within the local government's jurisdiction. The advertisement shall generally describe the location of the property and the current and any newly adopted designations for the property.* ~~shall not be subject to a review and determination of compliance by the state land planning agency until the local government has adopted a comprehensive plan pursuant to s. 163.3184. The state land planning agency shall prepare a report to the Legislature by January 1, 1988, setting forth its findings relating to the type and frequency of use of these exemptions and its recommendations.~~

(d) The process in s. 163.3184(9) shall apply if a notice of intent to find the plan amendment in compliance is issued. The process in s. 163.3184(10) shall apply if a notice of intent to find the plan not in compliance is issued. For purposes of the abbreviated review of adopted amendments pursuant to paragraph (c), the determination requirements in s. 163.3184(8)(a) shall not apply. Also, for amendments adopted pursuant to such abbreviated review, a person must have submitted oral or written comments, recommendations, or objections to the local government during the period of time between the date of advertisement of the public notice and the conclusion of the public hearing in order to qualify as an affected person.

(e) Any comprehensive plan amendment required by a compliance agreement pursuant to s. 163.3184(16) may be approved without regard to statutory limits on the frequency of adoption of amendments to the comprehensive plan.

(2) ~~The procedure for amendment of an adopted comprehensive plan or element shall be as for the original adoption of the comprehensive plan or element set forth in s. 163.3184.~~ Comprehensive plans may only be amended in such a way as to preserve the internal consistency of the plan pursuant to s. 163.3177(2). Corrections, updates, or modifications of current costs which were set out as part of the comprehensive plan shall not, for the purposes of this act, be deemed to be amendments.

(5) Nothing in this part is intended to prohibit or limit the authority of local governments to require that a person requesting an amendment pay some or all of the cost of public notice.

Section 9. Section 163.3189, Florida Statutes, is created to read:

163.3189 Alternative process for amendment of adopted comprehensive plan.—

(1) The procedure for amendment of an adopted comprehensive plan or element shall be as for the original adoption of the comprehensive plan or element set forth in s. 163.3184.

(2) Alternatively, a local government which has a comprehensive plan that has been found to be in compliance may elect to amend its comprehensive plan as set forth in s. 163.3184, with the following exceptions:

(a) Plan amendments shall not become effective until the state land planning agency issues a notice of intent to find the adopted amendment in compliance in accordance with s. 163.3184(9), or until the Administration Commission issues a final order finding the adopted amendment in compliance in accordance with s. 163.3184(10).

(b) If any affected person files a petition in accordance with s. 163.3184(9), the adopted amendment shall remain effective unless the hearing officer enters a preliminary determination that the effectiveness of the adopted amendment is stayed pending resolution of the administrative proceeding, or unless the Administration Commission enters a final order finding that the adopted plan amendment is not in compliance with this act. The hearing officer shall not determine that the effectiveness of the adopted amendment should be stayed unless he determines based upon affidavits, verified pleadings, or evidence presented at a preliminary hearing as follows:

1. That the petitioner will suffer immediate and irreparable injury unless the effectiveness of the adopted amendment is stayed.

2. That the petitioner has raised substantial issues as to whether the adopted amendment is in compliance with this act.

3. That the petitioner will suffer greater harm in the event that effectiveness of the amendment is not stayed than the local government will suffer if effectiveness of the amendment is stayed.

(c) If the Administration Commission, upon a hearing pursuant to s. 163.3184, finds that the adopted plan amendment is not in compliance with this act, the amendment shall no longer be effective, and the commission shall specify actions that would bring the plan amendment into compliance, but shall not direct that any funds be withheld from the local government in accordance with s. 163.3184(11).

(3) Plan amendments that are required to be adopted on account of revisions to this act that require adoption of additional elements or additional provisions in existing elements shall be adopted in accordance with s. 163.3184. The alternative procedure set forth in subsection (2) shall not be available for these plan amendments.

Section 10. Subsections (4) and (5) of section 163.3191, Florida Statutes, are amended to read:

163.3191 Evaluation and appraisal of comprehensive plan.—

(4) The governing body shall adopt, or adopt with changes, the report or portions thereof within 90 days after receiving it from the local planning agency. The governing body shall amend its comprehensive plan based on the recommendations contained in the adopted evaluation and appraisal report, pursuant to the procedures in ss. 163.3184, ~~and~~ 163.3187, *and 163.3189.* Amendments to the plan and the adoption of the report may be simultaneous. When amendments to the plan do not occur simultaneously with the adoption of the evaluation and appraisal report, the report shall contain a schedule for adoption of proposed amendments within 1 year after the report is adopted. The report shall be transmitted to the state land planning agency, with the related amendments when the amendments are transmitted pursuant to s. 163.3184.

(5) *The first periodic report for each local government shall be prepared not later than 6 years after the adoption of the comprehensive plan. Every other periodic report shall be prepared not more than an additional 5 years thereafter.* ~~A local government whose evaluation and appraisal report is due prior to the date that its revised plan is due pursuant to s. 163.3167(2) may notify the state land planning agency that it shall complete its evaluation and appraisal report in accordance with this section at the time specified or provided for submission of a revised comprehensive plan in compliance with this part. Upon such notification, the state land planning agency shall extend any due dates established pursuant to subsection (1).~~

Section 11. Section 163.3229, Florida Statutes, is amended to read:

163.3229 Duration of a development agreement *and relationship to local comprehensive plan.*—The duration of a development agreement shall not exceed *10* ~~5~~ years. It may be extended by mutual consent of the governing body and the developer, subject to a public hearing in accordance with s. 163.3225. *No development agreement shall be effective or be implemented by a local government unless the local government's comprehensive plan and plan amendments implementing or related to the agreement are found in compliance by the state land planning agency in accordance with s. 163.3184, s. 163.3187, or s. 163.3189.*

Section 12. Section 163.3235, Florida Statutes, is amended to read:

163.3235 Periodic review of a development agreement.—A local government shall review land subject to a development agreement at least once every 12 months to determine if there has been demonstrated good faith compliance with the terms of the development agreement. *For each annual review conducted during years 6 through 10 of a development agreement, the review shall be incorporated into a written report which shall be submitted to the parties to the agreement and the state land planning agency. The state land planning agency shall adopt rules regarding the contents of the report, provided that the report shall be limited to the information sufficient to determine the extent to which the parties are proceeding in good faith to comply with the terms of the development agreement.* If the local government finds, on the basis of substantial competent evidence, that there has been a failure to comply with the terms of the development agreement, the agreement may be revoked or modified by the local government.

Section 13. Section 163.3239, Florida Statutes, is amended to read:

163.3239 Recording *and effectiveness* of a development agreement.—Within 14 days after a local government enters into a development agreement, the local government shall record the agreement with the clerk of the circuit court in the county where the local government is located. A copy of the recorded development agreement shall be submitted to the state land planning agency within 14 days after the agreement is recorded. *A development agreement shall not be effective until it is properly recorded in the public records of the county and until 30 days after having been received by the state land planning agency pursuant to this section.* The burdens of the development agreement shall be binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

Section 14. Subsection (8) of section 163.516, Florida Statutes, is amended to read:

163.516 Safe neighborhood improvement plans.—

(8) Pursuant to ss. 163.3184, ~~and~~ 163.3187, *and 163.3189*, the governing body of a municipality or county shall hold two public hearings to consider the board-adopted safe neighborhood improvement plan as an amendment or modification to the municipality's or county's adopted local comprehensive plan.

Section 15. Paragraph (b) of subsection (6) and paragraphs (c) and (e) of subsection (19) of section 380.06, Florida Statutes, are amended to read:

380.06 Developments of regional impact.—

(6) APPLICATION FOR APPROVAL OF DEVELOPMENT; CONCURRENT PLAN AMENDMENTS.—

(b) Any local government comprehensive plan amendments related to a proposed development of regional impact may be initiated by a local planning agency and considered by the local governing body at the same time as the application for development approval using the procedures provided for local plan amendment in s. 163.3187 *or s. 163.3189* and applicable local ordinances, without regard to statutory or local ordinance limits on the frequency of consideration of amendments to the local comprehensive plan. Nothing in this paragraph shall be deemed to require favorable consideration of a plan amendment solely because it is related to a development of regional impact.

(19) SUBSTANTIAL DEVIATIONS.—

(c) An extension of the date of buildout of a development, or any phase thereof, by 5 or more years shall be presumed to create a substantial deviation subject to further development-of-regional-impact review. An extension of the date of buildout, or any phase thereof, of 3 years or more but less than 5 years shall be presumed not to create a substantial deviation. These presumptions may be rebutted by clear and convincing evidence at the public hearing held by the local government. For the purpose of calculating when a buildout date has been exceeded, the time shall be tolled during the pendency of administrative or judicial proceedings relating to development permits. *Any extension of the buildout date of a project or a phase thereof shall automatically extend the commencement date of the project and the phases thereof by a like period of time. Beginning on the effective date of this act and effective through December 31, 1994, the time periods contained in this paragraph are extended by 2 years.*

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

2. Except for a development order rendered pursuant to subsection (22) or subsection (25), a proposed change which, either individually or, if there were previous changes, cumulatively with those changes, is less than 40 percent of any numerical criterion in subparagraphs (b)1.-15. and does not exceed any other criterion, or which involves an extension of the date of buildout of a development or phase of a development by less than 3 years, is not a substantial deviation and is not subject to a public hearing pursuant to subparagraph (f)3. or a determination pursuant to subparagraph (f)5. Notice of the change shall be made to the regional planning council and the state land planning agency by providing them with the information required in subparagraph 4., including appropriate amendments to the development order, on forms to be adopted by the state land planning agency by rule. *Any extension of the buildout date of a project or a phase thereof shall automatically extend the commencement date of the project and the phases thereof by a like period of time. Beginning on the effective date of this act and effective through December 31, 1994, the time period contained in this subparagraph is extended by 2 years.*

3. Any addition of land not previously reviewed or any change not specified in paragraph (b) or paragraph (c) shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence.

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

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

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

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

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

Section 16. Paragraph (a) of subsection (8) of section 380.061, Florida Statutes, is amended to read:

380.061 The Florida Quality Developments program.—

(8)(a) Any local government comprehensive plan amendments related to a Florida Quality Development may be initiated by a local planning agency and considered by the local governing body at the same time as the application for development approval, using the procedures provided for local plan amendment in s. 163.3187 *or s. 163.3189* and applicable local ordinances, without regard to statutory or local ordinance limits on the frequency of consideration of amendments to the local comprehensive plan. Nothing in this subsection shall be construed to require favorable consideration of a Florida Quality Development solely because it is related to a development of regional impact.

Section 17. The state land planning agency is directed to evaluate the development-of-regional-impact program and the comprehensive planning process and recommend whether the development-of-regional-impact program should be replaced, repealed, or incorporated in whole or in part into the comprehensive planning process. In formulating its recommendations, the agency shall take into consideration the recommendations of the Environmental Land Management Study Committee concerning the appropriate role of the development-of-regional-impact process in the context of implementation of local comprehensive planning. The agency shall report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 1992.

Section 18. This act shall not affect the validity of any existing stipulated settlement agreement or the enforceability of any obligation created pursuant to such agreement. However, with the written consent of all parties to such agreement or their counsel, any provision of s. 163.3184(16)(d), (e), (f), or (g), Florida Statutes, may be used to adopt or review any plan amendment adopted pursuant to an agreement in existence on the effective date of this act.

Section 19. Dependent fire control districts.—As of October 1, 1992, the special acts of all special districts which have been identified as dependent districts in the 1991 official list of special districts required by s. 189.4035, and which provide fire control, prevention, and rescue services, or any combination thereof, are repealed, and such services shall become the responsibility of general-purpose local government.

Section 20. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 21. This act shall take effect upon becoming a law.

And the title is amended as follows:

In title, on page 1, line 30, strike everything before the enacting clause and insert: A bill to be entitled An act relating to local government planning and services; amending s. 163.3174, F.S.; providing duties of the local planning agencies regarding comprehensive plan amendments; amending ss. 163.3164 and 163.3221, F.S., to conform; revising the definition of "public facilities"; amending s. 163.3177, F.S.; specifying duties of special districts to submit public facilities reports; revising provisions relating to a limitation on challenges to ch. 9J-5, F.A.C.; providing legislative intent regarding innovative planning and development strategies; providing for implementation; creating s. 163.3179, F.S.; authorizing local governments to include in their comprehensive plans a provision allowing use of property by specified persons as a homestead, notwithstanding the density or intensity of use assigned to the property; amending s. 163.3184, F.S., relating to the process for adoption of comprehensive plans and plan amendments; revising a requirement to qualify as an "affected person"; revising procedures, requirements, and time periods relating to such process; providing limitations on alleging new issues in administrative pleadings; revising advertisement requirements; authorizing compliance agreements between the state land planning agency and local governments and providing requirements regarding actions required to bring a plan or plan amendment into compliance; providing effect on administrative proceedings; amending s. 163.3187, F.S.; revising requirements relating to comprehensive plan amendments that may be approved without regard to limits on the frequency of such amendments; deleting a requirement for a semiannual report; revising notice and hearing requirements; providing for abbreviated review; providing procedures for finding such amendments in compliance or not in compliance; providing that amendments required by a compliance agreement may be approved without regard to such limits; providing intent regarding costs of notice; creating s. 163.3189, F.S.; providing an alternative procedure for amendment of adopted comprehensive plans; amending s. 163.3191, F.S.; revising dates for preparation of periodic reports on a local government's comprehensive plan; amending s. 163 3229, F.S.; revising the period of duration of a development agreement under the Florida Local Government Development Agreement Act and providing requirements with respect thereto; amending s. 163.3235, F.S.; providing for a written report on the review of land subject to a development agreement; amending s. 163.3239, F.S.; specifying when a development agreement is effective; amending s. 380.06, F.S., relating to developments of regional impact; revising provisions which specify when an extension of the date of buildout is presumed to create a substantial deviation; providing that any extension of a buildout date automatically extends the commencement date of the project or phase thereof; providing for extension of time periods for a specified period; amending ss. 163.3167, 163.516, and 380.061, F.S.; conforming references; directing the state land planning agency to evaluate the development-of-regional-impact program and the comprehensive planning process and make a report and recommendations with respect thereto; specifying effect on existing stipulated settlement agreements; repealing the special acts for all dependent fire control and rescue service districts and providing for assumption of responsibilities by local governments; providing for severability; providing an effective date.

Senator Grizzle moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A—On page 35, strike all of lines 16-18 and insert: services, or any combination thereof, are repealed and shall become ordinances of the local general-purpose government to which the district is dependent, subject to reenactment, modification, or repeal as other ordinances.

Amendment 1 as amended was adopted.

On motion by Senator Grizzle, by two-thirds vote **CS for SB 1882** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37 Nays—None

Consideration of **CS for CS for SB 2100** was deferred.

The Senate resumed consideration of—

SB 764—A bill to be entitled An act relating to public libraries; amending s. 257.171, F.S.; providing for multicounty libraries rather than regional libraries; amending s. 257.172, F.S.; revising provisions relating to state grants to libraries; providing for use of funds and computation and adjustment of grants; amending s. 257.18, F.S.; revising provisions relating to the computation of equalization grants; creating s 257 195, F.S.; providing procedures in the event of revenue shortfalls; providing an effective date.

—which had been considered and amended March 10.

On motion by Senator Kirkpatrick, by two-thirds vote **SB 764** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—31 Nays—4

CS for CS for SB 2122—A bill to be entitled An act relating to air pollution control; amending s. 403.031, F.S.; providing definitions; amending s. 403.087, F.S.; limiting air pollution source operation permits; creating s. 403.0872, F.S.; providing for operation permits and license fees for major air pollution sources; providing application procedures; providing for administrative hearings; providing uses of license fee revenues; creating s. 403.0873, F.S.; creating the Florida Air Operation License Fee Account; providing for deposit of certain license fees into the fund account and specifying uses of account revenues; amending s. 403.0876, F.S.; providing for application of certain conditions to operation permits for certain air pollution sources; amending s. 403.507, F.S.; providing for

submitting certain Department of Environmental Regulation recommendations and reports to the United States Environmental Protection Agency; amending s. 403.509, F.S.; providing for time of effect of certain air pollution operation permits; requiring certified electrical power plants to apply for and obtain a major source air pollution operation permit; amending s. 403.516, F.S.; authorizing the department to modify certain conditions of site certification for electrical power plants; creating s. 403.5175, F.S.; providing for certification of existing electric power plants for purposes of certain permits; providing procedures; amending s. 403.518, F.S.; requiring an operator of an electrical power plant to pay an annual operation license fee; providing for deposit of the fee; creating s. 403.8051, F.S.; creating the Small Business Air Pollution Compliance Advisory Council; providing for membership and duties; creating s. 403.8052, F.S.; requiring the Department of Environmental Regulation to conduct a small business stationary air pollution source technical and environmental compliance assistance program; providing for program content and management; requiring the department to provide small business stationary air pollution sources notice of compliance rights and department rules; authorizing certain air pollution sources to petition the department for inclusion in the program; amending s. 325.222, F.S.; revising definitions; amending s. 325.223, F.S.; prohibiting the sale of certain refrigerants; eliminating obsolete dates; amending s. 403.0885, F.S.; reestablishing a date by which the Department of Environmental Regulation must seek federal approval to operate a National Pollutant Discharge Elimination System; prohibiting the processing of applications or issuance of permits prior to July 1, 1993; providing an appropriation; providing an effective date.

—was read the second time by title.

Senator Thomas offered the following amendment which was moved by Senator Kirkpatrick and adopted:

Amendment 1 (with Title Amendment)—On page 39, between lines 5 and 6, insert:

Section 18. (1) It is the intent of the Legislature to vigorously protect and restore the environment of this state. However, the Legislature recognizes that in some instances such protection and restoration efforts may adversely affect the local economy in certain areas and the present and future revenue sources of the local government in such areas. Further, it is the intent of the Legislature to minimize such adverse economic impacts.

(2) To the greatest extent practicable, and where consistent with criteria otherwise set forth by law, a state agency which awards or recommends any grant, loan, or other financial aid to municipalities or counties is encouraged to give preferential consideration to municipalities or counties which have been adversely affected by an environmental cleanup initiative conducted by a state or regional agency.

Section 19. Paragraph (a) of subsection (1) of section 403.914, Florida Statutes, is amended to read:

403.914 Jurisdictional declaratory statements.—

(1) Before applying for a permit to dredge or fill, a property owner, an entity which has the power of eminent domain, or another person with a legal or equitable interest in property may petition the department for a declaratory statement of the dredge and fill jurisdiction of the department. The department shall, by rule, specify information which must be provided and may require authorization to enter upon the property. The department may require a fee of at least $250 and not more than $10,000 to cover the direct costs of acting upon the petition. The fee shall be based, by rule, upon the size and environmental complexity of the site for which the jurisdictional declaratory statement is sought.

(a) Within 30 days of the receipt of a petition for a jurisdictional declaratory statement, the department shall notify the applicant of any additional information which may be necessary. The department shall complete the assessment and issue notice of the proposed agency action within 60 days of receipt of a complete petition. *Notwithstanding any provision of s. 120.60, the department may publish or by rule may require the applicant to publish, or the applicant may elect to publish, in a newspaper of general circulation in the area affected, the notice of the proposed agency action.* ~~The notice shall be published by the petitioner in the Florida Administrative Weekly.~~ The provisions of ss. 120.57 and 120.59 are applicable to declaratory statements under this section. Any person whose substantial interests will be affected may petition for a hearing within 14 days of the publication of notice. If no petition for a hearing is filed, the department shall issue the jurisdictional declaratory statement within 10 days.

Section 20. Paragraph (b) of subsection (2) of section 403.918, Florida Statutes, is amended and subsection (5) is added to said section to read:

403.918 Criteria for granting or denying permits.—

(2) A permit may not be issued under ss. 403.91-403.929 unless the applicant provides the department with reasonable assurance that the project is not contrary to the public interest. However, for a project which significantly degrades or is within an Outstanding Florida Water, as provided by department rule, the applicant must provide reasonable assurance that the project will be clearly in the public interest.

(b) If the applicant is unable to otherwise meet the criteria set forth in this subsection, the department, in deciding to grant or deny a permit, shall consider measures proposed by or acceptable to the applicant to mitigate adverse effects which may be caused by the project. If the applicant is unable to meet water quality standards because existing ambient water quality does not meet standards, the department shall consider mitigation measures proposed by or acceptable to the applicant that cause net improvement of the water quality in the receiving body of water for those parameters which do not meet standards. ~~Reclamation and restoration programs conducted pursuant to s. 211.32 may be considered as mitigation to the extent that they restore or improve the water quality and the type, nature, and function of biological systems present at the site prior to the commencement of mining activities. The department shall conduct a study of ongoing mitigation measures imposed on individual permitted activities. The study shall indicate the acreage of wetlands statewide permitted to be created or enhanced and shall include an analysis of a representative number of different types of mitigation sites. The study shall indicate the effectiveness of each type of mitigation, the reasons observed for the success or failure of the mitigation, and any need for improvement of the existing permitting, compliance, and enforcement process that would require additional legislation to protect the state's wetlands. Recommendations for legislation shall also include proposed funding sources. The study, including proposed funding sources, shall be completed, and a copy shall be submitted to the Governor, the Speaker of the House of Representatives, and the President of the Senate, by January 15, 1991.~~

(5) PERMITS FOR MINING ACTIVITIES.—

(a) The Legislature recognizes that some mining activities that may occur in waters of the state must leave a deep pit as part of the reclamation. Such deep pits may not meet the established water quality standard for dissolved oxygen below the surficial layers. Where such mining activities otherwise meet the permitting criteria contained in this statute, these activities may be eligible for a variance from the established water quality standard for dissolved oxygen within the lower layers of the reclaimed pit.

(b) Wetlands reclamation activities for phosphate and heavy minerals mining undertaken pursuant to chapter 378 shall be considered appropriate mitigation for this chapter and part IV of chapter 373, if they maintain or improve the water quality and the function of the biological systems present at the site prior to the commencement of mining activities.

(c) Wetlands reclamation activities for fuller's earth mining undertaken pursuant to chapter 378 shall be considered appropriate mitigation for this chapter and part IV of chapter 373, if they maintain or improve the water quality and the function of the biological systems present at the site prior to the commencement of mining activities, unless the site features make such reclamation impracticable, in which case the reclamation must offset the project's adverse impacts on surface waters, including wetlands.

(d) On-site reclamation of the mine pit for limerock and sand mining shall be conducted in accordance with the requirements of chapter 378.

1. Mitigation activities must offset the project's adverse impacts on surface waters. Mitigation activities shall be located on-site, unless on-site mitigation activities are not feasible, then off-site mitigation as close to the activities as possible shall be required. Mitigation banking may be an acceptable form of off-site mitigation, as judged on a case-by-case basis.

2. The ratio of mitigation to wetlands loss shall be determined on a case-by-case basis, and shall be based on the quality of the wetland to be impacted and the type of mitigation proposed.

Section 21. (1) The Legislature recognizes that deposits of limestone and sand suitable for production of construction aggregates, cement, and road base materials are located in limited areas of the state.

(2) The Legislature recognizes that the deposit of limestone available in South Florida is limited due to urbanization to the east and the Everglades to the west, and that the area generally bounded by the Florida Turnpike to the east, the Dade-Broward County line to the north, Krome Avenue to the west and Tamiami Trail to the south is one of the few remaining high-quality deposits in the state available for recovery of limestone, and that the Dade County 1985 Northwest Wellfield Protection Plan encourages limestone quarrying activity in lieu of urban development in this area.

(3) The Northwest Dade County Freshwater Lake Plan Implementation Committee shall be appointed by the governing board of the South Florida Water Management District to develop a strategy for the design and implementation of the Northwest Dade County Freshwater Lake Plan. The committee shall be comprised of 13 members, consisting of the chairman of the governing board or his designee of the South Florida Water Management District, who shall serve as chair of the committee, the policy director of Environmental and Growth Management in the Office of the Governor, the secretary or his designee of the Department of Environmental Regulation, the director of the Division of Resource Management of the Department of Natural Resources, the director of the Department of Environmental Resource Management of Dade County, the Director of Planning in Dade County, a representative of the Friends of the Everglades, a representative of the Florida Audubon Society, a representative of the Florida chapter of the Sierra Club, and four representatives from the limestone mining industry to be appointed by the governing board of the South Florida Water Management District.

(4) The committee shall develop a plan which (1) enhances the water supply for Dade County and the Everglades, (2) maximizes efficient recovery of limestone while promoting the social and economic welfare of the community and protecting the environment, and (3) educates various groups and the general public of the benefits of the plan.

(5) The committee shall report to the governing board of the South Florida Water Management District four times per year. The plan shall be presented to the board for public hearing by December 31, 1993. The plan shall include the committee's recommendations for legislative and regulatory revisions. By December 31, 1992, the committee shall present an interim report of its activities and findings to the Legislature. The report shall contain a recommendation on whether to extend the exemption under s. 403.913(8), Florida Statutes, setting out the environmental, economic, and other considerations on which the recommendation is based.

(6) After completion of the plan, the committee shall continue to assist in its implementation and shall report to the governing board of the South Florida Water Management District semiannually.

(7) In carrying out its work, the committee shall solicit comments from scientific and economic advisors and governmental, public, and private interests. The committee shall provide meeting notes, reports, and the strategy document in a timely manner for public comment.

(8) The committee is authorized to seek from the agencies or entities represented on the committee any grants or funds necessary to enable it to carry out its charge.

(9) This section is repealed January 1, 1996.

And the title is amended as follows:

In title, on page 2, line 30, after "appropriation;" insert: providing legislative intent; amending s. 403.914, F.S.; providing for publishing in certain newspapers notice of proposed agency action relating to jurisdictional declaratory statements; amending s. 403.918, F.S.; providing special consideration for permitting and mitigation of certain mining activities; providing a mechanism to assist in the coordinated development of the Northwest Dade County Freshwater Lake Plan;

Senator Childers offered the following amendments which were moved by Senator Kirkpatrick and adopted:

Amendment 2—On page 31, between lines 13 and 14, insert a new section:

Section . Section 366.825, Florida Statutes, is created to read:

366.825 Clean Air Act compliance; definitions; goals; plans.—

(1) For the purposes of this section, reference to the "Clean Air Act" means 42 U.S.C. s. 7401, et. seq. as the same may hereinafter be amended and any related state or local legislation.

(2) Each public utility which owns or operates at least one electric generating unit affected by Section 404 or 405 of the Clean Air Act may submit, for commission approval, a plan to bring generating units into compliance with the Clean Air Act. A plan to implement compliance submitted by public utilities must include, at a minimum:

(a) The number and identity of affected generating units;

(b) A description of the proposed action, and alternative actions considered by the public utility, to reduce sulfur dioxide emissions to levels required by the Clean Air Act at each affected unit;

(c) A description of the proposed action, and alternative actions considered by the public utility, to comply with nitrogen oxide emission rates required by the Clean Air Act at each affected unit;

(d) Estimated effects of the public utility's proposed plan on the following:

1. Requirements for construction and operation of proposed or alternative facilities;

2. Achievable emissions reductions and methods for monitoring emissions;

3. The public utility's proposed schedule for implementation of compliance activities;

4. The estimated cost of implementation of the public utility's compliance plan to the utility's customers;

5. The public utility's present and potential future sources of fuel; and

6. A statement of why the public utility's proposed compliance plan is reasonable and in the public interest.

(e) A description of the proposed actions to comply with federal, state, and local requirements to implement the Clean Air Act.

(3) The commission shall review a plan to implement Clean Air Act compliance submitted by the public utilities pursuant to this section in order to determine whether such plans, the costs necessarily incurred in implementing such plans, and any effect on rates resulting from such implementation are in the public interest. The commission shall by order approve or disapprove plans to implement compliance submitted by public utilities within 8 months after the date of filing. Approval of a plan submitted by a public utility shall establish that the utility's plan to implement compliance is prudent and the commission shall retain jurisdiction to determine in a subsequent proceeding that the actual costs of implementing the compliance plan are reasonable; provided, however, that nothing in this section shall be construed to interfere with the authority of the Department of Environmental Regulation to determine whether a public utility is in compliance with s. 403.087 and s. 403.0872 or the State Air Implementation Plan for the Clean Air Act.

(Renumber subsequent sections.)

Amendment 3—In title, on page 2, line 6, after the semicolon (;) insert: creating s. 366.825, F.S.; creating definitions and procedures for submission and review of public utility plans to implement Clean Air Act compliance;

Senators Grizzle and Weinstock offered the following amendments which were moved by Senator Grizzle and adopted:

Amendment 4—On page 39, between lines 5 and 6, insert:

Section 23. Subsection (6) of section 320.03, Florida Statutes, is amended to read:

320.03 Registration; duties of tax collectors; International Registration Plan.—

(6) A nonrefundable fee of $1 shall be charged on every license registration sold, transferred, or replaced. *This fee must* ~~Such fees shall~~ be deposited in the Air Pollution Control Trust Fund established in the Department of Environmental Regulation and used only for purposes of

air pollution control pursuant to chapter 403, except that, if any county has an approved local air pollution control program as provided in s. 403.182, 50 cents of the fee from each license registration sold in the county *must* ~~shall~~ be returned to *that* ~~such~~ county for deposit into a local air pollution control program trust fund, which *must* ~~shall~~ be established by *the* ~~such~~ county and used only for air pollution control programs relating to the control of emissions from mobile sources and toxic and odor emissions, air quality monitoring, and facility inspections pursuant to chapter 403 or any similar local ordinance. Beginning in fiscal year 1992-1993, any county that has a Department of Environmental Regulation approved local air pollution control program shall receive 75 cents of the fee from each license registration sold, transferred, or replaced in the county. *However, if,* ~~unless~~ the approved local air pollution control program trust fund has an unencumbered balance *at the end of the preceding fiscal year* of more than *50* ~~10~~ percent of the *preceding* ~~prior~~ year's allocation from the fees authorized in this subsection, *the department may, after consultation with* ~~in which case~~ the approved local air pollution control program, *retain any amount above* ~~shall receive~~ 50 cents of the fees from each license registration sold, transferred, or replaced in the county *for the following fiscal year.* The Department of Environmental Regulation is authorized to adopt rules necessary to implement ~~the provisions of~~ this subsection.

(Renumber subsequent section.)

Amendment 5—In title, on page 2, line 30, after the semicolon (;) insert: amending s. 320.03, F.S.; providing for distribution of additional air quality tag fee revenues to approved local air pollution programs under certain circumstances;

On motion by Senator Kirkpatrick, by two-thirds vote **CS for CS for SB 2122** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—31 Nays—1

HM 129—A memorial to the Congress of the United States, urging Congress to propose an amendment to the Constitution of the United States relating to the physical desecration of the American Flag.

—was read the second time in full. On motion by Senator Thurman, **HM 129** was adopted and certified to the House. The vote on adoption was:

Yeas—34 Nays—None

On motions by Senator Thomas, by two-thirds vote **CS for HB 1723** was withdrawn from the Committees on Commerce and Appropriations.

On motion by Senator Thomas—

CS for HB 1723—A bill to be entitled An act relating to insurance; creating s. 627.707, F.S.; establishing minimum standards for investigation of sinkholes by insurers; prohibiting nonrenewal of homeowner policies under certain conditions; providing for a study of sinkhole activities and insurance coverage of sinkholes; amending s. 213.053, F.S.; authorizing the Insurance Commissioner to receive information; amending s. 624.610, F.S.; revising procedures with respect to certain summary statements; requiring the Department of Insurance to adopt certain rules in conformance with certain manuals; creating s. 626.032, F.S.; defining "administrative agent"; providing for continuing education; providing for designation; providing application fees; amending s. 626.072, F.S.; providing reference to an agency; amending s. 626.091, F.S.; excluding certain attorneys from the definition of managing general agent; amending s. 626.281, F.S.; providing for application for reexamination; providing for fees; amending s. 626.2815, F.S.; requiring sponsors of continuing education courses to provide certain information; providing an exemption from continuing education requirements; amending s. 626.381, F.S.; providing for renewal of appointments in birth month; amending s. 626.551, F.S.; requiring notice of changes in street or mailing addresses; amending s. 626.601, F.S.; providing confidentiality of certain investigative information; amending ss. 626.611 and 626.621, F.S.; applying certain departmental referral, suspension, revocation, or denial of a license or application to customer representatives; amending s. 626.631, F.S.; providing for revocation of licenses and appointments upon conviction of a felony; providing for hearings, amending s. 626.641, F.S.; clarifying prohibited activities by former agents; amending s. 626.7351, F.S.; deleting a requirement for qualification for a customer representative's license; amending s. 626.7352, F.S.; clarifying provisions relating to customer representative's officer; amending s. 626.7353, F.S.; providing for appointment of a customer representative by a general lines agency; amending ss. 626.7851 and 626.8311, F.S.; providing additional qualifications for licensure as a life agent or a life and health agent; amending s. 626.837, F.S.; clarifying provisions relating to excess or rejected business; amending s. 626.8373, F.S.; specifying certain types of health insurance with respect to overinsurance; creating ss. 626.8695, 626.8696, and 626.8697, F.S.; providing for the licensure of primary adjusters and adjustment firms; providing for refusal, suspension, or revocation of adjusting firm licenses; amending s. 626.891, F.S.; clarifying provisions relating to suspending or revoking certificates of authority of administration; amending ss. 626.916 and 626.918, F.S.; requiring certain statements rather than affidavits; amending ss. 626.931, 626.932, 626.936, and 626.938, F.S.; specifying the format and content of certain reports; providing for interest on delinquent taxes; amending s. 626.9361, F.S.; providing for an administrative fine for failing to file a quarterly report; providing for deposit of such fines; amending s. 626.939, F.S.; requiring production of certain records under certain circumstances; amending s. 626.9521, F.S.; providing for fines for unfair trade practices; amending s. 626.9541, F.S.; defining unfair trade practices; including impaired insurers in provisions relating to unfair trade practices; including certain exercise of the power of attorney and sliding as unfair competition or deceptive acts; amending s. 627.4085, F.S.; requiring certain information on applications for insurance; creating s. 626.7491, F.S.; creating the Business Transacted with Producer Controlled Property or Casualty Insurer Act; providing definitions; providing applicability; providing minimum standards; providing for required contract provisions; providing for audit committees; providing for reporting requirements; providing penalties; providing disclosure requirements; creating s. 626.7492, F.S.; creating the Reinsurance Intermediary Act; providing definitions; providing for licensure; specifying certain contract provisions for reinsurance brokers; requiring certain recordkeeping; providing duties of insurers using reinsurance intermediary brokers; specifying certain contract provisions for reinsurance intermediary managers; prohibiting certain activities of reinsurance intermediary managers; providing duties of certain reinsurers; providing for examination of reinsurance intermediaries by the Department of Insurance; providing penalties; amending s. 626.171, F.S.; providing for application to reinsurance intermediaries; amending s. 626.521, F.S.; providing for character reports for reinsurance intermediaries; amending s. 624.501, F.S.; providing license and appointment fees for reinsurance intermediaries; providing an effective date.

—a companion measure, was substituted for **CS for SB 1998** and read the second time by title. On motion by Senator Thomas, by two-thirds vote **CS for HB 1723** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

CS for SB 994—A bill to be entitled An act relating to autism and other disabilities or impairments; establishing centers at Florida State University, the University of South Florida, and the University of Miami to provide resources and services for persons who have autism and disabilities of communication and behavior; requiring each center to provide services within its geographical area; specifying services to be provided by the centers; providing an appropriation; providing for allocating the appropriation; providing an effective date.

—was read the second time by title.

On motion by Senator Forman, further consideration of **CS for SB 994** was deferred.

CS for SB's 1262 and 1326—A bill to be entitled An act relating to student financial aid; amending ss. 240.402, 240.408, F.S.; consolidating the Florida Undergraduate Scholars' Fund program and the Challenger Astronauts Memorial Undergraduate Scholarship Program to provide a Challenger award to the top Florida Undergraduate Scholars' Fund applicant from each county which will be partially funded from the Challenger Astronauts Memorial Undergraduate Scholarship Trust Fund; standardizing the amount of all other Florida Undergraduate Scholars' Fund awards and revising provisions relating to application therefor; deleting a reporting requirement; amending s. 240.4021, F.S.; revising the eligibility requirements and application procedures for scholarships from the Vocational Gold Seal Endorsement Scholarship Program; amending s. 240.4023, F.S., relating to funding for the Vocational Gold Seal Endorsement Scholarship Program and the Vocational Achievement Grant Program; amending s. 240.404, F.S.; revising provisions relating to residency requirements for state financial aid awards; specifying that students may receive only one state merit scholarship;

creating s. 240.4063, F.S.; consolidating the "Chappie" James Most Promising Teacher Scholarship Loan Program, the Critical Teacher Shortage Scholarship Loan Program, and the Masters' Fellowship Loan Program for Teachers into the Florida Teacher Scholarship and Forgivable Loan Program; providing for "Chappie" James Most Promising Teacher Scholarships to promising students and teacher forgivable loans to students enrolled in certain undergraduate or graduate level programs leading to certification in a critical teacher shortage area; specifying program criteria and student and institutional eligibility; providing for loan repayment; amending s. 240.4065, F.S.; revising provisions relating to expenditures from the Critical Teacher Shortage Trust Fund; amending s. 240.4069, F.S., relating to Virgil Hawkins Fellows Scholarships; providing for state matching of private grants; amending s. 240.409, F.S.; revising provisions relating to the Florida Public Student Assistance Grant Fund; amending s. 240.424, F.S.; directing the Department of Education to request sufficient funds for need-based student financial aid to offset student fee increases recommended by the Board of Regents and State Board of Community Colleges; amending s. 240.437, F.S., relating to student financial aid planning and development; conforming cross-references; providing for the repeal of certain financial assistance programs under certain circumstances; providing Department of Education duties related thereto; amending s. 240.4985, F.S.; revising institutional eligibility requirements for the Good-Gulfstream Trust Fund for Higher Education; providing for rules for student eligibility; creating s. 240.606, F.S.; consolidating the provisions of the college career work experience program and the public school work experience program into the Florida Work Experience Program; specifying program criteria and student and institutional eligibility; establishing a trust fund; amending s. 231.62, F.S.; conforming cross-references; establishing the occupational therapist or physical therapist critical shortage program; providing purpose; providing for loan forgiveness, scholarship loan, and tuition reimbursement programs; providing for eligibility, amount of awards, repayment, and default penalties; creating a trust fund; providing for rules; providing for implementation; repealing s. 240.403, F.S., relating to the Ex-Confederate Soldiers' and Sailors' Home Endowment Trust Fund; providing for return of the balance of the trust fund to Daughters of the Confederacy; repealing ss. 240.4062, 240.4066, 240.4068, 240.60, 240.601, 240.602, 240.603, 240.604, F.S., relating to the Critical Teacher Scholarship Loan Program, the Masters' Fellowship Loan Program for Teachers, the "Chappie" James Most Promising Teacher Scholarship Loan Program, the college career work experience program and trust fund, and the public school work experience program; providing effective dates.

—was read the second time by title. On motion by Senator Meek, by two-thirds vote **CS for SB's 1262 and 1326** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

CS for HB 1299—A bill to be entitled An act relating to marine animals; amending s. 370.081, F.S.; permitting a zoological park and aquarium to import sea snakes for exhibition purposes under certain circumstances; amending s. 370.142, F.S., relating to the spiny lobster trap certificate program; delaying dates for implementation of various aspects of the program; revising provisions relating to trap tags, including applicable fees; providing penalties for certain subsequent violations; providing for deposit of the proceeds of certain fines; providing for interim appointments to the Trap Certificate Technical Advisory and Appeals Board; revising provisions relating to actions of the board; increasing the number of certificates that the board may allot; providing an appropriation; amending s. 370.06, F.S.; providing for the issuance of a restricted species endorsement under certain circumstances; providing effective dates.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote **CS for HB 1299** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—2

Consideration of **CS for SB 894** was deferred.

On motions by Senator Johnson, by two-thirds vote **CS for CS for HB's 1177 and 1045** was withdrawn from the Committees on Education and Appropriations.

On motion by Senator Johnson, by unanimous consent—

CS for CS for HB's 1177 and 1045—A bill to be entitled An act relating to student financial aid; amending ss. 240.402 and 240.408, F.S.; consolidating the Florida Undergraduate Scholars' Fund program and the Challenger Astronauts Memorial Undergraduate Scholarship Program to provide a Challenger award to the top Florida Undergraduate Scholars' Fund applicant from each county which will be partially funded from the Challenger Astronauts Memorial Undergraduate Scholarship Trust Fund; standardizing the amount of all other Florida Undergraduate Scholars' Fund awards and revising provisions relating to application therefor; deleting a reporting requirement; amending s. 240.4021, F.S.; revising the eligibility requirements and application procedures for scholarships from the Vocational Gold Seal Endorsement Scholarship Program; amending s. 240.4023, F.S., relating to funding for the Vocational Gold Seal Endorsement Scholarship Program and the Vocational Achievement Grant Program; amending s. 240.404, F.S.; revising provisions relating to residency requirements for state financial aid awards; specifying that students may receive only one state merit scholarship; creating s. 240.4063, F.S.; consolidating the "Chappie" James Most Promising Teacher Scholarship Loan Program, the Critical Teacher Shortage Scholarship Loan Program, and the Masters' Fellowship Loan Program for Teachers into the Florida Teacher Scholarship and Forgivable Loan Program; providing for "Chappie" James Most Promising Teacher Scholarships to promising students and teacher forgivable loans to students enrolled in certain undergraduate or graduate level programs leading to certification in a critical teacher shortage area; specifying program criteria and student and institutional eligibility; providing for loan repayment; amending s. 240.4065, F.S.; revising provisions relating to expenditures from the Critical Teacher Shortage Trust Fund; amending s. 240.4069, F.S., relating to Virgil Hawkins Fellows Scholarships; providing for state matching of private grants; amending s. 240.409, F.S.; revising provisions relating to the Florida Public Student Assistance Grant Fund; amending s. 240.424, F.S.; directing the Department of Education to request sufficient funds for need-based student financial aid to offset student fee increases recommended by the Board of Regents and State Board of Community Colleges; amending s. 240.437, F.S., relating to student financial aid planning and development; correcting cross references; providing for the repeal of certain financial assistance programs under certain circumstances; providing Department of Education duties related thereto; amending s. 240.4985, F.S.; revising institutional eligibility requirements for the Good-Gulfsteam Trust Fund for Higher Education; providing for rules for student eligibility; creating s. 240.606, F.S.; consolidating the provisions of the college career work experience program and the public school work experience program into the Florida Work Experience Program; specifying program criteria and student and institutional eligibility; establishing a trust fund; amending s. 231.62, F.S.; correcting cross references; repealing s. 240.403, F.S., relating to the Ex-Confederate Soldiers' and Sailors' Home Endowment Trust Fund; providing for return of the balance of the trust fund to Daughters of the Confederacy; repealing ss. 240.4062, 240.4066, 240.4068, 240.60, 240.601, 240.602, 240.603, and 240.604, F.S., relating to the Critical Teacher Scholarship Loan Program, the Masters' Fellowship Loan Program for Teachers, the "Chappie" James Most Promising Teacher Scholarship Loan Program, the college career work experience program and trust fund, and the public school work experience program; establishing the occupational therapist or physical therapist critical shortage program; providing purpose; providing for loan forgiveness, scholarship loan, and tuition reimbursement programs; providing for eligibility, amount of awards, repayment, and default penalties; creating a trust fund; providing for rules; providing for implementation; creating the Theodore R. and Vivian M. Johnson Scholarship Program and Trust Fund; providing effective dates.

—was taken up out of order and read the second time by title. On motion by Senator Johnson, by two-thirds vote **CS for CS for HB's 1177 and 1045** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32 Nays—None

CS for SB 540—A bill to be entitled An act relating to education; amending s. 246.011, F.S.; providing legislative purpose; amending s. 246.021, F.S.; revising definitions and providing additional definitions; amending s. 246.031, F.S.; revising the membership of the State Board of Independent Colleges and Universities; requiring the board to appoint a standing advisory committee; providing for the terms of the present board to expire; requiring the Governor to appoint a new board; amending s. 246.041, F.S.; providing additional powers and duties of the board; authorizing the board to impose certain fines; amending s. 246.081, F.S.; revising licensing requirements for nonpublic colleges; requiring the

board to review accreditation standards established by organizations that accredit colleges in the state; requiring certain degrees to disclose the nature of certain programs; amending s. 246.085, F.S.; revising provisions granting certain colleges an exemption from licensing requirements; creating s. 246.086, F.S.; requiring certain colleges to obtain an authorization to operate; providing for annual review of secular and nonsecular degree titles; amending s. 246.087, F.S.; revising certain licensing requirements for colleges and agents that represent colleges; amending s. 246.091, F.S.; revising provisions relating to temporary and provisional licenses, amending s. 246.095, F.S.; revising requirements for disclosures to be made to prospective students; requiring the board to review accreditation standards for such disclosure; amending s. 246.111, F.S.; requiring the board to adopt rules for taking certain disciplinary actions; amending s. 246.121, F.S.; revising circumstances under which certain nonlicensed colleges may use the designation "college" or "university"; amending s. 246.203, F.S.; requiring certain vocational programs to be subject to rules of the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools; requiring that certain public postsecondary degrees must disclose the nature of certain programs; amending s. 232.02, F.S.; requiring that certain public and nonpublic high school diplomas must disclose the nature of certain programs; requiring that certain community college or university diplomas disclose the nature of certain programs; amending s. 246.215, F.S.; requiring that certain independent school diplomas disclose the nature of certain programs; reviving and readopting provisions of ch. 246, F.S., notwithstanding repeals scheduled under the Regulatory Sunset Act; repealing s. 246.051, F.S., relating to powers of the State Board of Independent Colleges and Universities; providing an effective date.

—was read the second time by title.

Senator Walker moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. Section 246.011, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 246.011, F.S., for present text.)

246.011 Purpose and scope.—

(1) The Legislature encourages privately supported higher education and intends to aid in protecting the integrity of academic degrees conferred by privately supported colleges. Sections 246.011-246.151 are intended to aid in protecting the health, education, and welfare of persons who receive educational services and degrees from nonpublic colleges in this state; to aid in protecting employers and others who depend upon people whose educational credentials are from nonpublic colleges in this state; and to aid in protecting nonpublic colleges that currently operate or intend to begin operating in this state. The Legislature finds that both individuals and colleges benefit from a state system that assures that all nonpublic colleges satisfactorily meet minimum educational standards. The Legislature encourages the use of standards set by regional accrediting associations as general guidelines for nonpublic colleges that operate in the state.

(2) The Legislature recognizes that a degree serves several purposes. Employers rely upon a person's degree in judging his qualifications for employment. Educators rely upon a person's degree to determine whom to admit or permit to continue the pursuit of educational or occupational goals. Therefore, the Legislature intends the provisions of ss. 246.011-246.151 to aid in protecting the integrity of degrees offered by nonpublic colleges by providing minimum requirements for the educational activities that lead to degrees. The Legislature does not wish to oversee or interfere with any effort to teach or learn, unless that effort is intended to result in the award of a secular degree as defined in s. 246.021. Therefore, ss. 246.011-246.151 do not regulate educational programs leading to nonsecular degrees granted by colleges offering only ecclesiastical programs, but assure minimum educational standards for educational programs that lead to secular degrees offered by any college, including colleges operated by religious institutions.

(3) A nonpublic college that offers both academic degrees and vocational certificates or diplomas is subject to the rules of the State Board of Independent Colleges and Universities as provided by ss. 246.011-246.151 and the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools as provided by ss. 246.201-246.231. If a college offers a vocational program that prepares students for a specific occupation or occupations, that program is subject to rules of the State Board of Independent Postsecondary Vocational, Technical, Trade, or Business Schools if the program leads to a degree rather than a diploma and a counterpart to the program is offered in the public school system which leads to a vocational certificate rather than an award of college credit. The State Board of Independent Colleges and Universities shall consult with the Department of Education to determine if any vocational program leading to a degree offered by a nonpublic college is a counterpart to any such vocational program offered in the public school system and, upon any such finding, shall report the program offered by the nonpublic college to the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools for licensing. However, a college may provide a student transcript that records progress toward a degree without becoming subject to rules of the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools if the program has no counterpart at a public college or university or if the program's counterpart at a public college or university results in a degree rather than a diploma.

Section 2. Section 246.021, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 246.021, F.S., for present text.)

246.021 Definitions.—As used in ss. 246.011-246.151, the term:

(1) "Agent" means a person who is employed by a college that is subject to the licensing requirements provided in ss. 246.081, 246.091, and 246.095, or an out-of-state college, and who solicits business for the college at any place other than the legal place of business of the college. The term does not include an entertainer at a public event whose objective is to improve public relations for a college, if the entertainer does not accept the commitment of prospective students to attend the college.

(2) "Board" means the State Board of Independent Colleges and Universities.

(3) "College" means any educational entity which confers or offers to confer a degree or which furnishes or offers to furnish instruction leading toward, or prerequisite to, college credit or a degree beyond the secondary level. The term includes any nonpublic college chartered in this state and any Florida center of an out-of-state college.

(4) "Degree" means any credential awarded that is generally taken to signify satisfactory completion of an academic, educational, or professional program of study beyond the secondary school level or any honorary credential conferred for meritorious recognition.

(5) "Ecclesiastical program" means an educational program in which instruction is limited to the preparation of students in religious disciplines for missionary, ministerial, or religious educational services.

(6) "License" means a regular license, provisional license, or temporary license, as provided by rule of the State Board of Education.

(7) "Out-of-state college" means any college where the place of instruction, the legal place of residence, or the place of evaluation of instruction or work by correspondence is not within the legal boundaries of this state.

(8) "Secular degree" means any degree conferred or offered by a public institution that is a member of the State University System or the community college system of the state. A degree is secular if it contains in its title the same words in the same order as they appear in the title of a degree conferred by a public college, even if the words denoting a secular degree are followed by words denoting an ecclesiastical program of study leading to the degree.

Section 3. Section 246.031, Florida Statutes, is amended to read:

246.031 State Board of Independent Colleges and Universities.—

(1) There *is* ~~shall be~~ established in the Department of Education a State Board of Independent Colleges and Universities. The department shall perform the ~~payroll, procurement, and related~~ administrative functions of the board, *including payroll, procurement, and the provision of legal counsel.* The board shall exercise independently all *of its other duties* ~~other functions~~ prescribed by law. This board shall include *11* ~~nine~~ members appointed by the Governor, *who shall give priority to persons who have expertise in managing independent colleges.* ~~as follows:~~

~~(a) Four educators selected from private colleges or universities in this state, at least one of whom shall be selected from colleges licensed by the board.~~

~~(b) One educator selected from publicly supported community colleges, colleges, or the State University System, as defined in s. 240.2011.~~

~~(c) Four lay citizens who do not derive a majority of their income from educational or education-related fields.~~

~~(2)~~ Each of the members shall be appointed, subject to confirmation by the Senate, for a term of 3 years, *except that three members shall be appointed to initial terms of 2 years and three members shall be appointed to initial terms of 1 year.* All members *must* ~~shall~~ be residents of this state. *If* ~~In the event of~~ a vacancy on the board *occurs before the* ~~caused other than by~~ expiration of a term, the Governor shall appoint a successor to serve the unexpired term.

(2)~~(3)~~ The board shall meet *at least* quarterly ~~or at the call of its chairperson, at the request of a majority of its membership, at the request of the department, or at such times as may be prescribed by its rules~~.

(3) The board shall appoint a standing advisory committee of up to 11 members, composed of at least two representatives from nonpublic colleges accredited by the Southern Association of Colleges and Schools, the Career College Association, or the Association of American Bible Colleges; at least two representatives from licensed nonpublic colleges that are not accredited; at least one representative from a public community college, college, or university; at least one representative from a nonpublic college that is not licensed; and up to five additional members, each of whom represents a college under the board's jurisdiction. The advisory committee shall meet jointly with the board at least annually to give an annual report with recommendations. The committee may meet at the request of the board up to four times a year.

(4) Members *of the board and the advisory committee are entitled to reimbursement for* ~~shall be paid~~ travel and *per diem* ~~subsistence~~ expenses, as provided in s. 112.061, while performing their duties ~~under the provisions of ss. 246.011-246.151~~.

(5) Each *board* member is accountable to the Governor for the proper performance of the duties of his office. ~~The Governor shall cause to be investigated any complaint or unfavorable report received concerning an action of the board or any member and shall take appropriate action thereon.~~ The Governor may remove from office any member for *cause* ~~malfeasance, misfeasance, neglect of duty, incompetence, permanent inability to perform official duties, or pleading guilty or nolo contendere to, or being found guilty of, a criminal offense~~.

Section 4. The terms of office held by the members of the State Board of Independent Colleges and Universities shall expire on October 1, 1992, and the Governor shall appoint a new board. A member of the board before October 1, 1992, may be reappointed to the board.

Section 5. Section 246.041, Florida Statutes, is amended to read:

246.041 Powers and duties of board.—

(1) The board shall:

(a) Hold ~~such~~ meetings as ~~are~~ necessary to administer ~~efficiently~~ the provisions of ss. 246.011-246.151.;

(b) Select annually a chairperson and a vice chairperson.;

(c) Adopt and use an official seal in the authentication of its acts.;

(d) Make rules for its own *governance.* ~~government;~~

(e) Adopt rules necessary to carry out its functions.;

(f) Administer ss. 246.011-246.151.;

(g) Appoint *its own staff,* on the recommendation of its chairperson.; ~~executives, deputies, clerks, and employees of the board;~~

(h) Maintain a record of its proceedings.;

(i) Cooperate with other state and federal agencies in administering the provisions of ss 246.011-246.151.;

(j) Prepare an annual budget.;

(k) Transmit all fees, donations, or other receipts of money through the Department of Education to be deposited in the Institutional Assessment Trust Fund created by s. 246.31 *and expend funds as necessary to enforce ss. 246.011-246.151.*;

(l) Transmit to the Governor, the Speaker of the House of Representatives, *and* the President of the Senate~~, the minority leader of the Senate, and the minority leader of the House of Representatives on July 1, 1989, and each succeeding year~~ an annual report which shall include, but not be limited to:

1. *An* ~~A detailed~~ accounting of all funds received and expended.

2. The number of complaints received and investigated, by type.

3. The number of findings of probable cause.

4. A description of disciplinary actions taken, by statutory classification.

5. A description of all administrative hearings and court actions.

6. A description of the board's major activities during the previous year.~~; and~~

(m) Serve as a central agency for *collecting* ~~collection~~ and *distributing* ~~distribution of~~ current information regarding *colleges that are under the jurisdiction of* ~~institutions licensed by~~ the board~~, institutions exempt from licensure by the board pursuant to s. 246.085(2)(a) or (c), and any other nonpublic colleges eligible to participate in state student financial aid programs or eligible to receive federal Title IV funds~~.

1. *Annually, the board shall collect* ~~The data collected by the board shall include~~ information relating to the college administration, calendar system, ~~admissions requirements,~~ student costs ~~and financial obligations, financial aid information, refund policy, placement services~~, number of full-time and part-time faculty, student enrollment and demographic figures, degree programs, and off-campus academic programs. *The board may collect* other information *as needed to respond to consumer inquiries or specific needs* ~~shall be collected in response to specific needs or inquiries~~. Financial information of a strictly proprietary, commercial nature is excluded from this requirement.

2. To assure that colleges comply with fair consumer practices, the board shall compile an inventory for each college which must include:

a. A description of the college's policies and procedures regarding the recruitment and admission of students;

b. The sources and kinds of student financial assistance available, and the specific manner by which the college informs students of their responsibilities for repaying loans and receiving assistance.

c. The placement assistance provided by the college, including any claims concerning job placement rates;

d. Advertising issued on behalf of the college, including copies of all published items; and

e. A copy of the college's refund policy.

The board may require further evidence to investigate complaints pertaining to a college's consumer practices. If the parties involved in a conflict concerning a college's consumer practices do not reach resolution, the board shall determine the facts and issue a decision.

3.~~2.~~ The board shall provide to each *college* ~~participating institution~~ annually the format, definitions, and instructions for submitting the required information. *However, the board may not require a college to report separately or in a unique format information that is readily available elsewhere. The college may provide to the board a copy of any report submitted to another agency, such as the federal report on students, faculty, and degrees awarded, instead of providing demographic information in a format developed by the board. The college may provide a current catalog instead of providing institutional information in a special format, if the required information is in the catalog and the college provides an index to show where it is recorded.*

4.~~3.~~ *Each college must include with the information submitted* ~~The data submitted by each institution shall be accompanied by~~ a letter of certification signed by *its* ~~the~~ chief administrative officer ~~of the institution~~, affirming that the information submitted is accurate *and that the policies reported are available in writing to all prospective students prior to enrollment or collection of registration or tuition fees.*

5. ~~4.~~ *The board must include* a summary of the *information* ~~data~~ collected ~~by the board shall be included~~ in the annual report to the Governor, the Speaker of the House of Representatives, *and* the President of the Senate~~, the minority leader of the Senate, and the minority leader of the House of Representatives~~. *This* ~~The~~ information ~~collected by the board~~ may also be used by the Department of Education for such purposes as statewide master planning, state financial aid programs, and publishing directories; by the Legislature; and to respond to consumer inquiries received by the board.

6. If a college fails to provide the information required by the board under this paragraph, the board may impose a fine of not more than $100 per month for every month the information is not made available. The board may revoke the license or certificate of exemption of a college that repeatedly fails to supply the information.

(n) Annually review the accreditation standards and procedures of the Commission on Colleges of the Southern Association of Colleges and Schools, the Accrediting Commission for Independent Colleges and Schools of the Career College Association at the junior or senior college of business level, and the American Association of Bible Colleges to determine for each of these accrediting organizations whether the accreditation standards are consistent with the licensing requirements of the board. The board must report to the Legislature any accrediting association whose standards are inconsistent with those of the board and must report any nonpublic college in the state that is exempt from licensure because of its accreditation by that association. To assist the Legislature in considering if an accrediting association should enable a college to be exempt from licensure, the board may also report any other accrediting association if that association is a member of the Council on Postsecondary Accreditation or is recognized by the United States Department of Education, and the board finds that the accrediting association has standards that are consistent with those of the board, and finds that all colleges accredited by that association meet the board's licensing standards.

(2) The board may:

(a) Sue or be sued.

(b) Enter into contracts with the Federal Government, with other departments of the state, or with individuals.

(c) Receive bequests and gifts, *subject to any restrictions upon which the board and the donor agree* ~~which shall be used only for the purpose stated by the person making such bequests~~.

(d) Appoint committees to assist it in developing standards~~,~~; in determining the qualifications *required of a college endeavor;* ~~which shall be met in a given field of endeavor,~~ in evaluating applications for temporary, provisional, or regular licensure~~,~~; in evaluating annual reports~~,~~; or in conducting onsite evaluation visits at colleges.

(e) Issue a license to any college which *offers ecclesiastical programs and nonsecular degrees* ~~is exempt from licensure~~ pursuant to *s. 246.086* ~~s. 246.085~~, and which voluntarily applies for and meets the standards for licensure.

(f) Delegate to the chairperson of the board the responsibility for signing final orders.

Section 6. Section 246.081, Florida Statutes, is amended to read:

246.081 License, *certificate of exemption, or authorization* required.—

(1) *A* ~~No~~ nonpublic college *may not* ~~shall~~ continue operation or be established within the state unless *the* ~~such~~ college *applies* ~~shall apply~~ for~~,~~ and *obtains* ~~obtain from the board,~~ a license, *a certificate of exemption,* or authorization *from* ~~in the manner and form prescribed by~~ the board. *Within 60 days after* ~~Upon~~ receipt of approved articles of incorporation from the Department of State that purport to be for a college ~~within the meaning and intent of ss. 246.011-246.151~~, the newly formed corporation shall *apply*~~, within 60 days of such approval, make an application~~ to the board for a license, *certificate of exemption, or authorization* as required by law. The approval of articles of incorporation by the Department of State *are not* ~~shall not be deemed to be~~ an authorization to engage in the operation of *a college. A college may not advertise or operate until it receives a license, certificate of exemption, or authorization* ~~an institution of higher learning until such time as a license has been obtained~~ from the board. *When* ~~Upon~~ articles of incorporation *are* ~~being~~ issued to *a college* ~~an institution of higher learning~~, the Department of State shall immediately furnish a copy of the articles of incorporation to the board.

(2) *A* ~~No~~ nonpublic college *may not* ~~shall~~ continue to conduct or begin to conduct any *vocational* ~~diploma~~ program, as defined in s. 246.203, unless *the* ~~such~~ college *applies* ~~shall apply~~ for and *obtains* ~~obtain~~ from the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools a license or authorization *for the diploma program* ~~in the manner and form prescribed by the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~.

(3) *An* ~~No~~ agent ~~as defined in s. 246.021(4)~~ *may not* ~~shall~~ solicit prospective students in this state for enrollment in any college subject to the provisions of subsection (1) or in any *out-of-state* college ~~chartered without the state or in a foreign country~~ unless such agent has received a license *from* ~~in the manner prescribed by~~ the board. *The board may not license, and a college may not employ, an agent who is compensated by a commission or bonus based upon the number of students recruited for enrollment in the college.*

(4) *A* ~~No~~ nonpublic college ~~which is required to have a license~~ and *a* ~~no~~ person acting on behalf of such college *may not publish* ~~shall cause to be published in any publication~~ any advertisement soliciting students or offering a diploma or degree, unless such college has a valid license, *certificate of exemption, or authorization* issued pursuant to the provisions of ss. 246.011-246.151 and ss. 246.201-246.231. *A*~~; nor shall any such~~ nonpublic college *and* ~~or~~ any person acting on behalf of such college *may not publish* ~~cause to be published in any publication~~ any advertisement soliciting students or offering a diploma or degree while such college is under an injunction against operating, soliciting students, or offering a diploma or degree.

(5) If a nonpublic college conducts a program in which over 75 percent of a student's educational preparation to earn a degree or diploma is independent study by correspondence or demonstration of skills by testing, the degree or diploma must state the nature of the student's preparation or demonstration of skills. In letters identical in size to the size of the student's name, the degree or diploma must contain whichever of the following statements best describes the student's preparation: "Conferred as a Result of a Program of Study by Correspondence"; "Conferred as a Result of the Demonstration of Skills through Testing"; or "Conferred as a Result of a Program of Study by Correspondence and Testing." The term "External Studies" may be substituted for the term "Correspondence."

Section 7. Section 246.085, Florida Statutes, is amended to read:

246.085 Exemption from licensing requirements.—

(1) The following colleges are *not under the jurisdiction of the board and do not need a license, certificate of exemption, or authorization to operate* ~~exempt from the licensing requirements of ss. 246.011-246.151~~:

(a) Any college provided, operated, and supported by the State *of Florida* or any political subdivision or by the Federal Government.

(b) Any college~~, school, or course~~ licensed or approved for establishment and operation under chapter 464, chapter 466, *or* chapter 475~~, chapter 476, or chapter 477 or any other chapter of the Florida Statutes, requiring licensing or approval as defined in ss. 246.011-246.151~~.

~~(2) The following shall apply for exemption from the licensing requirements of the board, pursuant to ss. 246.011-246.151:~~

(2)(a) *The following* nonpublic colleges chartered in Florida *may apply for a certificate of exemption from licensure* ~~and accredited by~~:

1. *A college accredited by* the Commission on Colleges of the Southern Association of Colleges and Schools.~~,~~

2. *A college accredited by* the Accrediting Commission *for* ~~of the Association of~~ Independent Colleges and Schools *of the Career College Association* at the junior or senior college of business level.~~,~~

3. *A college accredited by* the American Association of Bible Colleges.~~, or~~

4. *A college accredited by* an agency recognized by the United States Department of Education to accredit professional degree programs above the baccalaureate level.

5. A college chartered in this state which demonstrates that its credits or degrees are accepted for credit by at least three colleges that are fully accredited by a member of the Council on Postsecondary Accreditation, that it was exempt from licensure prior to July 1, 1982, and that it does not enroll students who receive any state or federal financial aid for education.

(b) This subsection does not restrict the ability of the board to assure that all nonpublic colleges meet the minimum standards established in ss. 246.011-246.151. If the board determines under s. 246.081 that the accreditation standards used by an organization in granting a college accreditation have fallen below the minimum standards prescribed by the board, or if the board determines that an accredited college has disregarded the accreditation standards of the organization granting it accreditation, the board may initiate an examination of the college and may place it on probation or revoke its certificate of exemption. Before initiating such an examination, the board must report the college's infraction to its accrediting association for resolution. If the accreditation association resolves the problem to the board's satisfaction the board shall abandon its investigation.

(c) The board shall annually review each certificate of exemption and determine if the college remains eligible for the exemption. A college may remain eligible by providing the board annually with a copy of its catalog and submitting evidence that it is in compliance with subparagraph (a)5., s. 246.095, and chapter 501.

(d) If a college has a certificate of exemption and wishes to conduct a vocational education program as defined in s. 246.203, the college must apply to the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools for a license to conduct the vocational program.

~~(b) Colleges that offer instruction of an avocational or recreational nature which does not lead to an occupational objective. However, no degree as defined in s. 246.021 shall be awarded.~~

~~(c) Colleges chartered in this state the credits or degrees of which are accepted for credit by at least three colleges that are fully accredited by a member of the Council on Postsecondary Accreditation, which were exempt prior to July 1, 1982, and which enroll no students who receive any state or federal financial aid for education.~~

~~Colleges which have applied for and received exemption under this subsection may remain in compliance for exemption by filing annually the information required by s. 246.041(1)(m), and a copy of their current catalog. The burden of determining compliance shall rest with the board, and the board may require further evidence and make such further investigation, in addition to the information submitted, as may be necessary in its judgment.~~

~~(3)(a) The following are exempt from the licensing requirements of ss. 246.011-246.151, upon submission of the data information required by this subsection and the current college catalog:~~

~~1. Religious institutes, colleges, and universities:~~

~~a. The only purpose of which is to prepare students in religious disciplines for educational, missionary, or ministerial service;~~

~~b. Whose catalogs contain the statement of institutional purpose, all curricular offerings including degree programs of all courses offered, and a listing of the faculty; and~~

~~c. Which are in compliance with s. 817.06; and~~

~~2. Religious seminaries, institutes, colleges, and universities which offer only educational programs that prepare students for a religious vocation, career, occupation, profession, or lifework, and the nomenclature of whose certificates, diplomas, or degrees clearly identifies the religious character of the educational program.~~

~~(b) Religious seminaries, institutes, colleges, or universities which are exempt from licensure under this subsection shall submit annually to the board data information which shall include:~~

~~1. The institution's name; address; telephone number; accreditation, if any; compliance with chapter 501; denomination or church affiliation (optional); level of institution; total number of students for both the previous and current year; classifications of full-time students (freshmen, sophomores, juniors, seniors, graduate, special); off-campus branches, if any; and listing of degrees and programs of study; and~~

~~2. A copy of their current catalog.~~

~~(c) The burden of determining compliance shall rest with the board, which may require further evidence and make such further investigation, in addition to the information submitted, as may be necessary in its judgment.~~

~~(4) Any college exempt from licensure pursuant to paragraph (2)(a) that conducts any diploma program, as defined in s. 246.203, shall be subject to licensure by the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools for such diploma program.~~

~~(5)(a) To receive an exemption from licensure pursuant to paragraph (2)(a) or paragraph (2)(c), a nonpublic college shall demonstrate to the board that:~~

~~1. More than 50 percent of its total student enrollment, by head count, is pursuing degree programs offered by the college itself, which programs, if at the associate or baccalaureate degree level, require satisfactory completion of more than 12 semester hours or 18 quarter hours of courses in liberal arts or general studies provided by the college itself;~~

~~2. It is in compliance with fair consumer practices by submitting to the board an inventory including:~~

~~a. A description of the college's policies and procedures regarding the recruitment and admission of students;~~

~~b. The sources and kinds of student financial assistance available, and the specific manner by which students are informed of their responsibilities with respect to receiving assistance and repaying loans;~~

~~c. The placement assistance provided by the college, including any claims concerning job placement rates;~~

~~d. All advertising issued on behalf of the college, including copies of all published items; and~~

~~e. A copy of the college's refund policy.~~

~~The descriptive inventory of consumer practices submitted by each college shall be accompanied by a notarized statement, signed by the chief administrative officer of the college, affirming that the information submitted is accurate, and that the college shall observe the policies and practices as reported to the board. The board shall have the authority to require further evidence, as may be needed, to investigate complaints relating to consumer practices. The board shall render findings of fact and issue decisions in cases where resolution of the complaint is not reached among the parties involved.~~

~~(b) Exemption from licensure applied for by any institution or granted by the board to any institution pursuant to paragraph (2)(a) may be denied, placed on probation, or revoked in accordance with the rules of the board established pursuant to s. 246.111.~~

Section 8. Section 246.086, Florida Statutes, is created to read:

246.086 Certificate of authorization for colleges that offer only ecclesiastical programs.—

(1) If a college includes a religious modifier in its name, offers only ecclesiastical programs, and does not offer any secular degree, the college is not required to obtain a license to operate in the state. However, prior to operating or advertising, each such college must obtain a certificate of authorization as provided in this section, provide the information required by the board under s. 246.041, and comply with fair consumer practices required pursuant to s. 246.095 and chapter 501.

(2) If the board determines that a college offers only ecclesiastical programs and does not offer any secular degrees, the board shall present the college with a certificate of authorization, and may not review the educational programs at the college, except to determine that they lead to nonsecular degrees. The certificate of authorization must state that the State of Florida does not review or evaluate programs of study that lead to nonsecular degrees.

(3) If a college that would otherwise qualify for a certificate of authorization without review as provided by this section wishes to offer a secular degree, the college must obtain a license for the program of study that leads to the secular degree.

(4) By November 1, 1992, the board shall notify every college which, because of the ecclesiastical nature of its programs, was exempt from

licensure before October 1, 1992, if any of its degrees are secular degrees as defined in s. 246.021. Such a college may change the title of the degree so that it is nonsecular, or it may request the board to license the college to operate the program of study leading to the secular degree. By March 1, 1995, the board must complete the examination of each secular degree program offered by any such college. After March 1, 1995, a nonpublic college that has an authorization to operate but not a license or certificate of exemption may not offer a secular degree.

(5) By September 1, 1992, the Commissioner of Education must provide the board with a list of all the titles of degrees conferred by public universities and community colleges in this state and must update the list at least annually thereafter. By November 1, 1992, and annually thereafter, the board shall provide a copy of this list to all colleges that are not licensed or are exempt from licensure and that offer only ecclesiastical programs.

Section 9. Section 246.087, Florida Statutes, is amended to read:

246.087 Licensing requirements.—

(1) *Before it licenses any college, the board shall evaluate at least the college's* ~~The minimum standards to be evaluated by the board for the licensing of colleges shall include~~ purpose, administrative organization, educational program and curricula, finances, faculty, library, student personnel services, physical plant and facilities, publications, and disclosure statements about the status of the college in relation to professional certification and licensure.

(2) *Before it licenses any agent, the board shall examine at least the agent's* ~~The minimum standards for the licensing of agents shall include~~ name, residential and business addresses, background, training, college to be represented, and ~~demonstrated~~ knowledge of statutes and rules related to the authority *and limitations of the authority of agents* ~~granted to agents and the limitations imposed upon such authority. No employee of a nonpublic college shall solicit prospective students for enrollment in such college until that employee is licensed by the board as an agent.~~

Section 10. Section 246.091, Florida Statutes, is amended to read:

246.091 License period and renewal.—

(1) *The board shall annually review and renew each license if the board determines that the college* ~~Each license issued by the board shall be subject to an annual review and renewal by the board to determine if the licensee~~ is in compliance with ss. 246.011-246.151. *If the board determines that the college is not in compliance with ss. 246.011-246.151, the board may grant the college* ~~A college affected under this act may be granted~~ a temporary or provisional license. *The board may extend a temporary or provisional license for up to 1 year if the college makes an effort in good faith to meet the licensing requirements.* ~~Nothing in ss. 246.011-246.151 shall prevent the extension of such a temporary or provisional license provided a good faith effort has been made by the college and agent.~~ The burden of determining compliance or a *good-faith* ~~good faith~~ effort shall rest with the board.

(2) *If* a licensed college *wishes* ~~which seeks~~ to expand its degrees to be conferred, *it must* ~~shall~~ file a supplementary application. The board shall *adopt* ~~promulgate~~ standards for the approval of additional degrees.

(3) A licensed college *that* ~~which~~ seeks to conduct any *vocational* ~~diploma~~ program, as defined in s. 246.203, *must* ~~shall~~ apply to the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools for licensure of such program.

(4) ~~A licensed college,~~ Prior to *ceasing to operate* ~~the discontinuance of operation,~~ *a licensed college must* ~~shall have the duty to~~ convey all student records to the board or to another location designated by the board.

Section 11. Section 246.095, Florida Statutes, is amended to read:

246.095 Disclosure to prospective students; condition of licensing.—

(1) Every *nonpublic* college *that* ~~which is required to be licensed under the provisions of s. 246.081 and which~~ either directly or indirectly solicits for enrollment any student *must* ~~shall~~ disclose to each prospective student a statement of the purpose of such college, its educational programs and curricula, a description of its physical facilities, its status regarding licensure, *its fee schedule and policies about retaining student fees if a student withdraws,* and *a statement about the transferability of its credits to and from other colleges. In addition, licensed colleges must also include a statement* ~~the fact~~ that additional information regarding the college may be obtained by contacting the State Board of Independent Colleges and Universities, Department of Education, Tallahassee. The *college must make the required* disclosures ~~required to be made under the provisions of this subsection shall be made~~ in writing and *at least one week* prior to *enrolling or collecting* ~~the collection of~~ any ~~fee or~~ tuition from the prospective student ~~to whom disclosure is required to be made~~. *Such disclosures may be made in the college catalog.*

(2) *The board may not grant or renew a license, a certificate of exemption, or an authorization to operate* ~~No license shall be granted or renewed by the board under the provisions of s. 246.081 or s. 246.091~~ unless the college seeking *a license, certificate of exemption, authorization to operate, or continuation of its status* ~~to be licensed or seeking a renewal of licensure~~ provides the board with a ~~sworn~~ statement of compliance with ~~the provisions of~~ this section. *The board shall prescribe the manner and form of the statement.* ~~Such statement shall be made in the manner and form prescribed by the board.~~

(3) The refusal of any college to comply with ~~the provisions of~~ this section *is* ~~shall constitute~~ cause for denial or revocation of a license, *certificate of exemption, or authorization of ecclesiastical programs* ~~under the provisions of s. 246.111~~.

Section 12. Section 246.111, Florida Statutes, is amended to read:

246.111 Denial, probation, or revocation of license, *certificate of exemption, or authorization of ecclesiastical programs.*—

(1) The board may deny or revoke any license, certificate of exemption, or authorization of ecclesiastical programs required by ss. 246.011-246.151 or may place a college on probation. The board shall adopt rules for these actions. ~~Any temporary license, provisional license, or regular license required under the provisions of ss. 246.011-246.151 may be denied, placed on probation, or revoked by the board. The board shall promulgate rules for such denial, probation, and revocation. The board shall additionally promulgate rules for denial, probation, and revocation of exemption from licensure for violations of compliance with fair consumer practices pursuant to s. 246.085(5). If the board places~~ ~~Placement of~~ a college on probation, *the board may also impose* ~~for a period of time and subject to such conditions as the board may specify may also carry the imposition of~~ an administrative fine not to exceed $5,000. Such fine shall be deposited into the *Institutional Assessment Trust Fund* ~~State Treasury~~. Disciplinary action undertaken pursuant to this section against a college that is also licensed by the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools shall prompt disciplinary proceedings pursuant to s. 246.226.

(2) By December 1, 1992, the board shall adopt rules for taking action against any college that does not fully comply with the fair consumer practices required by s. 246.095. The rules shall provide for a cease and desist order against any college operating in this state, including a college that holds a certificate of exemption or an authorization of ecclesiastical programs, and for denying or revoking the license held by any college or placing it on probation if it violates fair consumer practice requirements.

Section 13. Section 246.121, Florida Statutes, is amended to read:

246.121 Designation "college" or "university".—

(1) The use of the title "college" or "university" in combination with any series of letters, numbers, or words *is* ~~shall be~~ restricted in this state to colleges as defined in s. 246.021~~(1)~~ which offer ~~academic~~ degrees as defined in s. 246.021~~(6)~~ and fall into at least one of the following categories:

(a) A Florida college, public or nonpublic, accredited by:

1. The Commission on Colleges of the Southern Association of Colleges and Schools;

2. The Accrediting Commission *for* ~~of the Association of~~ Independent Colleges and Schools *of the Career College Association* at the junior or senior college of business level;

3. The American Association of Bible Colleges; or

4. An agency recognized by the United States Department of Education to accredit professional degree programs above the baccalaureate level.

(b) A college that holds a certificate of exemption because its credits or degrees are accepted for credit by at least three colleges that are fully accredited by a member of the Council on Postsecondary Accreditation as provided in s. 246 085(2)(a)5.

(c) A Florida nonpublic college that holds a license from the board and also meets the standards set by rule for use of the title "college" or "university."

~~(b) A Florida or out-of-state college which has been in active operation and using the name since April 1, 1970.; or~~

(2)~~(c)~~ A college *for which the board has issued an authorization to operate only ecclesiastical programs and nonsecular degrees as defined in s. 246.021 may use the title "college" or "university" in combination with any series of letters, numbers, or words if the college* ~~which holds a license or an exempt status granted by the board, which~~ meets the standards set by rule for use of the title "college" or "university," and *if the college* ~~which~~ has received approval by the board to use such title.

(3)~~(2)~~ *If* ~~When~~ a college is *authorized* ~~approved under paragraph (1)(c)~~ to use the designation "college" or "university," a branch or extension of that college may use the name of the parent college, but *must* ~~shall~~ include an indication of the location of the branch or extension.

~~(3) Any entity offering educational courses or programs of study beyond the elementary school level in Florida, whether or not college credit is awarded, shall be subject to the provisions of this section.~~

(4) *An* ~~No~~ entity *may not* ~~of any kind shall~~ use the term "college" or "university" in its name in Florida without authorization by the board, unless the board determines that its name is clearly and accurately descriptive of the services provided by the entity and is not one that may mislead the public.

Section 14. Subsection (1) of section 246.203, Florida Statutes, is amended to read:

246.203 Definitions.—As used in ss. 246.201-246.231, unless the context otherwise requires:

(1) "School" means any nongovernmental, postsecondary, vocational, technical, trade, or business noncollegiate educational institution, organization program, home study course, or class maintained or conducted in residence or through correspondence by any person, partnership, association, organization, or corporation for the purpose of offering instruction of any kind leading to occupational objectives or of furnishing a diploma, as defined in subsection (6), in business, management, trade, technical, or other vocational education and professional schools not otherwise regulated. Nonpublic colleges and universities which award a baccalaureate or higher degree, and nonpublic junior colleges which award an associate degree in liberal arts do not fall under the authority granted in ss. 246.201-246.231 unless the college, university, or junior college conducts, or seeks to conduct, a program for which a diploma, as defined in subsection (6), is to be awarded. *Any nonpublic college that offers a vocational program leading to a degree rather than a diploma is, for the purposes of ss. 246.201-246.231, included within the definition of the term "school" if a counterpart to such vocational program is offered in the public school system which leads to a certificate rather than an award of college credit.* Any nonpublic college, university, or junior college which conducts or seeks to conduct a diploma program *or vocational degree program is* ~~shall~~, for the purposes of ss. 246.201-246.231, ~~be~~ included in the definition of *the term* "school" *if a counterpart to such diploma program or vocational degree program is offered in the public school system which leads to a certificate rather than an award of college credit.* Schools offering only examination preparation courses for which they do not award a diploma as defined in subsection (6) do not fall under the authority granted in ss. 246.201-246.231; nor does a nonprofit class provided and operated entirely by an employer, a group of employers in related business or industry, or a labor union solely for its employees or prospective employees or members.

Section 15. Section 232.02, Florida Statutes, is amended to read:

232.02 Regular school attendance.—

(1) Regular attendance is the actual attendance of a pupil during the school day as defined by law and regulations of the state board. Regular attendance within the intent of s. 232.01 may be achieved by attendance in:

(a)~~(1)~~ A public school supported by public funds;

(b)~~(2)~~ A parochial, religious, or denominational school;

(c)~~(3)~~ A private school supported in whole or in part by tuition charges or by endowments or gifts; or

(d)~~(4)~~ A home education program as defined in s. 228.041, and which is in compliance with s. 229.808, provided that no parent or guardian with whom a pupil is residing has been named as a perpetrator in a confirmed report of abuse or neglect of a child pursuant to the provisions of chapter 415 or has been determined by a court of law to have abused or neglected a child and provided that at least one of the following conditions is met:

1.~~(a)~~ The parent holds a valid regular Florida certificate to teach the subjects or grades in which instruction is given and complies with any other requirements prescribed by law or rules of the state board; or

2.~~(b)~~ The parent does not hold a valid regular Florida certificate to teach and complies with the following requirements:

a.~~1.~~ Notifies the superintendent of schools of the county in which the parent resides of his intent to establish and maintain a home education program. The notice shall be in writing, signed by the parent, and shall include the names, addresses, and birthdates of all children who shall be enrolled as students in the home education program. The notice shall be filed in the superintendent's office within 30 days of the establishment of the home education program. A written notice of termination of the home education program shall be filed in the superintendent's office within 30 days of said termination.

b.~~2.~~ Maintains a portfolio of records and materials. The portfolio shall consist of a log, made contemporaneously with the instruction, which designates by title the reading materials used and samples of any writings, worksheets, workbooks, and creative materials used or developed by the student. The portfolio shall be preserved by the parent for 2 years and shall be made available for inspection by the superintendent, or his agent, upon 15 days' written notice.

c.~~3.~~ Provides for an annual educational evaluation in which is documented the pupil's demonstration of educational progress at a level commensurate with his ability. A copy of the evaluation shall be filed annually with the district school board office in the county in which the pupil resides. The annual educational evaluation shall consist of one of the following:

(I)~~a.~~ A teacher selected by the parent shall evaluate the pupil's educational progress upon review of the portfolio and discussion with the pupil. Such teacher shall hold a valid regular Florida certificate to teach academic subjects at the elementary or secondary level. The teacher shall submit a written evaluation to the school superintendent;

(II)~~b.~~ The pupil shall take any nationally normed student achievement test used by the district and administered by a certified teacher. Such test results shall be reported to the school superintendent;

(III)~~c.~~ The pupil shall take a state student assessment test. Such test results shall be reported to the school superintendent;

(IV)~~d.~~ The pupil shall be evaluated by an individual holding a valid, active license pursuant to the provisions of s. 490.003(3) or s. 490.003(5). Such results shall be reported to the school superintendent; or

(V)~~e.~~ The pupil shall be evaluated with any other valid measurement tool as mutually agreed upon by the school superintendent of the district in which the pupil resides and the pupil's parent or guardian. Such results shall be reported to the superintendent.

The school superintendent shall review and accept the results of the annual educational evaluation of the pupil in a home education program. If the pupil does not demonstrate educational progress at a level commensurate with his ability, the superintendent shall notify the parent, in writing, that such progress has not been achieved. The parent shall have 1 year from the date of receipt of the written notification to provide remedial instruction to the pupil. At the end of the 1-year probationary period, the pupil shall be reevaluated as specified in this subparagraph. Continuation in a home education program shall be contingent upon the pupil demonstrating educational progress commensurate with his ability at the end of the probationary period.

(2) If a school included in paragraphs (1)(a)-(c) conducts a program in which over 75 percent of a student's educational preparation to earn a diploma is independent study by correspondence or demonstration of skills by testing, the diploma must state the nature of the student's

preparation or demonstration of skills. In letters identical in size to the size of the student's name, the diploma must contain whichever of the following statements best describes the student's preparation: "Conferred as a Result of a Program of Study by Correspondence"; "Conferred as a Result of the Demonstration of Skills through Testing"; or "Conferred as a Result of a Program of Study by Correspondence and Testing." The term "external studies" may be substituted for the term "correspondence."

Section 16. Correspondence or testing programs; disclosure.—If a Florida public community college or university conducts a program in which over 75 percent of a student's educational preparation to earn a degree or diploma is independent study by correspondence or demonstration of skills by testing, the degree or diploma must state the nature of the student's preparation or demonstration of skills. In letters identical in size to the size of the student's name, the degree or diploma must contain whichever of the following statements best describes the student's preparation: "Conferred as a Result of a Program of Study by Correspondence"; "Conferred as a Result of the Demonstration of Skills through Testing"; or "Conferred as a Result of a Program of Study by Correspondence and Testing." The term "external studies" may be substituted for the term "correspondence."

Section 17. Subsection (6) is added to section 246.215, Florida Statutes, to read:

246.215 License required.—

(6) If an independent school required to be licensed under ss. 246.201-246.231 conducts a program in which over 75 percent of a student's educational preparation to earn a degree or diploma is independent study by correspondence or demonstration of skills by testing, the degree or diploma must state the nature of the student's preparation or demonstration of skills. In letters identical in size to the size of the student's name, the degree or diploma must contain whichever of the following statements best describes the student's preparation: "Conferred as a Result of a Program of Study by Correspondence"; "Conferred as a Result of the Demonstration of Skills through Testing"; or "Conferred as a Result of a Program of Study by Correspondence and Testing." The term "external studies" may be substituted for the term "correspondence."

Section 18. Notwithstanding the provisions of section 11.61, Florida Statutes, the Regulatory Sunset Act, or section 24 of chapter 82-203, Laws of Florida, sections 246.011, 246.021, 246.031, 246.041, 246.061, 246.071, 246.081, 246.085, 246.087, 246.091, 246.095, 246.101, 246.111, 246.121, 246 131, 246.141, and 246.151, Florida Statutes, shall not stand repealed effective October 1, 1992, as scheduled by such laws, but those sections, as amended by this act, are revived and readopted.

Section 19. Section 246.051, Florida Statutes, is repealed.

Section 20. This act shall take effect July 1, 1992.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to education; amending s. 246.011, F.S.; providing legislative purpose; amending s. 246.021, F.S.; revising definitions and providing additional definitions; amending s. 246.031, F.S.; revising the membership of the State Board of Independent Colleges and Universities; requiring the board to appoint a standing advisory committee; providing for the terms of the present board to expire; requiring the Governor to appoint a new board; amending s. 246.041, F.S.; providing additional powers and duties of the board; authorizing the board to impose certain fines; amending s. 246.081, F.S.; revising licensing requirements for nonpublic colleges; requiring the board to review accreditation standards established by organizations that accredit colleges in the state; requiring certain degrees to disclose the nature of certain programs; prohibiting colleges from employing certain agents; amending s. 246.085, F.S.; revising provisions granting certain colleges an exemption from licensing requirements; creating s. 246.086, F.S.; requiring certain colleges to obtain an authorization to operate; providing for annual review of secular and nonsecular degree titles; amending s. 246.087, F.S.; revising certain licensing requirements for colleges and agents that represent colleges; amending s. 246 091, F.S.; revising provisions relating to temporary and provisional licenses; amending s. 246.095, F.S.; revising requirements for disclosures to be made to prospective students; amending s. 246.111, F.S.; requiring the board to adopt rules for taking certain disciplinary actions; amending s. 246.121, F.S.; revising circumstances under which certain nonlicensed colleges may use the designation "college" or "university"; amending s. 246.203, F.S.; requiring certain vocational programs to be subject to rules of the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools; amending s. 232.02, F.S.; requiring that certain public and nonpublic high school diplomas must disclose the nature of certain programs; requiring that certain community college or university degrees disclose the nature of certain programs; amending s. 246.215, F.S.; requiring that certain independent school diplomas disclose the nature of certain programs; reviving and readopting provisions of ch. 246, F.S., notwithstanding repeals scheduled under the Regulatory Sunset Act; repealing s. 246.051, F.S., relating to powers of the State Board of Independent Colleges and Universities; providing an effective date.

On motion by Senator Walker, by two-thirds vote **CS for SB 540** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37 Nays—None

CS for SB 918—A bill to be entitled An act relating to taxation; amending s. 125.0104, F.S.; providing for the payment of interest on local option tourist development taxes remitted to the Department of Revenue; requiring state and local governmental entities administering specified local option taxes to make certain reports regarding the amounts and purposes for which moneys are withheld from tax proceeds; providing for expiration; amending s. 193.023, F.S.; requiring the property appraiser to use comparable sales data as the primary measure of just valuation in specified circumstances; amending s. 195.096, F.S.; requiring the Division of Ad Valorem Tax of the Department of Revenue to use comparable sales data in reviewing assessment rolls and in conducting in-depth reviews; providing that deeds be reported to the Division of Ad Valorem Tax with specified information; requiring the property appraiser to submit a form with information as to disqualified sales data to the Division of Ad Valorem Tax; requiring the Department of Revenue to develop a methodology for using sales data and develop a plan to implement such methodology; requiring recommendations to be included for the reallocation of resources; amending s. 199.062, F.S.; revising certain reporting requirements for security brokers; amending s. 199.282, F.S.; clarifying penalties with respect to intangible personal property taxes; expanding penalties for security brokers; providing for retroactive effect; creating s. 199.106, F.S.; providing credits against the annual tax on certain intangible personal property in the amount of any like tax paid on such property in another state or territory or the District of Columbia; providing for retroactive application; creating s. 199.303, F.S.; providing legislative intent regarding application of such taxes and severability; amending s. 212.04, F.S.; providing an exemption from the tax on admissions for zoos owned by the Federal Government, the state, or any political subdivision of the state; amending ss. 212.05, 212.0515, F.S.; revising requirements pertaining to information required to be displayed on coin-operated amusement machines and vending machines; providing reporting requirements for owners and lessors of coin-operated amusement machines and vending machines; revising reporting requirements for vending machine operators; providing penalties; revising reporting requirements for persons who sell food and beverages to vending machine operators; creating s. 212.0516, F.S.; providing requirements for an identifying device issued to coin-operated amusement machines; providing for an annual fee; providing for issuing identifying devices; providing reporting requirements; providing exemptions; providing penalties; repealing s. 212.05(1)(j), F.S., relating to a tax on the use of coin-operated amusement machines; authorizing the Department of Revenue to issue identifying devices upon partial payment of the fee until a specified date; amending s. 213.053, F.S.; authorizing the Department of Revenue to disclose certain confidential information to specified persons; creating s. 213.0535, F.S.; establishing the Registration Information Sharing and Exchange Program; requiring certain local governments and state agencies to share specified tax and licensing information; providing duties of the department; providing for application of confidentiality and penalty provisions; providing for review and repeal; restricting use of such information; amending s. 213.27, F.S.; allowing the Department of Revenue to contract with a collection agency to collect taxes due; removing the requirement that taxpayers be notified by certified mail and replacing with regular mail; amending s. 216.262, F.S.; providing an additional condition under which the Administration Commission may authorize an increase in the number of positions beyond those provided in the appropriations acts; amending s. 624.5092, F.S.; providing for minimum estimated insurance premium tax payments; providing for retroactive effect; providing an effective date.

—was read the second time by title.

The Committee on Appropriations recommended the following amendments which were moved by Senator Jenne and failed:

Amendment 1 (with Title Amendment)—On page 6, line 31, insert:

Section 4. Subsection (4) of section 193.085, Florida Statutes, is amended to read:

193.085 Listing all property.—

(4) The department shall promulgate such rules as are necessary to ensure that all railroad property of all types is properly listed in the appropriate county and shall submit the county railroad property assessments to the respective county property appraisers not later than June 1 in each year. However, in those counties in which railroad assessments are not completed by the department by June 1, for millage certification purposes, the property appraiser may utilize the prior year's values for such property.

(a) All railroad and railroad terminal companies maintaining tracks or other fixed assets in the state and subject to assessment under the unit-rule method of valuation shall make an annual return to the Department of Revenue. Such returns shall be filed on or before April 1 and shall be subject to the penalties provided in s. 193.072. The department shall make an annual assessment of all operating property of every description owned by or leased to such companies. Such assessment shall be apportioned to each county, based upon actual situs and, in the case of property not having situs in a particular county, shall be apportioned based upon track miles. Operating property shall include all property owned or leased to such company, including right-of-way presently in use by the company, track, switches, bridges, rolling stock, and other property directly related to the operation of the railroad. Nonoperating property shall include that portion of office buildings not used for operating purposes, property owned but not directly used for the operation of the railroad, and any other property that is not used for operating purposes. The department shall promulgate rules necessary to ensure that all operating property is properly valued, apportioned, and returned to the appropriate county, including rules governing the form and content of returns. The evaluation and assessment of utility property shall be the duty of the property appraiser.

(b)1. All private car and freight line and equipment companies operating rolling stock in Florida shall make an annual return to the Department of Revenue. The department shall make an annual determination of the average number of cars habitually present in Florida for each company and shall assess the just value thereof.

2. The department shall promulgate rules respecting the methods of determining the average number of cars habitually present in Florida, the form and content of returns, and such other rules as are necessary to ensure that the property of such companies is properly returned, valued, and apportioned to the state.

3. For purposes of this paragraph, "operating rolling stock in Florida" means having ownership of rolling stock which enters Florida.

4. The department shall apportion the assessed value of such property to the local taxing jurisdiction based upon the number of track miles and the location of mainline track of the respective railroads over which the rolling stock has been operated in the preceding year in each taxing jurisdiction. The situs for taxation of such property shall be according to the apportionment.

(c) The values determined by the department pursuant to subsections (4) and (5) shall be certified to the property appraisers when such values have been finalized by the department. Prior to finalizing the values to be certified to the property appraisers, the department shall provide an affected taxpayer a notice of a proposed assessment and an opportunity for informal conference before the executive director's designee. A property appraiser shall certify to the tax collector for collection the value as certified by the Department of Revenue.

(d) In any action challenging final assessed values certified by the Department of Revenue under the authority of this section, venue shall be in Leon County. This provision is remedial and shall apply to all actions currently pending which were filed after January 1, 1991.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 14, after the semicolon (;) insert: amending s. 193.085, F.S.; requiring venue for actions challenging centrally assessed value to be in Leon County; providing the provision apply to actions currently pending;

Amendment 2—On page 16, between lines 26 and 27, insert:

Section 10. Present subsection (3) of section 201.022, Florida Statutes is renumbered. Subsection (4) and a new subsection (3) is added to read:

201.022 Consideration for realty; filing of return condition precedent to recordation; penalty; failure to file does not impair validity.—

(3) If the return required by this section is not executed and filed, the clerk of the circuit court is required by this section to execute and file the return with the department. The clerk shall be compensated 1.0 percent of the value of the stamps sold as the cost of processing the return required by this section in the form of a deduction from the amount of the tax due and remitted by him, and the department shall allow the said deduction to the clerk paying and remitting the tax in the manner as provided for by the department. However, no deduction or allowance shall be granted when there is a manifest failure to maintain proper records or make proper reports. The compensation provided herein shall be in addition to that provided in s. 201.11(2).

(Renumber subsequent sections.)

Amendment 3—On page 25, strike all of lines 1-12 and insert:

(5)(a) Any person who sells food or beverages *to operators* for resale *through vending machines* shall submit to the department on or before the 20th day of the month following the close of each calendar quarter a report which identifies by dealer registration number each operator who has *provided a certificate identifying the purchaser as a food or beverage vending operator* ~~purchased such items from said person and states the gross dollar amount of purchases made by each operator from said person. The report shall first be filed for the quarter ending December 31, 1991. In addition, the report shall also include the purchaser's name, dealer registration number, and sales price for any tax free sale for resale of canned soft drinks of 50 cases or more.~~

Amendment 4—On page 25, line 18, after "a" insert: *food or beverage*

Senator Jenne moved the following amendments which were adopted:

Amendment 5—On page 19, lines 20, through page 29, line 18, strike all of said lines and insert:

Section 11. Effective May 1, 1992, or upon this act becoming a law, whichever occurs later, section 212.0516, Florida Statutes, is created to read:

212.0516 Annual identifying device fee for amusement machines.—

(1) As used in this section, the term "operator" means any person who physically possesses on location an operational coin-operated amusement machine for the purpose of generating sales through that machine.

(2) An operator of a coin-operated amusement machine may not operate or cause to be operated in this state any such machine until the operator has registered with the department and the operator of the machine has paid the annual fee imposed under subsection (3) and the operator has affixed an identifying device on each machine operated. The identifying device must be conspicuously displayed on the machine when it is being operated in this state. The device must bear a unique identification number and the operators sales tax registration number. An identifying device may not be transferred from one operator to another operator or from one machine to another machine. The identifying device must contain the following language in conspicuous type: NOTICE TO CUSTOMER: FLORIDA LAW REQUIRES THIS NOTICE TO BE POSTED ON ALL AMUSEMENT MACHINES. REPORT ANY MACHINE WITHOUT A NOTICE TO (TOLL-FREE NUMBER). YOU MAY BE ELIGIBLE FOR A CASH REWARD.

(3) An identifying device shall be valid for a twelve month period and must be displayed on any coin-operated amusement machine operated in this state on or after September 1, 1992. The cost to obtain the identifying device is specified herein: locations with 1-5 machines, $100 per machine; locations with more than 5 machines, $250 per machine. The fee

is due and payable upon application for the identifying device and is valid for 12 months after the date of issue. However, identify device shall be void if it is transferred from one operator to another operator or from one machine to another machine.

(a) Identifying devices may be obtained from the department in Tallahassee or at any district taxpayer service center.

(b) In addition, the tax collector of each county shall issue identifying devices upon payment of the annual fee. The tax collector may charge an additional $1 per device to cover the cost of issuing the identifying device. The tax collector shall submit payment for, and report the sale of, identifying devices to the department by the 15th day of each month for identifying devices issued during the previous month on forms prescribed by the department.

(c) The department shall establish a toll-free number to report any violations of this section. Upon a determination that a violation has occurred, the department shall pay the informant up to 10 percent of previously unpaid fees recovered as a result of the information provided.

(d) A penalty of $500 per machine is imposed on the operator who fails to properly obtain and display the required identifying device on any machine. The penalty accrues interest as provided for delinquent taxes under this part and applies in addition to all applicable taxes, interest, and penalties.

(e) Operators of coin-operated amusement machines must obtain a separate sales and use tax certificate of registration for each county in which such machines are located. One sales and use tax certificate of registration is sufficient for all of the operator's machines within a single county.

(4) Beginning with the quarter ending September 30, 1992, any person who owns a coin-operated amusement machine shall report to the department his sales tax registration number, the number of machines that he owns for use in this state, the identifying device number placed on each machine, and the sales tax registration number and the name and business address of each operator who operates the machine during the quarter. The report must be submitted in a format prescribed by the department on or before the 20th day of the month following the close of the calendar quarters ending in September and March. A penalty of $2,500 is imposed on an owner who fails to timely file a quarterly report or who files false information. The penalty accrues interest as provided for delinquent taxes under this part and applies in addition to all other applicable taxes, interest, and penalties.

(5) The provisions of this section do not apply to coin-operated amusement machines owned and operated by churches or synagogues.

(6) In addition to any other penalties imposed by this part, a person who knowingly violates any provision of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775 083

(7) The department may adopt rules necessary to administer this section.

Section 12. Effective July 1, 1992, paragraph (j) of subsection (1) of section 212.05, Florida Statutes, is repealed.

Section 13. The Department of Revenue or any of its agents or any county tax collector may issue identifying devices required under section 212.0516, Florida Statutes, for coin-operated amusement machines on September 1, 1992, upon payment by the owner of 50 percent of the total amount of fees owed by the owner for such identifying devices for the 12-month period beginning September 1, 1992. Payment must be made in full by the owner for all such identifying devices issued by November 1, 1992.

Section 14. The Department of Revenue shall conduct a study of the revenues generated from the identifying devices placed on coin-operated amusement machines. If the revenues generated from the identifying devices exceed $28 million in fiscal year 1992-1993, the Department shall reduce the fees charged for the identifying devices by a percentage designed to reduce the revenues to be received in the succeeding fiscal year to $29 million. The reduction in the fees shall take effect on September 1, 1993.

Section 15. Paragraph (i) of subsection (3) of section 212.055, Florida Statutes, as amended by chapter 91-423, Laws of Florida, is amended to read:

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

(3) INDIGENT CARE SURTAX.—

(i) *No county, other than any county as defined in s. 125.011(1), may levy the tax authorized in this subsection after* ~~This subsection is repealed on~~ October 1, 1998.

Section 16. Section 3. of chapter 91-81, Laws of Florida, is hereby repealed.

Section 17. Subsection (4) of section 193.085, Florida Statutes, is amended to read:

193.085 Listing all property.—

(4) The department shall promulgate such rules as are necessary to ensure that all railroad property of all types is properly listed in the appropriate county and shall submit the county railroad property assessments to the respective county property appraisers not later than June 1 in each year. However, in those counties in which railroad assessments are not completed by the department by June 1, for millage certification purposes, the property appraiser may utilize the prior year's values for such property.

(a) All railroad and railroad terminal companies maintaining tracks or other fixed assets in the state and subject to assessment under the unit-rule method of valuation shall make an annual return to the Department of Revenue. Such returns shall be filed on or before April 1 and shall be subject to the penalties provided in s. 193.072. The department shall make an annual assessment of all operating property of every description owned by or leased to such companies. Such assessment shall be apportioned to each county, based upon actual situs and, in the case of property not having situs in a particular county, shall be apportioned based upon track miles. Operating property shall include all property owned or leased to such company, including right-of-way presently in use by the company, track, switches, bridges, rolling stock, and other property directly related to the operation of the railroad. Nonoperating property shall include that portion of office buildings not used for operating purposes, property owned but not directly used for the operation of the railroad, and any other property that is not used for operating purposes. The department shall promulgate rules necessary to ensure that all operating property is properly valued, apportioned, and returned to the appropriate county, including rules governing the form and content of returns. The evaluation and assessment of utility property shall be the duty of the property appraiser.

(b)1. All private car and freight line and equipment companies operating rolling stock in Florida shall make an annual return to the Department of Revenue. The department shall make an annual determination of the average number of cars habitually present in Florida for each company and shall assess the just value thereof.

2. The department shall promulgate rules respecting the methods of determining the average number of cars habitually present in Florida, the form and content of returns, and such other rules as are necessary to ensure that the property of such companies is properly returned, valued, and apportioned to the state.

3. For purposes of this paragraph, "operating rolling stock in Florida" means having ownership of rolling stock which enters Florida.

4. The department shall apportion the assessed value of such property to the local taxing jurisdiction based upon the number of track miles and the location of mainline track of the respective railroads over which the rolling stock has been operated in the preceding year in each taxing jurisdiction. The situs for taxation of such property shall be according to the apportionment.

(c) The values determined by the department pursuant to subsections (4) and (5) shall be certified to the property appraisers when such

values have been finalized by the department. Prior to finalizing the values to be certified to the property appraisers, the department shall provide an affected taxpayer a notice of a proposed assessment and an opportunity for informal conference before the executive director's designee. A property appraiser shall certify to the tax collector for collection the value as certified by the Department of Revenue.

(d) In any action challenging final assessed values certified by the Department of Revenue under the authority of this section, venue shall be in Leon County. This provision is remedial and shall apply to all actions currently pending which were filed after January 1, 1991.

Section 18. Present subsection (3) of Section 201.022, Florida Statutes is renumbered. Subsection (4) and a new subsection (3) is added to read:

201.022 Consideration for realty; filing of return condition precedent to recordation; penalty; failure to file does not impair validity.—

(3) If the return required by this section is not executed and filed, the clerk of the circuit court is required by this section to execute and file the return with the department. The clerk shall be compensated 1.0 percent of the value of the stamps sold as the cost of processing the return required by this section in the form of a deduction from the amount of the tax due and remitted by him, and the department shall allow the said deduction to the clerk paying and remitting the tax in the manner as provided for by the department. However, no deduction or allowance shall be granted when there is a manifest failure to maintain proper records or make proper reports. The compensation provided herein shall be in addition to that provided in s. 201.11(2).

Section 19. Subsection (9) of section 197.432, Florida Statutes, is amended to read:

197.432 Sale of tax certificates for unpaid taxes.—

(9) No certificate shall be sold on, nor any lien created in, property owned by any governmental unit the property of which has become subject to taxation due to lease of the property to a nongovernmental lessee. Such delinquent taxes shall be enforced and collected in the manner provided in s. 196.199(8). *However, ad valorem real property taxes levied on leaseholds that are taxed as real property under s. 196.199(2)(b), for which no rental payments are due pursuant to the agreement creating such leasehold or if any payments that were required under the original agreement have been waived or prohibited by law prior to January 1, 1992, must be paid by the lessee and become liens on such leaseholds subject to all collection and enforcement provisions of this chapter.*

Section 20. Section 1 of chapter 67-930, Laws of Florida, is amended to read:

Section 1. All cities and towns, in counties of the state having a population of not less than three hundred thirty thousand (330,000) and not more than three hundred forty thousand (340,000) and in counties having a population of more than nine hundred thousand (900,000), according to the latest official decennial census, whose charter specifically provides now or whose charter is so amended prior to January 1, 1968, for the levy of the exact tax as herein set forth, are hereby given the right, power and authority by ordinance to impose, levy and collect a tax within their corporate limits, to be known as a municipal resort tax, upon the rent of every occupancy of a room or rooms in any hotel, motel, apartment house, rooming house, tourist or trailer camp, as the same are defined in part I, chapter 212, Florida Statutes, and upon the retail sale price of all items of food, beverages and alcoholic beverages~~, other than beer or malt beverages,~~ sold at retail for consumption on the premises of any place of business required by law to be licensed by the state hotel and restaurant commission or by the state beverage department; provided, however, this tax shall not apply to those sales the amount of which is less than fifty cents (50¢).

Section 21. Section 2 of chapter 67-930, Laws of Florida, as amended by chapter 83-363, Laws of Florida, is amended to read:

Section 2. The tax authorized by section 1 shall not exceed two percent (2%) of the rent received by the person renting such room or rooms from the person paying said rent, and of the retail sales price paid by any guest, consumer or any person on the purchase of each sale of food, beverages and alcoholic beverages~~, other than beer or malt beverages,~~ for consumption on the premises of any place of business required by law to be licensed by the state hotel and restaurant commission or by the state beverage department. However, upon approval by referendum of a charter amendment so authorizing, the tax may be levied at a rate not to exceed 4 percent on the rent of such room or rooms.

Section 22. Section 3 of chapter 67-930, Laws of Florida, is amended to read:

Section 3. The tax imposed by this act shall be collected from the person paying said rent *or* ~~of~~ said retail sales price and shall be paid by such person for the use of the city or town to the person collecting and receiving the rent or the retail sales price at the time of the payment thereof. It shall be the duty of every person renting a room or rooms, as herein provided, and of every person selling at retail for consumption on the premises, food, beverages and alcoholic beverages, ~~other than beer or malt beverages,~~ as herein provided, in acting as the tax collection medium or agency of the city or town, to collect from the person paying the rent or the retail sales price, for the use of the city or town, the tax imposed and levied pursuant to this act, and to report and pay over to the city or town all such taxes imposed, levied and collected, in accordance with the accounting and other provisions of the enacted ordinance.

(Renumber subsequent sections.)

Amendment 6—In title, on page 2, line 16, through page 3, line 6, strike all of said lines and insert: creating s. 212.0516, F.S.; providing requirements for an identifying device issued to coin-operated amusement machines; providing for an annual fee; providing for issuing identifying devices; providing reporting requirements; providing exemptions; providing penalties; repealing s. 212.05(1)(j), F.S., relating to a tax on the use of coin-operated amusement machines; authorizing the Department of Revenue to issue identifying devices upon partial payment of the fee until a specified datel; requiring a study be conducted by the Department of Revenue; amending s. 212.055, F.S.; deleting a repeal date for the indigent care surtax for some counties; repealing section 3 of chapter 91-81, Laws of Florida, deleting repeal dates to conform; amending s. 193.085, F.S.; requiring venue for actions challenging centrally assessed value to be in Leon County; providing the provision apply to actions currently pending; amending s. 201.22, F.S.; requiring the clerk of the circuit court to execute and file the returns required as a condition precedent to recording any deed transferring an interest in real property under certain circumstances; providing for compensation; amending s. 197.432, F.S.; providing that ad valorem taxes due on governmental leaseholds become liens or leaseholds and may be collected pursuant to ch. 197, F.S.; amending ss. 1, 2, and 3, ch. 67-930, Laws of Florida; revising provisions which authorize certain cities to levy a municipal resort tax, to remove an exemption for beer and malt beverages; amending s.

Senator Davis moved the following amendments which were adopted:

Amendment 7—On page 29, between lines 18 and 19, through page 26, line 14, strike all of said lines and insert:

Section 23. Effective May 1, 1992, or upon this act becoming a law, whichever occurs later, section 212.0515, Florida Statutes, is amended to read:

212.0515 Sales from vending machines; sales to vending machine operators; special provisions; registration; quarterly reports; penalties.—

(1) As used in this section:

(a) "Vending machine" means a machine, operated by coin, currency, credit card, slug, token, coupon, or similar device, which dispenses food or beverage items.

(b) "Operator" means any person who possesses a vending machine for the purpose of generating sales through that machine and who maintains the inventory in and removes the receipts from that vending machine.

(2) Notwithstanding any other provision of law, ~~beginning January 1, 1992,~~ the amount of the tax to be paid on food and beverage items that are sold in vending machines shall be calculated by dividing the gross receipts from such sales for the applicable reporting period by a divisor, determined as provided in this subsection, to compute gross taxable sales, and then subtracting gross taxable sales from gross receipts to arrive at the amount of tax due. The divisor shall be equal to the sum of 1.0665 for beverage items, or 1.0645 for food items, plus any applicable local option tax authorized by this part, expressed as a decimal.

(3)(a) An operator of a vending machine may not operate or cause to be operated in this state any vending machine until the operator has registered with the department and has affixed a notice to each vending machine which states the operator's name, address, and Federal Employer Identification (FEI) number. If the operator is not required to

have an FEI number, the notice shall include his *sales tax registration* ~~social security~~ number. The notice must be conspicuously displayed on the vending machine when it is being operated in this state and shall contain the following language in conspicuous type: NOTICE TO CUSTOMER: FLORIDA LAW REQUIRES THIS NOTICE TO BE POSTED ON ALL FOOD AND BEVERAGE VENDING MACHINES. REPORT ALL VIOLATIONS TO (TOLL FREE NUMBER). YOU MAY BE ELIGIBLE FOR A CASH REWARD.

(b) The department shall establish a toll-free number to report any violations of this section. Upon a determination that a violation has occurred, the department shall pay the informant a reward of up to 10 percent of previously unpaid taxes recovered as a result of the information provided.

(4)(a) Each operator shall submit to the department on or before the 20th day of the month following the close of each calendar quarter a report in a format prescribed by the department which provides: the number of vending machines being operated by that operator in this state, which number is coded to indicate whether the machines are food or beverage machines; separate statements for food machines and for beverage machines which indicate the gross receipts from the operation of the machines during the quarterly period; and the amount of tax remitted pursuant to this part with respect to such receipts. All information shall be broken down by county. ~~The report shall first be filed for the quarter ending December 31, 1991.~~

(b) Beginning with the quarter ending September 30, 1992, all owners of vending machines shall submit to the department on or before the 20th day of the month following the close of each calendar quarter, a report in a format prescribed by the department which identifies by dealer registration number all operators of their food and beverage vending machine.

(c)~~(b)~~ A penalty of $250 per machine is imposed on the operator *who fails* ~~for failing~~ to properly obtain and display the required notice on any machine. A penalty of $250 is imposed on the operator *who fails* ~~for failing~~ to timely file a quarterly report *or who files false information. A penalty of $250 is imposed on the owner who fails to timely file a quarterly report or who files false information. The* ~~Such~~ penalties ~~shall~~ accrue interest as provided for delinquent taxes under this part and shall apply in addition to all other applicable taxes, interest, and penalties.

(d)~~(c)~~ The department is authorized to adopt rules regarding the form in which the quarterly report required by this subsection is to be submitted, which form may include magnetic tape or other means of electronic transmission.

(5)(a) Any person who sells food or beverages *to operators* for resale *through vending machines* shall submit to the department on or before the 20th day of the month following the close of each calendar quarter a report which identifies by dealer registration number each operator who has *provided a certificate identifying the purchaser as a food or beverage vending operator.* ~~purchased such items from said person and states the gross dollar amount of purchases made by each operator from said person. The report shall first be filed for the quarter ending December 31, 1991. In addition, the report shall also include the purchaser's name, dealer registration number, and sales price for any tax-free sale for resale of canned soft drinks of 50 cases or more.~~

(b) Each ~~dealer or~~ operator purchasing food or beverages for resale *in vending machines* shall annually provide to the dealer from whom the items are purchased a certificate on a form prescribed and issued by the department. The certificate must affirmatively state *that* ~~whether or not~~ the purchaser is a vending machine operator. The certificate shall initially be provided by November 1, 1991, or upon the first transaction between the parties, whichever is later, and by November 1 of each year thereafter. *The operator shall send a copy of such certificate to the department.*

(c) A penalty of $250 is imposed on any person who is required to file the quarterly report required by this subsection who fails to do so *or who files false information.* A penalty of $5,000 is imposed on any operator who fails to comply with the requirements of this subsection *or who provides the dealer with false information.* ~~A penalty of $250 for such failure shall apply to other dealers who are not operators of vending machines.~~ *The* ~~Such~~ penalties ~~shall~~ accrue interest as provided for delinquent taxes under this part and ~~shall~~ apply in addition to all other applicable taxes, interest, and penalties.

(d) The department is authorized to adopt rules regarding the form in which the quarterly report required by this subsection is to be submitted, which form may include magnetic tape or other means of electronic transmission.

(6) The provisions of this section do not apply to vending machines owned and operated by churches or synagogues.

(7) In addition to any other penalties imposed by this part, a person who knowingly and willfully violates any provision of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(8) The department may adopt rules necessary to administer the provisions of this section.

(Renumber subsequent sections.)

Amendment 8—In title, on page 2, strike all of lines 16-19 and insert: amending s. 212.0515, F.S.; revising reporting requirements for persons who sell foods and beverages to vending machine operators;

Senator Scott moved the following amendment which was adopted:

Amendment 9 (with Title Amendment)—On page 36, between lines 12 and 13, insert:

Section 29. Subsection (1) of section 212.02, Florida Statutes, is amended to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) The term "admissions" means and includes the net sum of money after deduction of any federal taxes for admitting a person or vehicle or persons to any place of amusement, sport, or recreation or for the privilege of entering or staying in any place of amusement, sport, or recreation, including, but not limited to, theaters, outdoor theaters, shows, exhibitions, games, races, or any place where charge is made by way of sale of tickets, gate charges, seat charges, box charges, season pass charges, cover charges, greens fees, participation fees, entrance fees, or other fees or receipts of anything of value measured on an admission or entrance or length of stay or seat box accommodations in any place where there is any exhibition, amusement, sport, or recreation, and all dues and fees paid to private clubs and membership clubs providing recreational or physical fitness facilities, including, but not limited to, golf, tennis, swimming, yachting, boating, athletic, exercise, and fitness facilities, except physical fitness facilities owned or operated by any hospital licensed under chapter 395. *Money paid for admitting a person to a foreign-registered vessel for carriage to the high seas on a cruise known as a "cruise to nowhere" is not an admission for purposes of this part.*

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 3, line 31, after the semicolon (;) insert: amending s. 212.02, F.S.; narrowing the definition of "admission" to exclude those relating to cruises to nowhere;

On motion by Senator Jenne, by two-thirds vote **CS for SB 918** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36 Nays—None

CS for SB 1430—A bill to be entitled An act relating to pesticides; amending s. 487.011, F.S.; providing for administration of the Florida Pesticide Law; amending s. 487.152, F.S.; revising purpose of ch. 487, F.S.; amending s. 487.021, F.S.; revising definitions; amending ss. 487.031, 487.158, F.S.; revising prohibited acts; amending s. 487.041, F.S.; revising registration procedures and requirements; providing registration fees; amending s. 487.042, F.S.; providing for designation of restricted-use pesticides; creating s. 487.0435, F.S.; providing for license classifications; creating s. 487.044, F.S.; providing for certification and examination; creating 487.0437, F.S.; authorizing the department to create a category for regulation of applicators doing chlorine gas infusion into residential swimming pools; amending s. 489.105, F.S.; clarifying the definition of a swimming pool/spa servicing contractor; creating s. 487.045, F.S.; providing fees relating to restricted-use pesticides; creating s. 487.046, F.S.; providing for application and licensure; creating s. 487.047, F.S.; providing

for nonresident license and authorized purchase; creating s. 487.048, F.S.; providing for dealer's license and records; amending s. 487.157, F.S.; providing for license renewal, late fees, and recertification; amending s. 487.051, F.S.; revising rulemaking authority; providing for preemption of certain local laws; amending s. 487.0615, F.S., relating to the Pesticide Review Council; amending s. 487.064, F.S.; revising antisyphon requirements for irrigation systems; amending s. 487.071, F.S., relating to inspection, sampling, and analysis of pesticides; providing for analysis of samples upon request; providing for fees; providing a penalty; amending s. 487.081, F.S., relating to exemptions; amending s. 487.091, F.S.; revising procedures for assessing penalties for deficiency, misbranding, or short measure; amending s. 487.101, F.S., relating to stop sale orders; amending s. 487.111, F.S.,relating to seizure, condemnation, and sale; amending s. 487.13, F.S., relating to interagency cooperation; amending s. 487.15, F.S., relating to reclamation of suspended or canceled pesticides; amending s. 487.156, F.S., relating to governmental agencies subject to ch. 487, F.S.; amending s. 487.1585, F.S., relating to duties of licensees with respect to unlicensed applicators and mixer-loaders and fieldworkers; amending s. 487.159, F.S.; revising requirements for report of damage or injury to property, animals, or persons; amending s. 487.160, F.S., relating to recordkeeping; modifying a reporting requirement; amending s. 487.161, F.S., relating to exemptions; amending s. 487.163, F.S., relating to information and interagency agreements; amending s. 487.171, F.S., relating to antifouling paint as a restricted-use pesticide; modifying requirements for application to vessels; amending ss. 487.14, 487.158, 487.165, F.S.; providing for penalties, administrative fines, and injunctions; amending s. 403.74, F.S.; correcting a cross reference; repealing ss. 487.151, 487.153, 487.154, 487.155, 487.164, 487.166, F.S., relating to administration, definitions, rules, licensing, certification, examination, fee, nonresident license, enforcement, inspections, injunction, and application of law under the Florida Pesticide Application Act of 1974; repealing s. 487.170, F.S., relating to definitions with respect to antifouling paint; saving ch. 487, F.S., from Sunset repeal; saving s. 487.0615, F.S., from Sundown repeal; providing for future review and repeal; providing an effective date.

—was read the second time by title.

The Committee on Finance, Taxation and Claims recommended the following amendment which was moved by Senator Dantzler:

Amendment 1—On page 42, strike all of lines 8-25 and insert: *preempted shall apply. The provisions of this chapter preempt to the state certain regulation of the use of pesticides, limited to the regulation of registration, labeling, and packaging. Nothing in this preemption should be construed to preempt local governments or political subdivisions of the state from enacting or enforcing ordinances regulating other aspects of the use of pesticides such as occupational licenses, land development regulations, hazardous materials reporting and storage standards, stormwater management, drinking water protection, and environmental remediation.*

The Committee on Appropriations recommended the following amendment to **Amendment 1** which was moved by Senator Dantzler and failed:

Amendment 1A—On page 1, strike all of lines 12-21 and insert: *preempted shall apply. This chapter is intended as comprehensive and exclusive regulation of pesticides in this state. Except as provided in chapter 388 and 482, or as otherwise explicitly delegated by statute, no agency, commission, department, county, municipality, or other political subdivision of the state may adopt laws, regulations, rules, or policies pertaining to pesticides, including their registration, packaging, labeling, distribution, sale, or use, except that local jurisdictions may adopt or enforce an ordinance pertaining to pesticides if that ordinance is in the area of occupational license taxes, building and zoning regulations, disposal or spillage of pesticides within a water well zone, or pesticide safety regulations relating to containment at the storage site.*

~~(4) The department shall have full and complete power and authority to make, adopt, promulgate, amend, and repeal all rules which it deems necessary or helpful in the efficient administration and enforcement of this chapter.~~

Amendment 1 failed.

Senators Dantzler, Kiser and Forman offered the following amendment which was moved by Senator Dantzler and adopted:

Amendment 2—On page 42, strike all of lines 10 and 11 and insert: State. Except as provided in chapters 373, 376, 388, 403 and 482, or as otherwise provided by law, no agency,

THE PRESIDENT PRESIDING

On motion by Senator Souto, by two-thirds vote **CS for SB 1430** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36 Nays—None

The Senate resumed consideration of—

CS for SB 994—A bill to be entitled An act relating to autism and other disabilities or impairments; establishing centers at Florida State University, the University of South Florida, and the University of Miami to provide resources and services for persons who have autism and disabilities of communication and behavior; requiring each center to provide services within its geographical area; specifying services to be provided by the centers; providing an appropriation; providing for allocating the appropriation; providing an effective date.

—which had been previously considered this day.

On motions by Senator Forman, by two-thirds vote **HB 1193** was withdrawn from the Committees on Health and Rehabilitative Services; Education; and Appropriations.

On motion by Senator Forman—

HB 1193—A bill to be entitled An act relating to autism and related disabilities; establishing a center at Florida State University, the University of South Florida, and the University of Miami to provide resources and services for persons who have autism and disabilities of communication and behavior; requiring each center to provide services within its geographical area; specifying services to be provided by the centers; providing appropriations; providing for allocation of appropriations; providing an effective date.

—a companion measure, was substituted for **CS for SB 994** and read the second time by title.

Senator Forman moved the following amendment which was adopted:

Amendment 1—On page 5, strike all of lines 3-16

Senator Forman moved that the rules be waived and **HB 1193** as amended be read the third time by title. The motion failed. The vote was:

Yeas—15 Nays—20

On motion by Senator Meek—

HB 2453—A bill to be entitled An act relating to education; amending s. 229.592, F.S., relating to implementation of the state system of school improvement and education accountability; providing additional statutes that shall be held in abeyance; authorizing waiver of the requirements of specified statutes for district school boards under certain circumstances; providing requirements relating to the written request for waiver; deleting requirement for written notice from the Commissioner of Education relating to requested waiver; repealing s. 230.23115, F.S., relating to the Florida Innovations in Elementary Schools Program; providing an effective date.

—a companion measure, was substituted for **CS for SB 2254** and read the second time by title. On motion by Senator Meek, by two-thirds vote **HB 2453** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

HB 2339—A bill to be entitled An act relating to the State Retirement Commission; saving ss. 121.22-121.24, F.S., from Sundown repeal; removing the requirements for future legislative review and repeal; providing an effective date.

—was read the second time by title. On motion by Senator Wexler, by two-thirds vote **HB 2339** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—None

HB 2279—A bill to be entitled An act relating to confidentiality of information gathered during investigations of certain consumer complaints; amending s. 570.544, F.S., which provides an exemption from public records requirements for certain information contained in consumer complaints received by the Division of Consumer Services; revising the exemption and saving it from repeal; providing for future review and repeal; providing an effective date.

—was read the second time by title. On motion by Senator Yancey, by two-thirds vote **HB 2279** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—None

Consideration of **SB 2040** was deferred.

CS for SB 2184—A bill to be entitled An act relating to motor vehicle license plates; providing for the issuance of Florida United States Olympic Committee motor vehicle license plates upon payment of the license tax and additional fees; providing for deposit of a portion of the fees; providing for the use of the fees; amending s. 320.0808, F.S.; establishing the Center for Space Education Trust Fund; revising the distribution, purpose, and use of the annual use fee of the Challenger license plate; establishing reporting requirements for the Astronauts Memorial Foundation, Inc.; providing for reporting timeframes; providing for the transfer of funds; providing for the accumulation of the deposits of license tag use fees by the Department of Education up to $7.3 million; requiring distribution of 50 percent of the use fees into the Challenger Astronauts Memorial Undergraduate Scholarship Trust Fund for use as provided in s. 240.408; authorizing the transfer of funds for purposes of design, construction, maintenance, or operation of the Center for Space Education; providing that the transfer of funds does not require state funding; requiring notification to the Department of Education of expenditure of funds by the Astronauts Memorial Foundation, Inc.; providing for the issuance of "Purple Heart" license plates to recipients of the Purple Heart; requiring payment of a use fee; requiring the Department of Highway Safety and Motor Vehicles to transfer the proceeds of such fee to the State Treasury for deposit into the State Homes for Veterans Trust Fund for use for the construction and operation of domiciliary and nursing homes for veterans; providing an effective date.

—was read the second time by title.

One amendment was adopted to **CS for SB 2184** to conform the bill to **HB 927**.

Pending further consideration of **CS for SB 2184** as amended, on motions by Senator Kirkpatrick, by two-thirds vote **HB 927** was withdrawn from the Committees on Transportation; Finance, Taxation and Claims; Rules and Calendar; and Appropriations.

On motion by Senator Kirkpatrick—

HB 927—A bill to be entitled An act relating to motor vehicle registration; amending s. 320.089, F.S.; providing for the issuance of Purple Heart license plates to recipients of the Purple Heart medal; providing for taxes and fees; providing for a limited fee and deposit of the fee into the Motor Vehicle License Plate Replacement Trust Fund; providing for deauthorization of the plate; creating s. 320.08075, F.S.; providing for the issuance of Florida United States Olympic Committee motor vehicle license plates; providing fees; providing for disposition of fees; providing for deauthorization based on sales; amending s. 320.0808, F.S.; revising language with respect to the Challenger license plate to add reference and the funding mechanism for the Center for Space Education; removing reference to the Space Research Foundation; providing additional power of the Auditor General; providing for a report; providing an effective date.

—a companion measure, was substituted for **CS for SB 2184** and read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote **HB 927** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

RECONSIDERATION

On motion by Senator Gardner, the Senate reconsidered the vote by which—

CS for HB 1723—A bill to be entitled An act relating to insurance; creating s. 627.707, F.S.; establishing minimum standards for investigation of sinkholes by insurers; prohibiting nonrenewal of homeowner policies under certain conditions; providing for a study of sinkhole activities and insurance coverage of sinkholes; amending s. 213.053, F.S.; authorizing the Insurance Commissioner to receive information; amending s. 624.610, F.S.; revising procedures with respect to certain summary statements; requiring the Department of Insurance to adopt certain rules in conformance with certain manuals; creating s. 626.032, F.S.; defining "administrative agent"; providing for continuing education; providing for designation; providing application fees; amending s. 626.072, F.S.; providing reference to an agency; amending s. 626.091, F.S.; excluding certain attorneys from the definition of managing general agent; amending s. 626.281, F.S.; providing for application for reexamination; providing for fees; amending s. 626.2815, F.S.; requiring sponsors of continuing education courses to provide certain information; providing an exemption from continuing education requirements; amending s. 626.381, F.S.; providing for renewal of appointments in birth month; amending s. 626.551, F.S.; requiring notice of changes in street or mailing addresses; amending s. 626.601, F.S.; providing confidentiality of certain investigative information; amending ss. 626.611 and 626.621, F.S.; applying certain departmental referral, suspension, revocation, or denial of a license or application to customer representatives; amending s. 626.631, F.S.; providing for revocation of licenses and appointments upon conviction of a felony; providing for hearings; amending s. 626.641, F.S.; clarifying prohibited activities by former agents; amending s. 626.7351, F.S.; deleting a requirement for qualification for a customer representative's license; amending s. 626.7352, F.S.; clarifying provisions relating to customer representative's officer; amending s. 626.7353, F.S.; providing for appointment of a customer representative by a general lines agency; amending ss. 626.7851 and 626.8311, F.S.; providing additional qualifications for licensure as a life agent or a life and health agent; amending s. 626.837, F.S.; clarifying provisions relating to excess or rejected business; amending s. 626.8373, F.S.; specifying certain types of health insurance with respect to overinsurance; creating ss. 626.8695, 626.8696, and 626.8697, F.S.; providing for the licensure of primary adjusters and adjustment firms; providing for refusal, suspension, or revocation of adjusting firm licenses; amending s. 626.891, F.S.; clarifying provisions relating to suspending or revoking certificates of authority of administration; amending ss. 626.916 and 626.918, F.S.; requiring certain statements rather than affidavits; amending ss. 626.931, 626.932, 626.936, and 626.938, F.S.; specifying the format and content of certain reports; providing for interest on delinquent taxes; amending s. 626.9361, F.S.; providing for an administrative fine for failing to file a quarterly report; providing for deposit of such fines; amending s. 626.939, F.S.; requiring production of certain records under certain circumstances; amending s. 626.9521, F.S.; providing for fines for unfair trade practices; amending s. 626.9541, F.S.; defining unfair trade practices; including impaired insurers in provisions relating to unfair trade practices; including certain exercise of the power of attorney and sliding as unfair competition or deceptive acts; amending s. 627.4085, F.S.; requiring certain information on applications for insurance; creating s. 626.7491, F.S.; creating the Business Transacted with Producer Controlled Property or Casualty Insurer Act; providing definitions; providing applicability; providing minimum standards; providing for required contract provisions; providing for audit committees; providing for reporting requirements; providing penalties; providing disclosure requirements; creating s. 626.7492, F.S.; creating the Reinsurance Intermediary Act; providing definitions; providing for licensure; specifying certain contract provisions for reinsurance brokers; requiring certain recordkeeping; providing duties of insurers using reinsurance intermediary brokers; specifying certain contract provisions for reinsurance intermediary managers; prohibiting certain activities of reinsurance intermediary managers; providing duties of certain reinsurers; providing for examination of reinsurance intermediaries by the Department of Insurance; providing penalties; amending s. 626.171, F.S.; providing for application to reinsurance intermediaries; amending s. 626.521, F.S.; providing for character reports for reinsurance intermediaries; amending s. 624.501, F.S.; providing license and appointment fees for reinsurance intermediaries; providing an effective date.

—passed this day.

On motion by Senator Gardner, further consideration of **CS for HB 1723** was deferred.

On motions by Senator Dantzler, by two-thirds vote—

CS for SB 1998—A bill to be entitled An act relating to sinkhole insurance; creating s. 627.707, F.S.; providing requirements for inspections by insurers in investigating claims for sinkhole losses; providing a limitation on the nonrenewal of property insurance; requiring the Department of Insurance to direct a study on sinkhole insurance coverage; requiring a report; providing for assessments to be collected from insurers to fund the study; providing an effective date.

—was removed from the table and read the second time by title.

Senator Crotty moved the following amendments which were adopted:

Amendment 1 (with Title Amendment)—On page 3, between lines 24 and 25, insert:

Section 4. Subsection (1) of section 494.006, Florida Statutes, is amended to read:

494.006 Exemptions.—

(1) None of the following persons are subject to the requirements of ss. 494.006-494.0077 in order to act as a mortgage lender or correspondent mortgage lender:

(a) A bank, bank holding company, trust company, savings and loan association, savings bank, ~~or~~ credit union, *or insurance company if the insurance company is duly licensed in this state.*

(b) Any person acting in a fiduciary capacity conferred by authority of any court.

(c) Any person who, as a seller of his own real property, receives one or more mortgages in a purchase money transaction.

(d) Any person who receives a mortgage as security for an obligation arising out of materials furnished or as services rendered by the person in the improvement of the real property.

(e) Any person who makes only nonresidential mortgage loans and sells loans only to institutional investors.

(f) The Federal National Mortgage Association; the Federal Home Loan Mortgage Corporation; an agency of the Federal Government; any state, county, or municipal government; or any quasi-governmental agency that acts in such capacity under the specific authority of the laws of any state or the United States.

(g) A consumer finance company licensed pursuant to chapter 516 as of October 1, 1991.

(h) Any person making or acquiring a mortgage loan with his own funds for his own investment, and who does not hold himself out to the public, in any manner, as being in the mortgage lending business.

(i) Any person selling a mortgage that was made or purchased with that person's funds for his own investment, and who does not hold himself out to the public, in any manner, as being in the mortgage lending business.

(j) Any person who acts solely under contract and as an agent for federal, state, or municipal agencies in the servicing of mortgage loans.

Section 5. Subsection (7) is added to section 624.307, Florida Statutes, to read:

624.307 General powers, duties.—

(7) The department may employ financial examiners who are at-will employees, who serve at the pleasure of the Insurance Commissioner, and who are exempt from the Career Service System established by chapter 110. The salaries of financial examiners employed under this paragraph must be set in accordance with s. 216.251(2)(a)5. and must be set at levels that are commensurate with salary levels paid to financial examiners and auditors by the insurance industry.

Section 6. Subsection (2) of section 624.316, Florida Statutes, is amended to read:

624 316 Examination of insurers.—

(2)(a) The department may examine each insurer as often as may be warranted for the protection of the policyholders and in the public interest, and shall examine each domestic insurer not less frequently than once every 3 years. The examination shall cover the preceding 3 fiscal years of the insurer and shall be commenced within 12 months after the end of the most recent fiscal year being covered by the examination. The examination may cover any period of the insurer's operations since the last previous examination. The examination may include examination of events subsequent to the end of the most recent fiscal year and the events of any prior period that affect the present financial condition of the insurer. In lieu of making its own examination, the department may accept an independent certified public accountant's audit report prepared on a statutory basis consistent with the Florida Insurance Code on that specific company. The department may not accept the report in lieu of the requirement imposed by paragraph (1)(b). When an examination is conducted by the department for the sole purpose of examining the 3 preceding fiscal years of the insurer within 12 months after the opinion date of an independent certified public accountant's audit report prepared on a statutory basis on that specific company consistent with the Florida Insurance Code, the cost of the examination as charged to the insurer pursuant to s. 624.320 shall be reduced by the cost to the insurer of the independent certified public accountant's audit reports. Requests for the reduction in cost of examination must be submitted to the department in writing no later than 90 days after the conclusion of the examination and shall include sufficient documentation to support the charges incurred for the statutory audit performed by the independent certified public accountant.

(b) The department shall examine each insurer applying for an initial certificate of authority to transact insurance in this state before granting the initial certificate.

(c) In lieu of making its own examination, the department may accept a full report of the last recent examination of a foreign insurer, certified to by the insurance supervisory official of another state, *if the examination covers a period ending on or before December 31, 1993. The department may accept such report of an examination covering a period ending on or after January 1, 1994, only if one of the following conditions applies:*

1. The other state was, at the time of the examination, accredited under the financial regulation standards and accreditation program of the National Association of Insurance Commissioners.

2. The examination was performed under the supervision of an accredited state insurance department.

3. The examination was performed with the participation of one or more examiners who are employed by an accredited state insurance department and who, after review of the examination workpapers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by the employing state insurance department.

(d) The examination by the department of an alien insurer shall be limited to the alien insurer's insurance transactions and affairs in the United States, except as otherwise required by the department.

(e) Upon agreement between the department and the insurer, an examination under this section may be conducted by an independent professional examiner under contract to the department. The insurer being examined must make payment for such examination directly to the contracted examiner in accordance with the rates and terms agreed to by the department, the insurer, and the examiner.

Section 7. Subsection (1) of section 624.3161, Florida Statutes, is amended to read:

624.3161 Market conduct examinations.—

(1)*(a)* As often as it deems necessary, and not less frequently than each 5 years, the department shall examine each licensed rating organization, each advisory organization, each group, association, or other organization of insurers which engages in joint underwriting or joint reinsurance, and each authorized insurer transacting in this state any class of insurance to which the provisions of part I of chapter 627 are applicable. *The department may, but is not required to, examine any authorized foreign or alien insurer if, in the most recent 5-year period, the insurer's average annual Florida direct written premium volume was less than $500,000 or the insurer's average annual number of Florida policyholders and certificateholders was less than 1,000.*

(b) The examination shall be for the purpose of ascertaining compliance by the person examined with the applicable provisions of chapters 624, 626, 627, and 635.

Section 8. Section 624.319, Florida Statutes, is amended to read:

624.319 Examination and investigation reports.—

(1) The department or its examiner shall make a full and true written report of each examination. The examination report shall contain only information obtained from examination of the records, accounts, files, and documents of or relative to the insurer examined or from testimony of individuals under oath, together with relevant conclusions and recommendations of the examiner based thereon. The department shall furnish

a copy of the *draft* examination report to the insurer *at least 30 days before the department adopts the examination report as final. The draft examination report does not constitute final agency action or a decision which affects the insurer's substantial interests for purposes of chapter 120* ~~examined not less than 30 days prior to filing the examination report in its office. If such insurer so requests in writing within such 30-day period, the department shall grant a hearing with respect to the examination report and shall not so file the examination report until after the hearing and after such modifications have been made therein as the department deems proper.~~

(2) When the department adopts an examination report as final, the department must provide the insurer a copy of the report and notice of the opportunity to challenge the report pursuant to s. 120.57. No later than 21 days after the insurer receives the notice, the insurer must file an affidavit with the department on forms furnished by the department. The affidavit must be signed by the officer of the insurer in charge of the insurer's business in this state and must include at least the following:

(a) A statement that the officer has read the report; and

(b)1. If the insurer will challenge the report, a request for administrative hearing under s. 120.57, together with a statement as to the time within which the insurer intends to act on the recommendations made in the report.

2. If the insurer will not challenge the report, a statement that the insurer waives its rights under s. 120.57, together with a statement as to the time within which the insurer intends to act on the recommendations made in the report.

Failure of the insurer to respond to the notice within the 21-day period constitutes waiver of the insurer's right to challenge the examination report under s. 120.57.

(3)~~(2)~~ The examination report *adopted by the department as final is* ~~when so filed shall be~~ admissible in evidence in any action or proceeding brought by the department against the person examined, or against its officers, employees, or agents. In all other proceedings, the admissibility of the examination report is governed by the evidence code. *After an examination report is adopted by the department as final, the insurer is estopped from denying the accuracy of any findings in the examination report, as modified by any subsequent administrative or judicial action on the report.* The department or its examiners may at any time testify and offer other proper evidence as to information secured or matters discovered during the course of an examination, whether or not a written report of the examination has been either made, furnished, or filed in the department.

(4)~~(3)~~(a) The department may withhold from public inspection any examination report until *final* ~~filed~~ and may withhold any investigation report for so long as the department deems reasonably necessary to protect the person investigated from unwarranted injury or deems to be in the public interest.

(b) The department may withhold from public inspection any list of insurers or regulated companies if:

1. The financial solvency, condition, or soundness of such insurers or regulated companies is being monitored by the department;

2. The list is prepared to internally coordinate regulation by the department of the financial solvency, condition, or soundness of the insurers or regulated companies; and

3. The Insurance Commissioner and Treasurer determine that public inspection of such list could impair the financial solvency, condition, or soundness of such insurers or regulated companies.

This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(5)~~(4)~~ After the examination report has been *adopted by the department as final* ~~filed pursuant to subsection (1)~~, the department may publish the results of any such examination in one or more newspapers published in this state whenever it deems it to be in the public interest.

(6) A financial statement filed after the conclusion of all administrative and judicial actions with respect to an examination report that is not consistent with the financial condition reported in the examination report, as modified by the administrative or judicial actions, shall be grounds for administrative action pursuant to s. 624.418.

~~(5) After the examination report of an insurer has been filed pursuant to subsection (1), an affidavit shall be filed with the department, not more than 30 days after the report has been filed, on a form furnished by the department and signed by the officer of the company in charge of the insurer's business in this state, stating that he has read the report and that the recommendations made in the report will be considered within a reasonable time.~~

Section 9. Section 624.325, Florida Statutes, is created to read:

624.325 Limitations on ability of department to gather information.—A provision of law that specifies that another agency of state government is the single source for obtaining specified data does not limit the statutory powers and duties of the department with respect to the gathering and reporting of information.

Section 10. Section 624.4045, Florida Statutes, is created to read:

624.4045 Use of the words "insurance," "assurance," "indemnity," or "casualty" in corporate name.—The Department of State may not file any corporate document which contains the words "insurance," "assurance," "indemnity," or "casualty" in a corporate name without the approval of the Department of Insurance unless the corporation is an authorized insurer or is an insurance agency or managing general agency that also contains the word "agency" in the corporate name.

Section 11. Effective January 1, 1993, section 624.4095, Florida Statutes, is amended to read:

624.4095 Premiums written; restrictions.—

(1) Whenever an insurer's ratio of actual or projected annual written premiums as adjusted in accordance with subsection (4) to current or projected surplus as to policyholders as adjusted in accordance with subsection (5) exceeds 10 to 1 for gross written premiums or exceeds 4 to 1 for net written premiums, the department shall suspend the insurer's certificate of authority or establish by order maximum gross or net annual premiums to be written by the insurer consistent with maintaining the ratios specified herein unless the insurer demonstrates to the department's satisfaction that exceeding the ratios of this section does not endanger the financial condition of the insurer or endanger the interests of the insurer's policyholders.

(2) Projected annual net or gross premiums shall be based on the actual writings to date for the insurer's current calendar year or the insurer's writings for the previous calendar year or both. Ratios shall be computed on an annualized basis.

(3) For the purposes of this section, *the term:*

(a) "Gross premiums written" means direct premiums written and reinsurance assumed.

(b) "Net premiums written" means gross premiums written minus reinsurance premiums paid to approved reinsurers as set forth in s. 624.610(2)(a)1.-4. or satisfactory nonapproved reinsurers as set forth in s. 624.610(2)(b)1., but does not include premiums ceded to other reinsurers.

(4) For the purposes of this section, for the calendar year ending December 31, 1990, and each subsequent year, premiums shall be calculated as the product of the actual or projected premiums and the following:

(a) For property insurance, 0.90.

(b) For casualty insurance, 1.25.

(c) For health insurance, 0.80.

(d) For all other kinds of insurance, 1.00.

(5) This section shall not apply to:

(a) Life insurance written by life or life and health insurers; ~~or~~

(b) Title insurance; or

(c)~~(b)~~ Life and health insurers which have a surplus as to policyholders greater than $40 million and which have written health insurance during each of the immediately preceding five calendar years.

(6) For the purposes of this section, surplus as to policyholders for life and health insurers shall be calculated as follows: (actual or projected

surplus as to policyholders) minus (surplus as to policyholders required to be maintained under s. 624.408 for liabilities relating to life insurance).

Section 12. Subsection (5) is added to section 624.4211, Florida Statutes, to read:

624.4211 Administrative fine in lieu of suspension or revocation.—

(5) The department may adopt rules providing for the application of administrative fines authorized by this section. The rules may include, as the department deems necessary, a schedule of fines and penalties.

Section 13. Subsection (1) and paragraph (d) of subsection (8) of section 624.424, Florida Statutes, are amended, and subsection (10) of section 624.424, Florida Statutes, is added to that section, to read:

624.424 Annual statement and other information.—

(1)(a) Each authorized insurer shall file with the department full and true statements of its financial condition, transactions, and affairs. An annual statement covering the preceding calendar year shall be filed on or before March 1, and quarterly statements covering the periods ending on March 31, June 30, and September 30 shall be filed within 45 days after each such date. The department may, for good cause, grant an extension of time for filing of an annual or quarterly statement. The statements shall contain information generally included in insurers' financial statements prepared in accordance with generally accepted insurance accounting principles and practices and in a form generally utilized by insurers for financial statements, sworn to by at least two executive officers of the insurer or, if a reciprocal insurer, by the oath of the attorney in fact or its like officer if a corporation. To facilitate uniformity in financial statements and to facilitate department analysis, the department may by rule adopt the form for financial statements approved by the National Association of Insurance Commissioners in 1990, and may adopt subsequent amendments thereto if the methodology remains substantially consistent, and may by rule require each insurer to submit to the department or such organization as the department may designate all or part of the information contained in the financial statement in a computer-readable form compatible with the electronic data processing system specified by the department.

(b) Each insurer's annual statement must contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American Academy of Actuaries or by a qualified loss reserve specialist under criteria established by rule of the department. In adopting the rule, the department must consider any criteria established by the National Association of Insurance Commissioners. The department may require semiannual updates of the annual statement opinion. Workpapers in support of the actuary's statement of opinion must be made available to the department upon request. This paragraph does not apply to life insurance or title insurance.

(c)~~(b)~~ The department may by rule require reports or filings required under the insurance code to be submitted on a computer-diskette compatible with the electronic data processing equipment specified by the department.

(8)

(d)*1.* An insurer may not use the same accountant or partner of an accounting firm responsible for preparing the report required by this subsection for more than 5 consecutive years. Following this period, the insurer may not use such accountant or partner for a period of 2 years, but may use another accountant or partner of the same firm.

2. Notwithstanding the provisions of subparagraph 1., an insurer may not use the same accounting firm for more than 2 consecutive years for preparing its annual report if, at any time during the 2-year period, the rating of the insurer is below B- as determined by A.M. Best, below A3 as determined by Moody's, or below BB- as determined by Standard and Poor's, or if the insurer is not rated by A.M. Best, Moody's, and Standard and Poor's.

3. An insurer may request the department to waive this prohibition based upon an unusual hardship to the insurer and a determination that the accountant is exercising independent judgment that is not unduly influenced by the insurer considering such factors as the number of partners, expertise of the partners or the number of insurance clients of the accounting firm; the premium volume of the insurer; and the number of jurisdictions in which the insurer transacts business.

(10) Any person who knowingly and willfully signs a false financial statement for filing with the department commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 14. Subsection (4) is added to section 624.4241, Florida Statutes, to read:

624.4241 NAIC filing requirements.—

(4) The department may require that all filings and supporting information be provided to the department in a computer-readable format specified by the department.

Section 15. Subsection (12) is added to section 624.439, Florida Statutes, to read:

624.439 Filing of application.—The sponsoring association shall file with the department an application for a certificate of authority upon a form to be furnished by the department, signed under oath by officers of the trust, which shall include or have attached the following:

(12) The department may require that all filings and supporting information be provided to the department in a computer-readable format specified by the department.

Section 16. Section 624.4461, Florida Statutes, is created to read:

624.4461 Future creation of multiple-employer welfare arrangements prohibited.—A multiple-employer welfare arrangement may not be created under ss. 624.436-624.446 after October 1, 1992, unless a permit to form the arrangement was granted prior to October 1, 1992.

Section 17. Section 624.488, Florida Statutes, is amended to read:

624.488 Applicability of related laws.—In addition to other provisions of the code cited in ss. 624.460-624.488:

(1) Sections 624.155, 624.308, 624.414, 624.415, and 624.416(4); ss. 624.418-624.4211, except s. 624.418(2)(f); and s. 624.501;

(2) Part II of chapter 625;

(3) Applicable sections of part VI of chapter 626; s. 626.9541(1)(a), (b), (c), (d), (e), (f), (h), (i), (j), (k), (l), (m), (n), (o), (q), (u), (w), and (x); and ss. 626.9561-626.9641;

(4) Sections 627.311 and 627.351, to the extent that the commercial self-insurance fund provides insurance of the type, line, or class provided under a joint underwriting association or risk apportionment plan established under those sections;

(5)~~(4)~~ Sections 627.291, 627.413, 627.4132, 627.416, 627.418, 627.420, 627.421, 627.425, 627.426, 627.4265, 627.427, 627.428, 627.702, and 627.706; part XI of chapter 627; ss. 627.912, 627.913, and 627.918; and

(6)~~(5)~~ Section 628.361(2),

shall apply to commercial self-insurance funds. No section of the code not expressly and specifically cited in ss. 624.460-624.488 shall apply to commercial self-insurance funds.

Section 18. Section 624.4891, Florida Statutes, is created to read:

624.4891 Future creation of commercial self-insurance funds prohibited.—A commercial self-insurance fund may not be created under ss. 624.460-624.489 after October 1, 1992, unless a permit to form the commercial self-insurance fund was granted prior to October 1, 1992.

Section 19. Subsection (3) of section 624.609, Florida Statutes, is amended to read:

624.609 Limit of risk.—

(3) *Only approved* reinsurance ceded as *set forth in s. 624.610(2)(a)1.-4. and satisfactory nonapproved reinsurance as set forth in s. 624.610(2)(b)1. may* ~~authorized by s. 624.610 shall~~ be deducted in determining risk retained. As to surety risks, a deduction shall also be made of the amount assumed by any established incorporated cosurety and the value of any security deposited, pledged, or held subject to the surety's consent and for the surety's protection.

Section 20. Section 624.611, Florida Statutes, is created to read:

624.611 Assumption reinsurance.—

(1) PURPOSE.—The purpose of this section is to provide for the regulation of the transfer and novation of contracts of insurance by way of assumption reinsurance and to establish notice and disclosure requirements that protect and define the rights and obligations of policyholders, regulators, and the parties to assumption reinsurance agreements.

(2) SCOPE.—This section applies to any authorized insurer that transfers the obligations or risks on contracts of insurance written or assumed in this state to another insurer pursuant to an assumption reinsurance agreement. This section does not apply to any of the following:

(a) Any reinsurance agreement or transaction in which the transferring insurer continues to remain directly liable for its insurance obligations or risks under the contracts of insurance subject to the reinsurance agreement.

(b) The substitution of one insurer for another upon the expiration of insurance coverage pursuant to statutory or contractual requirements and the issuance of a new contract of insurance by another insurer.

(c) The transfer of contracts of insurance pursuant to mergers or consolidations of two or more insurers to the extent that those transactions are regulated by statute.

(d) Any insurer subject to a judicial order of liquidation, rehabilitation, or any similar proceedings under court order.

(e) Any contract controlled by a state guaranty association.

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

(a) "Assuming insurer" means an insurer that acquires an insurance obligation or risk from the transferring insurer pursuant to an assumption reinsurance agreement.

(b) "Assumption reinsurance agreement" means any contract that both:

1. Permanently transfers insurance obligations or risks of existing or in-force contracts of insurance from a transferring insurer to an assuming insurer; and

2. Is intended to effect a novation of the transferred contract of insurance with the result that the assuming insurer becomes directly liable to the policyholders of the transferring insurer and the transferring insurer's insurance obligations or risks under the contracts are extinguished.

(c) "Certificate of assumption" means the written notice to policyholders required by subsection (4).

(d) "Contract of insurance" means any written agreement between an insurer and policyholder pursuant to which the insurer, in exchange for premium or other consideration, agrees to assume an obligation or risk of the policyholder or to make payments on behalf of or to the policyholder or its beneficiaries. "Contract of insurance" includes only contracts of life insurance as defined in s. 624.602, other than credit life insurance or mortgage life insurance, and contracts of health insurance as defined in s. 624.603.

(e) "Policyholder" means any individual or entity that has the right to terminate or otherwise alter the terms of a contract of insurance. "Policyholder" includes any certificateholder whose certificate is in force on the proposed effective date of the assumption, if the certificateholder has the right to keep the certificate in force following termination of the group policy. The rights to keep the policy in force do not include the right to elect individual coverage under the Consolidated Omnibus Budget Reconciliation Act ("COBRA"), sections 601 et seq., of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. ss. 1161 et seq.

(f) "Transferring insurer" means the insurer that transfers an insurance obligation or risk to an assuming insurer pursuant to an assumption reinsurance agreement.

(4) NOTICE TO POLICYHOLDERS.—

(a) The assuming insurer must provide to each policyholder by first-class mail, addressed to the policyholder's last known address or to the address to which premium notices or other policy documents are sent, or by personal delivery by a licensed insurance agent of the assuming insurer, a certificate of assumption.

(b) The certificate of assumption must specify all of the following information:

1. The name, address, and telephone number of both the assuming insurer and the transferring insurer.

2. The policy number.

3. Notification that the assuming insurer will from here forward be responsible for all obligations, liabilities, and rights under the policy.

4. Notification that the terms, conditions, and provisions of the policy as it was issued by the transferring insurer shall remain in full force and effect.

5. Notification that all premiums now or hereafter due are payable to the assuming insurer with clear instruction as to where said premiums are to be sent.

6. Notification that the certificate of assumption will become part of the insured's existing policy and should be attached thereto or maintained therewith.

7. Notification that the transfer may affect the policyholder's guaranty association coverage or regulatory recourse.

8. The signatures of two officers of the assuming insurer.

(5) NOTICE TO REGULATORS; APPROVAL REQUIRED; CERTAIN TRANSFERS PROHIBITED.—

(a) An insurer domiciled in this state may not assume or transfer obligations or risks on contracts of insurance under an assumption reinsurance agreement unless the entire agreement has the prior approval of the department. A foreign insurer licensed in this state may not enter into an assumption reinsurance agreement that transfers the obligations or risks on contracts of insurance issued to residents of this state unless the portion of the agreement that affects contracts of insurance issued to residents of this state has the prior approval of the department.

(b) Approvals under this subsection must follow the procedures for policy form approvals provided in ss. 627.410 and 627.411 and must be based on whether the transaction is in the interests of the affected policyholders and whether the transaction enhances the surplus of the transferring insurer without having a detrimental impact on the solvency or surplus of the assuming insurer. With respect to transactions in which an insurer domiciled in this state is a party, the department must also consider whether the transaction enhances the solvency or capacity of the domiciliary insurer or insurers.

(c) If neither party to the assumption reinsurance agreement is domiciled in this state, the department may not approve the assumption agreement unless both the transferring insurer and the assuming insurer have obtained the approval of the agreement from the insurance regulatory bodies of their respective states.

(d) An insurer domiciled in this state may not transfer obligations or risks on contracts of insurance to any insurer that is not licensed in this state, unless the contracts of insurance to be transferred are less than 0.5 percent of the contracts of insurance subject to the assumption and the assuming insurer is subject to a special deposit.

Section 21. Subsection (2) of section 624.80, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

624.80 Definitions.—As used in this part:

(2) "Unsound condition" means any of the following conditions:

(a) The insurer's required surplus, capital, or capital stock is impaired to an extent prohibited by law;

(b) The insurer continues to write new business when it has not maintained the required surplus or capital; ~~or~~

(c) The insurer attempts to dissolve or liquidate without first having made provisions, satisfactory to the department, for liabilities arising from insurance policies issued by the insurer*; or*.

(d) An insurer is in a condition for which the department has the power to suspend or revoke the insurer's certificate of authority.

(6) "Affiliate" has the meaning ascribed to the term in s. 631.011(1).

Section 22. Section 624.83, Florida Statutes, is amended to read:

624.83 Prohibited acts during period of supervision.—The department may provide that the insurer, *or any affiliate of the insurer whose operations affect the insurer's financial and operational performance during the period of supervision,* may not conduct the following activities during the period of supervision, without prior approval by the department:

(1) Dispose of, convey, or encumber any of its assets or its business in force;

(2) Withdraw any of its bank accounts;

(3) Lend any of its funds;

(4) Invest any of its funds;

(5) Transfer any of its property;

(6) Incur any debt, obligation, or liability;

(7) Merge or consolidate with another company;

(8) Enter into any new reinsurance contract or treaty;

(9) Terminate, surrender, forfeit, convert, or lapse any insurance policy, certificate, or contract of insurance, except for nonpayment of premiums due;

(10) Release, pay, or refund premium deposits, accrued cash or loan values, unearned premiums, or other reserves on any insurance policy or certificate; or

(11) Make any material change in management.

Section 23. Subsection (1) of section 624.87, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

624.87 Administrative supervision; expenses.—

(1) During the period of supervision the department by contract or otherwise may appoint a deputy supervisor *as its agent* to supervise the insurer. *The department may, by rule, enumerate the duties of the deputy supervisor, which may include, but need not be limited to, monitoring and evaluating the insurer's operations, recommending corrective actions to the department, implementing corrective actions for the insurer's operations, and supervising the insurer's operations pursuant to the prohibited acts imposed during the period of supervision as outlined in s. 624.83. The deputy supervisor must act at the full direction and control of the department.*

(6) The department may enter into a supervision agreement with the insurer and the deputy supervisor that authorizes the payment of compensation of the deputy supervisor and the deputy supervisor's related travel expense and living expense allowance, directly out of the insurer's funds.

Section 24. Section 624.88, Florida Statutes, is created to read:

624.88 Immunity.—There is no civil liability on the part of, and no cause of action arises against, the commissioner, or the department, or the department's employees or agents for any lawful action taken in the performance of their powers and duties under this part.

Section 25. Section 628.6011, Florida Statutes, is amended to read:

628.6011 Assessable mutual insurers.—

(1) An "assessable mutual insurer" is an insurer incorporated in Florida without permanent capital stock which has only insureds or risks located in Florida and which transacts insurance only within Florida. *An assessable mutual insurer may be* ~~and is~~ formed *only* in accordance with part I *and must include the words "assessable mutual" in its name.* Members of the assessable mutual have a contingent liability for discharge of its liabilities as provided in this part. An assessable mutual may be authorized to offer only property, health, and casualty insurance.

(2) The assessable mutual shall not participate in the Florida Insurance Guaranty Association or the Florida Life and Health Insurance Guaranty Association.

Section 26. Section 628.6016, Florida Statutes, is amended to read:

628.6016 Applicability of related laws.—In addition to other provisions of the code cited in ss. 628.6011-628.6018:

(1) Sections 624.155, 624.308, 624.414, 624.415, and 624.416(4); ss. 624.418-624.4211, except s. 624.418(2)(f); ss. 624.464, 624.468(1), (2), (4), (6), and (11), 624.472, 624.473, 624.474, 624.478, 624.480, 624.482, 624.484, 624 486, and 624.501;

(2) Part II of chapter 625;

(3) Applicable sections of part VI of chapter 626; s. 626.9541(1)(a), (b), (c), (d), (e), (f), (h), (i), (j), (k), (l), (m), (n), (o), (q), (u), (w), and (x); and ss. 626.9561-626.9641;

(4) Sections 627.311 and 627.351, to the extent that an assessable mutual insurer provides insurance of the type, line, or class provided under a joint underwriting association or risk apportionment plan established under those sections;

(5)~~(4)~~ Sections 627.291, 627.413, 627.4132, 627.416, 627.418, 627 420, 627.421, 627.425, 627.426, 627.4265, 627.427, 627.428, 627.702, and 627.706; part XI of chapter 627; ss 627.912, 627.913, and 627 918, and

(6)~~(5)~~ Relevant sections of part I of chapter 628 that are not in conflict with the express provisions of this part;

apply to assessable mutual insurers; however, ss. 628.255, 628.411, and 628.421 do not apply. No section of the code not expressly and specifically cited in ss. 628.6011-628.6018 applies to assessable mutual insurers. The term "assessable mutual insurer" shall be substituted for the term "commercial self-insurer" as appropriate.

Section 27. Section 629.518, Florida Statutes, is amended to read:

629.518 Applicability of related laws.—In addition to other provisions of the code cited in ss. 629.50-629.519*:*

(1) Sections, ~~ss.~~ 624.308 and 624.418-624.4211; chapter 625, part II; applicable sections of chapter 626, part VI, and s. 626.9541(1)(a), (b), (c), (d), (e), (i), (j), (k), (n), (w), and (x); ss. 627.413(1) and (2), 627.416, 627.418, 627.420, 627.421, 627.425, 627.426, 627.427, 627.428, 627.702, 627.706, 627.912, and 627.913; s. 628.361(2); and ss. 629.101, 629.111, and 629.161, *and*

(2) Sections 627 311 and 627.351, to the extent that a limited commercial reciprocal insurer provides insurance of the type, line, or class provided under a joint underwriting association or risk apportionment plan established under those sections,

shall apply to limited reciprocal insurers. No section of the code not expressly and specifically cited in ss. 629.50-629.519 shall apply to limited reciprocal insurers.

Section 28. Subsection (16) is added to section 631.051, Florida Statutes, to read:

631.051 Grounds for rehabilitation; domestic insurers.—The department may petition for an order directing it to rehabilitate a domestic insurer or an alien insurer domiciled in this state on any one or more of the following grounds, that the insurer:

(16) Has filed a materially false financial statement with the department.

Section 29. Subsection (1) of section 631.271, Florida Statutes, is amended to read:

631.271 Priority of claims.—

(1) The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is set forth in this subsection. Every claim in each class shall be paid in full or adequate funds shall be retained for such payment before the members of the next class may receive any payment. No subclasses may be established within any class. The order of distribution of claims shall be:

(a) Class 1.—

1. All of the receiver's costs and expenses of administration.

2. All of the expenses of a guaranty association or foreign guaranty association in handling claims.

~~(b) Class 2.—Claims of the Federal Government.~~

(b)~~(c)~~ Class 2. ~~3.~~—Debts due to employees for services performed, to the extent that such debts do not exceed $2,000 for each employee and

represent payment for services performed within 6 months before the filing of the petition for liquidation. Officers and directors are not entitled to the benefit of this priority. Such priority is in lieu of any other similar priority which may be authorized by law as to wages or compensation of employees.

(c)~~(d)~~ Class 3.4.—All claims under policies for losses incurred, including third-party claims, all claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property which claims are not under policies, and all claims of a guaranty association or foreign guaranty association. All claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values, shall be treated as loss claims. That portion of any loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, may not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment by an employer to his employee may be treated as a gratuity.

(d) Class 4.—Claims of the Federal Government.

(e) Class 5.—Claims under nonassessable policies for unearned premiums or premium refunds and claims of general creditors.

(f) Class 6.—Claims of any state or local government. Claims, including those of any state or local government for a penalty or forfeiture, shall be allowed in this class, but only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to the class of claims under paragraph (i).

(g) Class 7.—Claims filed after the time specified in s. 631.181(3), except when ordered otherwise by the court to prevent manifest injustice, or any claims other than claims under paragraph (h) or under paragraph (i).

(h) Class 8.—Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Payments to members of domestic mutual insurance companies shall be limited in accordance with law.

(i) Class 9.—The claims of shareholders or other owners.

Section 30. With respect to food service in the Larson Building cafeteria, the provisions of section 413.051, Florida Statutes, or similar law to the contrary notwithstanding, the Department of Insurance may contract with an entity to provide the food service, provided that the contracting entity furnishes the services of a person licensed in this state in dietetics and nutrition practice pursuant to sections 468.501-468.518, Florida Statutes, to provide professional services regarding the food served with the goal of enhancing the health of employees dining in the cafeteria with consequent health care cost savings to the state. The contract or a separate contract with a state university, as may be appropriate, may use the services of the university's students as interns majoring in food service or the dietetics and nutrition practice.

Section 31. Subsection (3) is added to section 632.617, Florida Statutes, to read:

632.617 Benefits.—

(3) A society may not issue a contract in this state that requires an annual premium or consideration greater than $10,000. A society may apply for an exception to this subsection based on a demonstration to the department's satisfaction that exceeding this limitation does not endanger the financial condition of the insurer or endanger the interests of the insurer's policyholders.

Section 32. Subsection (3) of section 632.634, Florida Statutes, is amended to read:

632.634 Licensing and appointment of agents.—

(3) Any agent, representative, or member of a society who in any preceding calendar year has solicited and procured life insurance benefit contracts on behalf of any society in a total amount of insurance less than $50,000, or, in the case of any other kind or kinds of insurance benefit contracts which the society might write, on not more than 25 individuals, *if the total annual premium or other considerations for all such contracts does not exceed $25,000 in the aggregate,* shall be exempt from the agent licensing and appointment requirements of subsection (1). Every society shall register, on forms prescribed by the department and on or before March 1 of each year, the name and residence address of each agent, representative, or member exempt under the provisions of this subsection and shall, within 30 days of termination of employment, notify the department of the termination. Any agent, representative, or member for which an exemption is claimed due to employment by the society subsequent to March 1 shall be registered by the society with the department within 10 days of the date of employment.

Section 33. Section 624.325, Florida Statutes, is created to read:

624.325 Limitations on ability of department to gather information.—A provision of law that specifies that another agency of state government is the single source for obtaining specified data does not limit the statutory powers and duties of the department with respect to the gathering and reporting of information.

Section 34. Subsection (3) of section 624.472, Florida Statutes, is amended to read:

624.472 Member's liability.—

(3) Each policy issued by the fund shall contain a statement of the contingent liability. Both the application for insurance and the policy shall contain, in contrasting color and in not less than 10-point type, the following statements: "This is a fully assessable policy. In the event the fund is unable to pay its obligations, policyholders will be required to contribute on a pro rata earned premium basis the money necessary to meet any unfilled obligations." In lieu of the notice provided for above, a fund with governmental entity members shall provide the following notice to members other than governmental entities: "This is a fully assessable policy. In the event the fund is unable to pay its obligations related to members which are not governmental entities, the policyholders which are not governmental entities will be required to contribute on a pro rata earned premium basis the money necessary to meet any such unfilled obligations." A fund with governmental entity members shall provide the following notice to governmental entity members: "This is a fully assessable policy. In the event the fund is unable to pay its obligations related to governmental entity members, governmental entity policyholders will be required to contribute on a pro rata earned premium basis the money necessary to meet any such unfilled obligations." *If the application is signed by the applicant, it must be conclusively presumed that there was an informed, knowing acceptance of the assessment liability that exists as a result of participation in the fund.*

Section 35. Workers' compensation group self-insurance fund application disclosure.—Each application for workers' compensation coverage under a group self-insurance fund authorized under chapter 440, Florida Statutes, shall contain in contrasting color and in not less than 10-point type, the following statement: "This is a fully assessable policy. In the event the fund is unable to pay its obligations, policyholders will be required to contribute on a pro rata earned premium basis the money necessary to meet any unfilled obligations." If the application is signed by the applicant, it must be conclusively presumed that there was an informed, knowing acceptance of the assessment liability that exists as a result of participation in the fund.

Section 36. Section 626.072, Florida Statutes, is amended to read:

626.072 "Customer representative" *and "limited customer representative"* defined.—For the purposes of this code:

(1) A "customer representative" is an individual appointed by a general lines agent *or general lines agency* to assist the agent *or agency* in transacting the business of insurance from the office of the agent *or agency.*

(2) A "limited customer representative" is a customer representative appointed by a general lines agent or general lines agency to assist the agent or agency in transacting only the business of private passenger motor vehicle insurance from the office of the agent or agency. A limited customer representative is subject to this code in the same manner as a customer representative unless otherwise specified.

Section 37. Subsection (5) of section 626.241, Florida Statutes, is amended to read:

626.241 Scope of examination.—

(5) Examinations given applicants for a limited license as agent *or as customer representative* shall be limited in scope to the kind of business to be transacted under such license.

Section 38. Section 628.6013, Florida Statutes, is amended to read:

628.6013 Converted self-insurance fund; trade association; board of directors.—

(1) Any self-insurance fund regulated under the insurance code other than a commercial self-insurance fund may, with the approval of the department, elect to convert to an assessable mutual insurer in accordance with part I.

(2) An assessable mutual insurer formed by the conversion of a commercial self-insurance fund pursuant to s. 624.463 *or by the conversion of a group self-insurer's fund pursuant to s. 440.572* shall be endorsed at the time of conversion by a statewide not-for-profit trade association, industry association, or professional association of employers or professionals which has a constitution or bylaws, which is incorporated under the laws of this state, and which has been organized for purposes other than that of obtaining or providing insurance and operated in good faith for a continuous period of 1 year. The association shall not be liable for any actions of the insurer, nor shall it *require the establishment or enforcement of* ~~have any responsibility for establishing or enforcing~~ any policy of the insurer. Fees, services, and other aspects of the relationship between the association and the insurer *shall be reasonable and* shall be subject to contractual agreement.

(3) Neither the endorsing association nor any of its officers or directors shall have any financial interest, direct or indirect, in the insurer's management company.

(4)~~(3)~~ The board of directors of the assessable mutual insurer shall:

(a) Be responsible to members of the insurer;

(b) Appoint independent certified public accountants *and*~~, legal counsel,~~ actuaries, ~~and investment advisors~~ as needed;

(c) Approve payment of dividends to members; ~~and~~

(d) Approve changes in corporate structure*; and*~~.~~

(e) Adopt a plan submitted by the management company establishing requirements for membership in the insurer, including, but not limited to, loss prevention, claims experience, billing, underwriting criteria and qualifications, including dues paid by members of the insurer for membership in the endorsing association and the credit worthiness of membership applicants, termination, and reinstatement.

(5)~~(4)~~ The board of directors of the assessable mutual insurer *may* ~~shall have the authority to~~ contract with an authorized *management* ~~administrator or servicing~~ company *which, except as specifically provided in part II, shall be solely responsible for managing and administering* ~~to administer~~ the ~~day to day~~ affairs of the insurer, including, but not limited to, marketing, underwriting, billing, collection, claims administration, *termination, reinstatement,* safety and loss prevention, reinsurance, policy issuance, accounting, regulatory reporting, *investment,* and general administration. The fees or compensation for services under such contract shall be comparable to the costs for similar services incurred by insurers writing the same lines of insurance, or, where available, such expenses as filed by boards, bureaus, and associations designated by insurers to file such data.

(6)~~(5)~~ *At least one director, but less than a majority of the directors, shall be an officer or director of the management company and shall be appointed by the management company.* The *remaining* ~~majority of the~~ directors *shall be elected by the membership, and* shall be ~~individual members of, or~~ owners, partners, officers, directors *of members of the insurer*~~, or employees of one or more members of, the insurer or the endorsing association~~*. Except for directors of the insurer who are officers or directors of the management company, no two directors of the insurer shall be owners, partners, officers, or directors of the same member of the insurer.*

(7) If the board of directors contracts with a management company, no person shall serve as an officer of the assessable mutual insurer unless he is an officer or director of the management company.

(8)~~(6)~~ If the board of directors contracts with *a management company* ~~an administrator authorized under s. 626.88 to administer the day-to-day affairs of the fund~~, a member of the board of directors is not personally liable for monetary damages to any person for any statement, vote, decision, or failure to act, regarding the management or policy of the fund, by a director, unless:

(a) The director breached or failed to perform his duties as a director; and

(b) The director's breach of, or failure to perform, his duties constitutes:

1. A violation of the criminal law, unless the director had reasonable cause to believe his conduct was lawful or had no reasonable cause to believe his conduct was unlawful. A judgment or other final adjudication against a director in any criminal proceeding for violation of the criminal law estops that director from contesting the fact that his breach, or failure to perform, constitutes a violation of the criminal law; but does not estop the director from establishing that he had reasonable cause to believe that his conduct was lawful or had no reasonable cause to believe that his conduct was unlawful.

2. A transaction from which the director derived an improper personal benefit, either directly or indirectly; or

3. Recklessness or an act or omission which was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. For purposes of this section, the term "recklessness" means the acting, or omission to act, in conscious disregard of a risk:

a. Known, or so obvious that it should have been known, to the director; and

b. Known to the director, or so obvious that it should have been known, to be so great as to make it highly probable that harm would follow from such action or omission.

(9) No management company shall be authorized by the department to manage and operate an assessable mutual insurer unless its owners, partners, stockholders, officers, or directors, and other persons who directly or indirectly exercise or have the ability to exercise effective control of the management company, possess the competency and business experience to manage and operate an assessable mutual insurer.

(10) As used in this section, the term "management company" includes the servicing company, if any, which administered the day-to-day affairs of the commercial self-insurance fund or group self-insurers fund before its conversion to an assessable mutual insurer.

Section 39. Section 631.714, Florida Statutes, is amended to read:

631.714 Definitions.—As used in this part, *the term*:

(1) "Account" means any of the three accounts created in s. 631.715.

(2) "Association" means the Florida Life and Health Insurance Guaranty Association created in s. 631.715.

(3) "Contractual obligation" means any obligation under covered policies.

(4) "Court of competent jurisdiction" means a court of this state having domiciliary or ancillary jurisdiction over a member insurer or, at the discretion of the board of directors of the association or the department, a court of another state having domiciliary jurisdiction over a member insurer.

(5)~~(4)~~ "Covered policy" means any policy or contract set out in s. 631.713 and reduced to written, printed, or other tangible form.

(6)~~(5)~~ "Department" means the Department of Insurance.

(7)~~(6)~~ "Impaired insurer" means a member insurer deemed by the department to be potentially unable to fulfill its contractual obligations and not an insolvent insurer.

(8)~~(7)~~ "Insolvent insurer" means a member insurer authorized to transact insurance in this state, either at the time the policy was issued or when the insured event occurred, and against which an order of liquidation with a finding of insolvency has been entered by a court of competent jurisdiction, if such order has become final by the exhaustion of appellate review.

(9)~~(8)~~ "Member insurer" means any person licensed to transact in this state any kind of insurance as set out in s. 631.713.

(10) "Person" means any individual, corporation, partnership, association, or voluntary organization.

(11)~~(9)~~ "Premium" means any direct gross insurance premium and any annuity consideration written on covered policies, less return premium and consideration thereon and dividends paid or credited to policyholders on such direct business. "Premium" does not include premium and consideration on contracts between insurers and reinsurers.

(12)~~(11)~~ "Resident" means any person who resides in this state at the time a member insurer is determined to be an impaired or insolvent insurer and to whom contractual obligations are owed by such impaired or insolvent member insurer.

Section 40. Section 631.715, Florida Statutes, is amended to read:

631.715 Florida Life and Health Insurance Guaranty Association.—

(1) There is created a nonprofit legal entity to be known as the Florida Life and Health Insurance Guaranty Association. All member insurers shall be and remain members of the association as a condition of their authority to transact insurance in this state, and, further, as a condition of such authority, an insurer shall agree to reimburse the association for all claim payments the association makes on said insurer's behalf if such insurer is subsequently rehabilitated. The association shall perform its functions under the plan of operation established and approved under the provisions of s. 631.721 and shall exercise its powers through a board of directors established under the provisions of s. 631.716.

(2)(a) For purposes of administration and assessment, the association shall maintain three accounts:

1.~~(a)~~ The health insurance account;

2.~~(b)~~ The life insurance account; and

3.~~(c)~~ The annuity account.

(b) Borrowing between accounts for payment of policyholder and contract holder claims and other obligations of the association is authorized at the discretion of the board of directors, provided that the amounts so borrowed are restored to the appropriate accounts not less than annually.

(3)~~(2)~~ The association shall come under the immediate supervision of the department and shall be subject to the applicable provisions of the insurance laws of this state.

Section 41. Subsection (6) of section 631.717, Florida Statutes, is amended to read:

631.717 Powers and duties of the association.—

(6) The association may *assist* ~~render assistance~~ and *advise* ~~advice to~~ the department, upon its request, concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of any impaired or insolvent insurer. *The association may also assist and advise departments of insurance of other states; other guaranty associations; and conservators, rehabilitators, and receivers appointed or acting in regard to any member insured wherever located, for the purpose of developing plans to coordinate protection of policyholders. Costs of such activities may be charged against the health insurance account or the life insurance account, created by s. 631.715, at the discretion of the board of directors, notwithstanding any other provision of this part.*

Section 42. Section 631.718, Florida Statutes, is amended to read:

631.718 Assessments.—

(1) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers separately, for each of the accounts referred to in s. 631.715 at such time and for such amounts as the board finds necessary. Assessments shall be due not less than 30 days after written notice to the member insurers.

(2) There shall be two classes of assessments, as follows:

(a) Class A assessments shall be made by the board of directors for the purpose of meeting administrative costs and other general expenses and for examinations conducted under the authority of s. 631.723(3) which are not related to a particular impaired or insolvent insurer.

(b) Class B assessments shall be made by the board of directors for the purpose of carrying out the powers and duties of the association under s. 631.717 relating to an impaired or insolvent domestic, foreign, or alien insurer.

(3)(a) The amount of any Class A assessment shall be determined by the board and may be made on a non-pro rata basis. Such assessment shall not be credited against future insolvency assessments and shall not exceed $250 per member insurer in any one calendar year.

(b) The amount of any Class B assessment shall be allocated for assessment purposes among the accounts pursuant to an allocation formula which may be based on the premiums or reserves of the impaired or insolvent insurer or any other standard deemed by the board in its sole discretion as being fair and reasonable under the circumstances.

~~(b) Class B assessments for each account shall be made separately for each state in which the impaired or insolvent domestic insurer was authorized to transact insurance at any time, in the proportion that the premiums received on business in such state by the impaired or insolvent insurer on policies covered by such account for the last calendar year preceding the assessment in which the impaired or insolvent insurer received premiums bear to such premiums received in all such states for such calendar year by the impaired or insolvent insurer. The assessments against member insurers shall be in the proportion that the premiums received on business in each such state by each assessed member insurer on policies covered by each account for the calendar year preceding the assessment bear to such premiums received on business in each state for the calendar year preceding assessment by all assessed member insurers.~~

(c) Class B assessments against foreign or alien insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies covered by each account for the calendar year preceding the assessment bear to such premiums received on business in this state for the calendar year preceding the assessment by all assessed member insurers.

(d) Class B assessments against member insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies or contracts covered by each account for the 3 most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent, as the case may be, bears to such premiums received on business in this state for such calendar years by all assessed member insurers.

~~(d) The amount of any Class B assessment shall be allocated among the accounts in the proportion that the premiums received by the impaired or insolvent insurer on the policies covered by each account for the last calendar year preceding the assessment in which the impaired or insolvent insurer received premiums bear to the premiums received by such insurer in such calendar year on all covered policies.~~

(e) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer shall not be made until necessary to implement the purposes of this part.

(f) Classification of assessments under subsection (2) and computation of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(4) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section.

(5) The total of all assessments upon a member insurer for each account shall not in any one calendar year exceed 1 percent of such insurer's premiums written in this state during the calendar year preceding the assessment on the policies covered by the account. If the maximum assessment, together with the other assets of the association in either account, does not provide in any one year in either account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this part.

~~(6) Notwithstanding any provision to the contrary, no member insurer may be assessed in any one calendar year an amount greater than the amount which it paid to this state in the previous year as premium tax and corporate income tax on the business to which this part applies or 0.1 percent of written premium on such business in this state, whichever is greater.~~

(6)~~(7)~~ The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to an account, the amount by which the assets of such account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account, including assets accruing from net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses if refunds are impractical.

(7)~~(8)~~ It shall be proper for any member insurer, in determining its premium rates and policyowner dividends as to any kind of insurance within the scope of this part, to consider the amount reasonably necessary to meet its assessment obligations under this part.

(8)~~(9)~~ The association shall issue to each insurer paying an assessment under this part, other than a Class A assessment, a certificate of contribution, in a form prescribed by the department, for the amount of the assessment so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the department may approve. However, any amount offset pursuant to s. 631.719 shall not be shown as an asset of the insurer on any of its financial statements.

Section 43. Section 631.719, Florida Statutes, is amended to read:

631.719 Premium or income tax credits for assessments paid.—

(1) A member insurer may offset against its premium or income tax liability or liabilities to this state any assessment described in *s. 631.718(8)* ~~s. 631.718(9)~~ to the extent of 0.1 percent of the amount of such assessment for each year following the year in which such assessment was paid. In the event a member insurer should cease doing business, all uncredited assessments may be credited against its premium or corporate income tax liability or liabilities for the year it ceases doing business.

(2) Any sums acquired by refund pursuant to *s. 631.718(6)* ~~s. 631.718(7)~~ from the association which have theretofore been written off by contributing insurers and offset against premium or corporate income taxes as provided in subsection (1), and which are not needed for purposes of this part, shall be paid by the association to the department for deposit with the Treasurer to the credit of the General Revenue Fund.

Section 44. Section 635.061, Florida Statutes, is amended to read:

635.061 Premium cost.—*For purposes of computing finance charges or determining whether a mortgage loan is usurious, any* ~~The~~ premium cost of mortgage guaranty insurance *that is paid by or collected from the mortgagor as a separate charge* shall not *be deemed to* constitute a part of the cost of, or interest upon, *or charges or consideration or an amount in excess of permitted charges in connection with,* any mortgage loan.

Section 45. Section 817.558, Florida Statutes, is amended to read:

817 558 Water treatment devices.—

(1) For purposes of this section:

(a) "Water treatment device" means any product, device, or system designed for personal, family, or household use and for which any claim is made that it will improve the quality of water by reducing one or more contaminants through mechanical, physical, chemical, or biological processes or a combination thereof.

(b) "Advertisement" means any representation of fact or opinion disseminated to the public in any manner or by any means that is designed to induce, directly or indirectly, any person to enter into any obligation to acquire any title or interest in or to use any water treatment device.

(c) "Misleading" means any direct or indirect misrepresentation or omission of any material fact or circumstance.

(d) "Contaminant" means a physical, chemical, microbiological, or radiological substance for which a maximum contaminant level in water exists pursuant to the Safe Drinking Water Act, Pub. L. No. 93-523, or pursuant to the Florida Safe Drinking Water Act.

(2)(a) It is unlawful for any person to make or disseminate any false or misleading advertisement regarding any water treatment device.

(b) It is unlawful for any person who solicits the sale, rental, lease, or order of any water treatment device to make any false or misleading statement or claim:

1. Regarding contamination problems in tap water;

2. Stating or implying scientific certainty regarding the relationship between acute or chronic illnesses and water quality;

3. Regarding the type and degree of problems caused by water treated in public water treatment systems;

4. Stating that the water flowing from a water treatment device is "pure," unless such word is reasonably defined;

5. Making undocumented product performance or product benefit claims; or

6. Using unauthorized endorsements or testimonials.

~~(3) Any advertisement shall contain, and any person who solicits the sale, rental, lease, or order of any water treatment device shall provide to the person being solicited, a statement that operational, maintenance, and replacement requirements are essential for the product to perform as advertised.~~

(3)~~(4)~~ Prior to the order, sale, rental, or lease of any water treatment device to a consumer, the person soliciting such order, sale, rental, or lease shall notify the consumer in clear and conspicuous writing that operational, maintenance, and replacement requirements are essential for the product to perform as represented. By October 1, 1991, in addition to the notification requirement, every water treatment device shall have a label or tag affixed to it or the container in which it is sold or delivered which notifies the consumer that operational, maintenance, and replacement requirements are essential for the product to perform as sold.

(4)~~(5)~~ Any person who violates any provision of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

And the title is amended as follows:

In title, on page 1, line 10, after the semicolon (;) insert: amending s. 494.006, F.S.; providing an exemption from mortgage lending licensing for insurance companies; amending s. 624.307, F.S.; authorizing the Department of Insurance to employ financial examiners as at-will employees; providing for setting of salaries of such examiners; amending s. 624.316, F.S.; providing circumstances for acceptance of certain examination reports of foreign insurers; providing for conduct of examinations by independent examiners; amending s. 624.3161, F.S.; providing that the department need not perform market conduct examinations of certain insurers; amending s. 624.319, F.S.; requiring the department to furnish draft examination reports; specifying duties of an insurer upon adoption of an examination report as final; requiring certain financial statements to be consistent with examination reports; creating s. 624.325, F.S.; clarifying the department's authority to gather and report information regarding insurance data; creating s. 624.4045, F.S.; limiting the use of certain words in certain corporate documents; amending s. 624.4095, F.S.; defining "net premiums written" for purposes of premium-to-surplus ratio restrictions; exempting title insurance from such restrictions; amending s. 624.4211, F.S.; providing for rules for the application of administrative penalties; amending s. 624.424, F.S.; requiring insurer annual statements to contain certain information; providing additional circumstances under which an insurer must change accounting firms for preparing its annual report; prohibiting false financial statements; providing penalties; amending ss. 624.4241, 624.439, F.S.; authorizing the department to require certain information to be in computer-readable format; creating s. 624.4461, F.S.; prohibiting future creation of multiple-employer welfare arrangements; amending s. 624.488, F.S.; specifying applicability of provisions relating to joint underwriting associations and risk apportionment plans to commercial self-insurance funds; creating s. 624.4891, F.S.; prohibiting future creation of commercial self-insurance funds; amending s. 624.609, F.S.; providing for deductions of certain rein-

surance in determining risk retained; creating s. 624.611, F.S.; providing for regulation of assumption reinsurance; providing definitions; providing for notice to policyholders and regulators; requiring approval of certain transactions; amending s. 624.80, F.S.; providing additional conditions to define "unsound condition"; defining "affiliate"; amending s. 624.83, F.S.; applying certain prohibitions to affiliates of insurers; amending s. 624.87, F.S.; authorizing the department to specify duties of a deputy supervisor; creating s. 624.88, F.S.; providing immunity from liability for actions of certain department personnel; amending s. 628.6011, F.S.; requiring an assessable mutual insurer to include the words "assessable mutual" in its name; amending s. 628.6016, F.S.; specifying applicability of provisions relating to joint underwriting associations and risk apportionment plans to assessable mutual insurers; amending s. 629.518, F.S.; specifying applicability of provisions relating to joint underwriting associations and risk apportionment plans to limited commercial reciprocal insurers; amending s. 631.051, F.S.; providing additional grounds for rehabilitation of insurers; amending s. 631.271, F.S.; revising the order of distribution of certain claims; authorizing the Department of Insurance to contract for food service in the Larson Building cafeteria using the services of a dietetics and nutrition practice professional and certain university interns; amending s. 632.617, F.S.; limiting certain contract premiums of a fraternal benefit society; amending s. 632.634, F.S.; limiting an exemption from provisions relating to licensing and appointment of agents; creating s. 624.325, F.S.; clarifying the department's authority to gather and report information regarding insurance data; amending s. 624.472, F.S., relating to members' liability for commercial self-insurance fund; creating a presumption; requiring workers' compensation group self-insurance fund applications to contain specified language; amending s. 626.072, F.S.; revising the definition of the term "customer representative" and defining the term "limited customer representative"; amending s. 626.241, F.S.; providing examination requirements for a limited license as customer representative; amending s. 628.6013, F.S.; amending provisions relating to the conversion of assessable mutual insurers; providing that the board of directors of the assessable mutual insurer may contract with an authorized management company, as defined and restricted, to manage and administer the insurer; providing qualifications of the directors; amending s. 631.714, F.S.; defining the term "court of competent jurisdiction" for purposes of pt. III of ch. 631, F.S.; amending s. 631.715, F.S., relating to the Florida Life and Health Insurance Guaranty Association; authorizing the board of directors to borrow between the association's accounts for certain purposes if repaid annually; amending s. 631.717, F.S.; authorizing the association to assist and advise certain persons and to pay the costs of such activities from the health insurance account or the life insurance account at the discretion of the board; amending s. 631.718, F.S., relating to assessments; revising the methods of assessing the member insurers; deleting the cap on assessments for a member insurer; amending s. 631.719, F.S., relating to the premium or income tax credits for assessments paid; updating cross-references; amending s. 635.061, F.S.; providing that for specified purposes the premium cost of mortgage guaranty insurance paid by a mortgagor is not deemed to constitute an amount in excess of permitted charges for a mortgage loan; amending s. 817.558, F.S.; providing a definition; deleting a requirement relating to advertising water treatment devices;

Amendment 2—In title, on page 1, line 2, strike "sinkhole"

Senators Dudley and Crotty offered the following amendment which was moved by Senator Crotty and adopted:

Amendment 3 (with Title Amendment)—On page 3, line 25, insert:

Section 4. Subsection (11) of section 527.01, Florida Statutes, is amended and subsection (18) is added to that section to read:

527.01 Definitions.—As used in this chapter:

(11) "Installer C" means any person who is engaged in the liquefied petroleum gas business and whose services include installing, *servicing, altering, or modifying appliances, equipment,* piping, or tubing to convey liquefied petroleum gas to appliances or equipment *or selling or leasing appliances or equipment for the use of liquefied petroleum gas. An "Installer C" may not install, service, alter, or modify liquefied petroleum gas motor fuel systems, liquefied petroleum gas equipment, appliances or systems on recreational vehicles, or liquefied petroleum gas containers or containers assemblies.*

(18) "Pipeline system operator" means any person who owns or operates any liquefied petroleum gas jurisdictional pipeline system as defined by Title 49, Code of Federal Regulations.

Section 5. Subsections (1) and (2) of section 527.02, Florida Statutes, are amended to read:

527.02 License; penalty; fees.—

(1)(a) It is unlawful for any person to engage in this state in the activities of a category I liquefied petroleum gas dealer, category II liquefied petroleum gas dispenser, category III liquefied petroleum gas cylinder exchange operator, installer A, installer B, installer C, installer D, dealer in liquefied petroleum gas appliances and equipment, manufacturer of liquefied petroleum gas appliances and equipment, requalifier of cylinders, or fabricator, repairer, ~~and~~ tester of vehicles and cargo tanks, *or pipeline system operator,* without first obtaining from the department a license to engage in one or more of these businesses. The sale of liquefied petroleum gas cylinders with a volume of 10 pounds water capacity or 4.2 pounds liquefied petroleum gas capacity or less is exempt from the requirements of this chapter. It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, to intentionally or willfully engage in any of said activities without first obtaining appropriate licensure from the department. Each business location of a person having multiple locations shall be separately licensed and must meet the requirements of this section. Such license shall be granted to any applicant determined by the department to be competent, qualified, and trustworthy who files with the department a surety bond, insurance affidavit, or other proof of insurance, as hereinafter specified, and pays for such license the following original application fee for new licenses and annual renewal fees for existing licenses:

License Category	Original Application Fee	Renewal Fee
Category I liquefied petroleum gas dealer	$525 *$425* ~~$375~~	
Category II liquefied petroleum gas dispenser	525	375
Category III liquefied petroleum gas cylinder exchange operator	150	100
Installer A	300	200
Installer B	300	200
Installer C	300	200
Installer D	300	200
Dealer in appliances and equipment for use of liquefied petroleum gas	50	45
Manufacturer of liquefied petroleum gas appliances and equipment	525	375
Requalifier of cylinders	525	375
Fabricator, repairer, and tester of vehicles and cargo tanks	525	375

(b) The license fee for a pipeline system operator shall be $100 per system owned or operated by the person, not to exceed $400 per license year and applies only to the operator of a pipeline system that is used to transmit liquefied petroleum gas from a common source to the ultimate customer and that serves 10 or more customers.

(c)~~(b)~~ The department shall *adopt* ~~promulgate~~ rules specifying acts deemed by the department to demonstrate a lack of trustworthiness to engage in activities requiring a license under this section.

(2) In addition to the requirements of subsection (1), any person applying for a license to engage in the activities of a category I liquefied petroleum gas dealer, category II liquefied petroleum gas dispenser, category III liquefied petroleum gas cylinder exchange operator, installer A, installer B, installer C, installer D, requalification of cylinders, ~~or~~ fabricator, repairer, ~~and~~ tester of vehicles and cargo tanks, *or pipeline system operator* must prove competency by taking a written examination and passing it with a grade of 75 percent or above. Each applicant for examination shall submit a $20 nonrefundable fee. The examination shall be based on information contained in this chapter, the National Fire Protection Association Standards relating to liquefied petroleum gas, and the rules adopted by the department. Application for examination for competency may be made by an individual or by an owner, a partner, or any person in a supervisory capacity of the license applicant. Every business organization shall possess such a full-time qualifier at all times who has successfully completed an examination in the corresponding category of the license held by the business organization. A vacancy in a qualifier position in a business organization which results from the departure of the qualifier shall be immediately reported to the department. In the event a business organization no longer possesses a duly designated qualifier, as required by this section, its liquefied petroleum gas licenses shall

be suspended by order of the department after 20 working days and shall remain suspended until a competent qualifier has been retained. A vacancy in the qualifier position for a period of over 20 working days shall be deemed to constitute an immediate threat to the public health, safety, and welfare. Failure to obtain a replacement qualifier within 60 days of the vacancy shall be grounds for revocation of licensure or eligibility for licensure. Any individual's competency qualifications on file with the department may be transferred to any existing licenseholder, by written request to the department from the person so qualified. By request in writing to the department, any individual who has on file the competency examination requirement may use this evidence on file for a new license application.

Section 6. Section 527.021, Florida Statutes, is amended to read:

527.021 Registration of transport vehicles.—

(1) Each liquefied petroleum gas bulk delivery *vehicle* ~~truck~~ owned or leased by a liquefied petroleum gas licensee~~, which is used for the transportation of liquefied petroleum gas for any purpose other than motor fuel for the vehicle~~, must be registered with the department annually.

(2) For the purposes of this section, a liquefied petroleum gas bulk delivery vehicle means any vehicle used to transport liquefied petroleum gas on the public roads in a liquid cargo tank that is mounted on a truck chassis or that constitutes part of the stress member used as the vehicle's frame.

(3) Vehicle registrations shall be submitted by the *vehicle owner or lessee* ~~dealer in liquefied petroleum gas~~ in conjunction with the annual renewal of his liquefied petroleum gas license, but no later than August 31 of each year. *A registration fee of $50 shall be assessed for each vehicle registered and shall be submitted with the registration and annual license renewal.* A dealer who does not submit the required vehicle registration by August 31 of each year is subject to the penalties in s. 527.13.

Section 7. Section 527.0605, Florida Statutes, is amended to read:

527.0605 Liquefied petroleum gas bulk storage locations; jurisdiction.—

(1) The provisions of this chapter shall apply to liquefied petroleum gas bulk storage locations when:

(a)~~(1)~~ A single container in the bulk storage location has a capacity of 2,000 gallons or more;

(b)~~(2)~~ The aggregate container capacity of the bulk storage location is 4,000 gallons or more; or

(c)~~(3)~~ A container or containers are installed for the purpose of serving the public the liquid product.

(2) Prior to the installation of any bulk storage container, the licensee must submit to the department a diagram of the facility which shows the proposed location of the container and must obtain written approval of such location from the department.

(3) A fee of $200 shall be assessed for each site plan reviewed by the division. The review shall include preconstruction inspection of the proposed site, plan review, and final inspection of the completed facility.

(4) No newly installed container may be placed in operation until it has been inspected and approved by the department.

Section 8. Section 624.501, Florida Statutes, is amended to read:

624.501 Filing, license, appointment, and miscellaneous fees.—The department shall collect in advance, and persons so served shall pay to it in advance, fees, licenses, and miscellaneous charges *and the base fees, licenses, and miscellaneous charges. All fees and taxes collected pursuant to this section shall be credited to the Insurance Commissioner's Regulatory Trust Fund* as follows:

(1) Certificate of authority of insurer.

(a) Filing application for original certificate of authority *or modification thereof as a result of a merger, acquisition, or change of controlling intest due to a sale or exchange of stock*, including all documents required to be filed therewith, filing fee ..... *$2,500.00* ~~$25.00~~

(b) Reinstatement fee $50.00

(2) Charter documents of insurer.

(a) Filing articles of incorporation or other charter documents, other than at time of application for original certificate of authority, filing fee $10.00

(b) Filing amendment to articles of incorporation or charter, other than at time of application for original certificate of authority, filing fee $5.00

(c) Filing bylaws, when required, or amendments thereof, filing fee $5.00

(3) Annual license tax of insurer, each domestic insurer, foreign insurer, and alien insurer (except that, as to fraternal benefit societies insuring less than 200 members in this state and the members of which as a prerequisite to membership possess a physical handicap or disability, such license tax shall be $25) ..... *$1,000.00* ~~$200.00~~

(4) *Statements* ~~Annual statement~~ of insurer, filing (except when filed as part of application for original certificate of authority), filing *fees:* ~~fee~~ ..... ~~$60.00~~

(a) Annual statement *$250.00*

(b) Quarterly statement *$250.00*

(5) All insurance representatives, application for license, each filing, filing fee ..... *$50.00* ~~$10.00~~

(6) Insurance representatives, property, marine, casualty, and surety insurance.

(a) Agent's original appointment and biennial renewal or continuation thereof, each insurer:

Appointment fee ..... *$42.00* ~~$22.00~~

State tax 12.00

County tax 6.00

Total ..... *$60.00* ~~$40.00~~

(b) Solicitor's or customer representative's original appointment and biennial renewal or continuation thereof:

Appointment fee ..... *$42.00* ~~$22.00~~

State tax 12.00

County tax 6.00

Total ..... *$60.00* ~~$40.00~~

(c) Nonresident agent's original appointment and biennial renewal or continuation thereof, appointment fee, each insurer ..... *$60.00* ~~$20.00~~

(d) Service representatives; managing general agents.

Original appointment and biennial renewal or continuation thereof, each insurer or managing general agent, whichever is applicable ..... *$60.00* ~~$40.00~~

(7) Life insurance agents.

(a) Agent's original appointment and biennial renewal or continuation thereof, each insurer:

Appointment fee ..... *$42.00* ~~$22.00~~

State tax 12.00

County tax 6.00

Total ..... *$60.00* ~~$40.00~~

(b) Nonresident agent's original appointment and biennial renewal or continuation thereof, appointment fee, each insurer ..... *$60.00* ~~$20.00~~

(8) Health insurance agents.

(a) Agent's original appointment and biennial renewal or continuation thereof, each insurer:

Appointment fee ..... *$42.00* ~~$22.00~~

State tax 12.00

County tax 6.00

Total ..... *$60 00* ~~$40.00~~

(b) Nonresident agent's original appointment and biennial renewal or continuation thereof, appointment fee, each insurer..... *$60.00* ~~$20.00~~

(9) All limited appointments as agent, as provided for in s. 626.321. Agent's original appointment and biennial renewal or continuation thereof, each insurer:

Appointment fee..... *$42.00* ~~$22.00~~

State tax..... 12.00

County tax..... 6.00
Total..... *$60.00* ~~$40.00~~

(10) Fraternal benefit society agents. Original appointment and biennial renewal or continuation thereof, each insurer:

Appointment fee..... *$42.00* ~~$22.00~~

State tax..... 12.00

County tax..... 6.00
Total..... *$60.00* ~~$40.00~~

(11) Vending machines. Original appointment and biennial renewal or continuation thereof, each machine, appointment fee..... $100.00

(12) Surplus lines agent. Agent's appointment and biennial renewal or continuation thereof, appointment fee..... $150.00

(13) Adjusters:

(a) Adjuster's original appointment and biennial renewal or continuation thereof, appointment fee..... *$60.00* ~~$40.00~~

(b) Nonresident adjuster's original appointment and biennial renewal or continuation thereof, appointment fee..... *$60.00* ~~$40.00~~

(c) Emergency adjuster's license, appointment fee..... $10.00

(d) Fee to cover actual cost of credit report, when such report must be secured by department.

(14) Examination—Fee to cover actual cost of examination.

(15) Temporary license and appointment as agent or adjuster, where expressly provided for, rate of fee for each month of the period for which the license and appointment is issued..... $5.00

(16) Reissuance, reinstatement, modification resulting in a modified license being issued, or duplicate copy of any insurance representative license..... $5.00

(17) Additional license continuation fees as prescribed in chapter 626 ..... $5.00

(18) Filing application for permit to form insurer as referred to in chapter 628, filing fee..... $25.00

(19) Annual license fee of rating organization, each domestic or foreign organization..... $25.00

(20) Miscellaneous services:

(a) For copies of documents or records on file with the department, per page..... $ .50

(b) For each certificate of the department under its seal, authenticating any document or other instrument (other than a license or certificate of authority)..... $5.00

(c) For preparing lists of agents, solicitors, adjusters, and other insurance representatives, and for other miscellaneous services, such reasonable charge as may be fixed by the department.

(d) For processing requests for approval of continuing education courses, processing fee..... $100.00

(e) Insurer's registration fee for agent exchanging business more than 24 times in calendar year under s. 626.752, s. 626.793, or s. 626.837, registration fee per agent per year..... *$30.00* ~~$20.00~~

(21) Insurance agency *or adjusting firm*, 3-year license..... $60.00

(22) Limited surety agent, professional bail bondsman, or runner as defined in s. 648.25, each agent and each insurer represented. Original appointment and biennial renewal or continuation thereof, each agent or insurer, whichever is applicable:

Appointment fee..... $44.00

State tax..... 24.00

County tax..... 12.00
Total..... $80.00

(23) Health care risk manager. Original appointment and biennial renewal or continuation thereof, appointment fee..... $40.00

(24) Certain military installations, as authorized under s. 626.322: original appointment and biennial renewal or continuation thereof, each insurer..... $20.00

(25) Filing application for original certificate of authority for third-party administrator or original certificate of approval for a service company, including all documents required to be filed therewith, filing fee $100.00

(26) Fingerprinting processing fee—Fee to cover fingerprint processing.

(27) Sales representatives, miscellaneous lines. Original appointment and biennial renewal or continuation thereof, appointment fee ..... *$60.00* ~~$40.00~~

(28) Title insurance agents:

(a) Agent's original appointment or biennial renewal or continuation thereof:

Appointment fee..... $42.00

State tax..... 12.00

County tax..... 6.00
Total..... $60.00

(b) Agency original license fee or biennial renewal or continuation thereof:

Licensing fee.....$42.00

State Tax..... $12.00

County Tax..... $6.00
Total..... $60.00

(c) Filing for title insurance agent's license:

Application for filing, each filing, filing fee..... $10.00

(d) Additional appointment continuation fee as prescribed by s. 626.843..... $5.00

(e) Title insurer and title insurance agent administrative surcharge:

1. On or before January 30 of each calendar year, each title insurer shall pay to the department for each licensed title insurance agent licensed by the title insurer and for each retail office of the insurer on January 1 of that calendar year an administrative surcharge of $200 00.

2. On or before January 30 of each calendar year, each licensed title insurance agent shall remit to the department an administrative surcharge of $200.00 which may only be used for costs incurred in examining or auditing title insurance agents or retail offices of title insurers and to gather title insurance data for statistical purposes.

Section 9. Section 624.5015, Florida Statutes, is amended to read:

624.5015 Appointment fees and taxes, title insurance agents; miscellaneous service charges.—

(1) The Department of Insurance shall collect in advance from the applicant or licensee fees and taxes as *provided in s. 624.501.* ~~follows:~~

~~(1) Title insurance agents:~~

~~Agent's original appointment or biennial renewal or continuation thereof:~~

~~Appointment fee..... $22.00~~

~~State tax..... 12.00~~

~~County tax..... 6.00~~

~~(2) Filing for title insurance agent's license:~~

~~Application for filing, each filing, filing fee ..... $10.00~~

~~(3) Additional appointment continuation fee as prescribed by s. 626.843 ..... $5.00~~

~~(4) Title insurer and title insurance agent administrative surcharge:~~

~~(a) On or before January 30 of each calendar year, each title insurer shall pay to the department for each licensed title insurance agent licensed by the title insurer and for each retail office of the insurer on January 1 of that calendar year an administrative surcharge of. $200.00~~

~~(b) On or before January 30 of each calendar year, each licensed title insurance agent shall remit to the department an administrative surcharge of ..... $200.00~~

~~(5) Miscellaneous services:~~

~~(a) For copies of documents or records on file with the department, per page ..... $ .50~~

~~(b) For each certificate of the department under its seal, authenticating any document or other instrument (other than a license or certificate of authority) ..... $5.00~~

~~(c) For reissuance, reinstatement, or modification resulting in a modified license being issued or a duplicate copy ..... $5.00~~

~~(d) For preparing lists of agents, and for the other miscellaneous services, such reasonable charges as may be fixed by the department.~~

(2)~~(6)~~ A title insurer shall not pay directly or indirectly without reimbursement from a title insurance agent any appointment fee required under this section. The failure of a title insurance agent to make reimbursement is not a ground for cancellation of the title insurance agent's appointment by the title insurer.

~~(7) All fees and taxes collected pursuant to this section shall be credited to the Insurance Commissioner's Regulatory Trust Fund, and the fees collected pursuant to subsection (4) shall be used to defray the costs of the department in its regulation of title insurance.~~

Section 10. Section 648.31, Florida Statutes, is amended to read:

648.31 Appointment taxes and fees.—

(1) The department shall collect in advance all appointment taxes and fees for the issuance of any appointment to a bail bondsman or runner, as provided in s. 624.501.

~~(2) The department shall deposit all appointment taxes and fees in such funds and for such uses as is provided by laws applicable to like appointment taxes and like fees in the case of general lines agents.~~

Section 11. Subsection (1) of section 624.515, Florida Statutes, is amended to read:

624.515 State Fire Marshal regulatory assessment; levy and amount.—

(1) In addition to any other license or excise tax now or hereafter imposed, and such taxes as may be imposed under other statutes, there is hereby assessed and imposed upon every domestic, foreign, and alien insurer authorized to engage in this state in the business of issuing policies of fire insurance, a regulatory assessment in an amount equal to *1.3* ~~1~~ percent of the gross amount of premiums collected by each such insurer on policies of fire insurance issued by it and insuring property in this state. The assessment shall be payable annually on or before March 1 to the Department of Revenue by the insurer on such premiums collected by it during the preceding calendar year.

Section 12. Subsections (1) and (2) of section 624.516, Florida Statutes, are amended to read:

624.516 State Fire Marshal regulatory assessment; deposit and use of funds.—

(1) The regulatory assessment imposed under s. 624.515 shall be deposited by the Department of Revenue, when received and audited, *as follows:*

(a) An amount equal to 1 percent of the gross amount of premiums collected into the Insurance Commissioner's Regulatory Trust Fund*; and*

(b) An amount equal to 0.3 percent of the gross amount of premiums collected into the Fire College Trust Fund established under s. 633.45.

(2) The moneys so received and deposited in the *Insurance Commissioner's Regulatory Trust* Fund are hereby appropriated for use by the State Treasurer as ex officio State Fire Marshal, hereinafter referred to as "State Fire Marshal," to defray the expenses of the State Fire Marshal in the discharge of his administrative and regulatory powers and duties as prescribed by law, including the maintaining of offices and necessary supplies therefor, essential equipment and other materials, salaries and expenses of required personnel, and all other legitimate expenses relating to the discharge of the administrative and regulatory powers and duties imposed in and charged to him under such laws.

Section 13. Subsection (5) of section 624.5091, Florida Statutes, as reenacted by section 1 of chapter 91-425, Laws of Florida, is amended to read:

624.5091 Retaliatory provision, insurers.—

(5) The excess amount of all fees, licenses, and taxes collected by the Department of Revenue under this section over the amount of similar fees, licenses, and taxes provided for in part IV, together with all fines, penalties, or other monetary obligations collected under this section and ss. 626.711 and 626.743 exclusive of such fees, licenses, and taxes, shall be deposited by the Department of Revenue to the credit of the Insurance Commissioner's Regulatory Trust Fund; provided that such excess amount shall not exceed *$1.1* ~~$5.2~~ million for *1992* ~~1989~~, and for any subsequent year shall not exceed *$1.1* ~~$5.2~~ million adjusted annually by the lesser of *20* ~~10~~ percent or the growth in the total of such excess amount. The remainder of such excess amount shall be deposited into the General Revenue Fund.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, strike line 2 and insert: An act relating to insurance; amending s. 527.01, F.S.; providing a definition; amending s. 527.02, F.S.; providing license fees for persons engaged in providing liquefied petroleum gas; requiring pipeline system operators to be licensed; amending s. 527.021, F.S.; providing for registration fees for persons who deliver liquefied petroleum gas in bulk; amending s. 527.0605, F.S.; providing a fee for certain inspections of liquefied petroleum gas facilities; amending ss. 624.501, 624.5015, 648.31, F.S.; revising certain fees related to engaging in the business of providing insurance; amending ss. 624.515, 624.516, F.S.; changing the amount of a regulatory assessment; revising the distribution of the regulatory assessment; creating

Senator Gardner moved the following amendment which was adopted:

Amendment 4 (with Title Amendment)—On page 3, line 25, insert:

Section 4. Subsection (1) of section 626.902, Florida Statutes, is amended to read:

626.902 Penalty for representing unauthorized insurer.—

(1) *In addition to any other penalties provided in the Insurance Code:*

(a) Any *licensed insurance agent* ~~person~~ who in this state represents or aids an unauthorized insurer in violation of s. 626.901 *commits* ~~shall upon conviction thereof be guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person other than a licensed insurance agent who in this state represents or aids an unauthorized insurer in violation of s. 626.901 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 5. Subsections (5) and (7) of section 626.989, Florida Statutes, are amended to read:

626.989 Division of Insurance Fraud; definition; investigative, subpoena powers; protection from civil liability; reports to division; division investigator's power to execute warrants and make arrests.—

(5) The department's papers, documents, reports, or evidence relative to the subject of an investigation under this section shall not be subject to public inspection for so long as the department deems reasonably necessary to complete the investigation, to protect the person investigated

from unwarranted injury, or to be in the public interest. Further, such papers, documents, reports, or evidence relative to the subject of an investigation under this section shall not be subject to subpoena until opened for public inspection by the department, unless the department consents, or until, after notice to the department and a hearing, the court determines the department would not be unnecessarily hindered by such subpoena. Department or division investigators, *or any other person authorized by law or by the division to have access to such papers, documents, reports, or evidence,* shall not be subject to subpoena in civil actions by any court of this state to testify concerning any matter of which they have knowledge pursuant to a pending insurance fraud investigation by the division.

(7) Division investigators shall have the power to make arrests for criminal violations established as a result of investigations only. The general laws applicable to arrests by law enforcement officers of this state shall also be applicable to such investigators. Such investigators shall have the power to execute arrest warrants and search warrants for the same criminal violations; to serve subpoenas issued for the examination, investigation, and trial of all offenses determined by their investigations; and to arrest upon probable cause without warrant any person found in the act of violating any of the provisions of applicable laws. ~~However,~~ Such investigators are ~~not~~ eligible for membership in the Special Risk Class of the Florida Retirement System. Investigators empowered to make arrests under this section shall be empowered to bear arms in the performance of their duties. In such a situation, the investigator must be certified in compliance with the provisions of s. 943.1395 or must meet the temporary employment or appointment exemption requirements of s. 943.131 until certified.

Section 6. Section 626.9891, Florida Statutes, is created to read:

626.9891 Insurance Fraud Forfeiture and Investigative Support Trust Fund.—The Insurance Fraud Forfeiture and Investigative Support Trust Fund is created in the State Treasury. Notwithstanding any other provision of law, all funds received by the Division of Insurance Fraud pursuant to ss. 932.701-932.704 or any federal forfeiture proceedings shall be deposited into the State Treasury to the credit of such fund. Moneys deposited to the credit of the fund may be expended only for defraying the cost of protracted or complex investigations, for providing additional technical equipment or expertise, for providing and updating equipment, and for such other uses for law enforcement purposes determined by the division director to be essential in carrying out the division's responsibilities.

Section 7. Section 817.234, Florida Statutes, is amended to read:

817.234 False and fraudulent insurance claims *or applications.*—

(1)(a) Any person who, with the intent to injure, defraud, or deceive any *insurer* ~~insurance company, including, but not limited to, any statutorily created underwriting association or pool of insurers or any motor vehicle, life, disability, credit life, credit, casualty, surety, workers' compensation, title, premium finance, reinsurance, fraternal benefit, or home or automobile warranty company~~:

1. Presents or causes to be presented any written or oral statement as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, knowing that such statement contains any false, incomplete, or misleading information concerning any fact or thing material to such claim; ~~or~~

2. Prepares or makes any written or oral statement that is intended to be presented to any *insurer* ~~insurance company~~ in connection with, or in support of, any claim for payment or other benefit pursuant to an insurance policy, knowing that such statement contains any false, incomplete, or misleading information concerning any fact or thing material to such claim; *or*

3. Knowingly presents, causes to be presented, or prepares or makes with knowledge or belief that it will be presented to any insurer, purported insurer, servicing corporation, insurance broker, or insurance agent, or any employee or agent thereof, any false, incomplete, or misleading information or written or oral statement as part of, or in support of, an application for the issuance of, or the rating of, any insurance policy, or who conceals information concerning any fact material thereto;

commits ~~is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) *Effective January 1, 1993,* all claims forms *and application forms* shall contain a statement in a form approved by the Department of Insurance that clearly states in substance the following: "Any person who knowingly and with intent to injure, defraud, or deceive any *insurer* ~~insurance company~~ files a statement of claim *or an application* containing any false, incomplete, or misleading information is guilty of a felony of the third degree."

(2) Any physician licensed under chapter 458, osteopath licensed under chapter 459, chiropractor licensed under chapter 460, or other practitioner licensed under the laws of this state who knowingly and willfully assists, conspires with, or urges any insured party to fraudulently violate any of the provisions of this section or part XI of chapter 627, or any person who, due to such assistance, conspiracy, or urging by said physician, osteopath, chiropractor, or practitioner, knowingly and willfully benefits from the proceeds derived from the use of such fraud, *commits* ~~is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In the event that a physician, osteopath, chiropractor, or practitioner is adjudicated guilty of a violation of this section, the Board of Medicine as set forth in chapter 458, the Board of Osteopathic Medical Examiners as set forth in chapter 459, the Board of Chiropractic as set forth in chapter 460, or other appropriate licensing authority shall hold an administrative hearing to consider the imposition of administrative sanctions as provided by law against said physician, osteopath, chiropractor, or practitioner.

(3) Any attorney who knowingly and willfully assists, conspires with, or urges any claimant to fraudulently violate any of the provisions of this section or part XI of chapter 627, or any person who, due to such assistance, conspiracy, or urging on such attorney's part, knowingly and willfully benefits from the proceeds derived from the use of such fraud, *commits* ~~is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) No person or governmental unit licensed under chapter 395 to maintain or operate a hospital, and no administrator or employee of any such hospital, shall knowingly and willfully allow the use of the facilities of said hospital by an insured party in a scheme or conspiracy to fraudulently violate any of the provisions of this section or part XI of chapter 627. Any hospital administrator or employee who violates this subsection *commits* ~~is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any adjudication of guilt for a violation of this subsection, or the use of business practices demonstrating a pattern indicating that the spirit of the law set forth in this section or part XI of chapter 627 is not being followed, shall be grounds for suspension or revocation of the license to operate the hospital or the imposition of an administrative penalty of up to $5,000 by the licensing agency, as set forth in chapter 395.

(5) Any *insurer* ~~insurance company~~ damaged as a result of a violation of any provision of this section when there has been a criminal adjudication of guilt shall have a cause of action to recover compensatory damages, plus all reasonable investigation and litigation expenses, including attorneys' fees, at the trial and appellate courts.

(6) For the purposes of this section, "statement" includes, but is not limited to, any notice, statement, proof of loss, bill of lading, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or doctor records, X ray, test result, or other evidence of loss, injury, or expense.

(7) The provisions of this section shall also apply as to any insurer or adjusting firm or its agents or representatives who, with intent, injure, defraud, or deceive any claimant with regard to any claim. The claimant shall have the right to recover the damages provided in this section.

(8) It is unlawful for any person, in his individual capacity or in his capacity as a public or private employee, or for any firm, corporation, partnership, or association, to solicit any business in or about city receiving hospitals, city and county receiving hospitals, county hospitals, justice courts, or municipal courts; in any public institution; in any public place; upon any public street or highway; in or about private hospitals, sanitariums, or any private institution; or upon private property of any character whatsoever for the purpose of making motor vehicle tort claims or claims for personal injury protection benefits required by s. 627.736. Any person who violates the provisions of this subsection *commits* ~~is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9) It is unlawful for any attorney to solicit any business relating to the representation of persons injured in a motor vehicle accident for the purpose of filing a motor vehicle tort claim or a claim for personal injury protection benefits required by s. 627.736. The solicitation by advertising of any business by an attorney relating to the representation of a person injured in a specific motor vehicle accident is prohibited by this section. Any attorney who violates the provisions of this subsection *commits* ~~is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Whenever any circuit or special grievance committee acting under the jurisdiction of the Supreme Court finds probable cause to believe that an attorney is guilty of a violation of this section, such committee shall forward to the appropriate state attorney a copy of the finding of probable cause and the report being filed in the matter. This section shall not be interpreted to prohibit advertising by attorneys which does not entail a solicitation as described in this subsection and which is permitted by the rules regulating The Florida Bar as promulgated by the Florida Supreme Court.

(10) As used in this section, "insurer" means any insurer, self-insurer, self-insurance fund, or other similar entity or person regulated under ch. 440 or by the Department of Insurance under the Insurance Code.

Section 8. Section 843.08, Florida Statutes, is amended to read:

843.08 Falsely personating officer, etc.—Whoever falsely assumes or pretends to be a sheriff, officer of the Florida Highway Patrol, officer of the Game and Fresh Water Fish Commission, officer of the Department of Natural Resources, deputy sheriff, state attorney investigator, coroner, police officer, lottery special agent or lottery investigator, beverage enforcement agent, or watchman, or any member of the Parole Commission and any administrative aide or supervisor employed by said commission, *any investigator employed by the Division of Insurance Fraud of the Department of Insurance,* or any personnel or representative of the Department of Law Enforcement, and takes upon himself to act as such, or to require any person to aid or assist him in a matter pertaining to the duty of any such officer, shall be deemed guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083; provided, however, that whoever falsely personates a police officer during the course of the commission of a felony *commits* ~~shall be deemed guilty of~~ a felony of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 9. Paragraph (a) of subsection (1) of section 895.02, Florida Statutes, is amended to read:

895.02 Definitions.—As used in ss. 895.01-895.08, the term:

(1) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime which is chargeable by indictment or information under the following provisions of the Florida Statutes:

1. Section 210.18, relating to evasion of payment of cigarette taxes.

2. Section 403.727(3)(b), relating to environmental control.

3. Section 409.325, relating to public assistance fraud.

4. Section 409.920, relating to Medicaid provider fraud.

5. Chapter 517, relating to sale of securities and investor protection.

6. Section 550.24, s. 550.35, or s. 550.36, relating to dogracing, horseracing, and jai alai frontons.

7. Section 551.09, relating to jai alai frontons.

8. Chapter 552, relating to the manufacture, distribution, and use of explosives.

9. Chapter 562, relating to beverage law enforcement.

10. Section 624.401, relating to transacting insurance without a certificate of authority, s. 624.437, relating to operating an unauthorized multiple-employer welfare arrangement, or s. 626.902, relating to representing or aiding an unauthorized insurer.

11. ~~10.~~ Section 655.50, relating to reports of currency transactions, when such violation is punishable as a felony.

12. ~~11.~~ Chapter 687, relating to interest and usurious practices.

13. ~~12.~~ Section 721.08, s. 721.09, or s. 721.13, relating to real estate time-share plans.

14. ~~13.~~ Chapter 782, relating to homicide.

15. ~~14.~~ Chapter 784, relating to assault and battery.

16. ~~15.~~ Chapter 787, relating to kidnapping.

17. ~~16.~~ Chapter 790, relating to weapons and firearms.

18. ~~17.~~ Section 796.01, s. 796.03, s. 796.04, s. 796.05, or s. 796.07, relating to prostitution.

19. ~~18.~~ Chapter 806, relating to arson.

20. ~~19.~~ Chapter 812, relating to theft, robbery, and related crimes.

21 ~~20.~~ Chapter 815, relating to computer-related crimes.

22 ~~21.~~ Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.

23. ~~22.~~ Section 827.071, relating to commercial sexual exploitation of children.

24. ~~23.~~ Chapter 831, relating to forgery and counterfeiting.

25. ~~24.~~ Chapter 832, relating to issuance of worthless checks and drafts.

26 ~~25~~ Section 836.05, relating to extortion.

27 ~~26.~~ Chapter 837, relating to perjury.

28. ~~27.~~ Chapter 838, relating to bribery and misuse of public office.

29. ~~28.~~ Chapter 843, relating to obstruction of justice.

30. ~~29.~~ Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.

31. ~~30.~~ Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.

32. ~~31.~~ Chapter 893, relating to drug abuse prevention and control.

33. ~~32.~~ Chapter 896, relating to offenses related to financial transactions.

34 ~~33~~ Sections 914.22 and 914.23, relating to tampering with a witness, victim, or informant, and retaliation against a witness, victim, or informant.

35. ~~34.~~ Sections 918.12 and 918.13, relating to tampering with jurors and evidence.

Section 10. Paragraph (a) of subsection (3) of section 932.704, Florida Statutes, is amended to read:

932.704 Forfeiture proceedings.—

(3)(a) Whenever the head of the law enforcement agency effecting the forfeiture deems it necessary or expedient to sell the property forfeited rather than to retain it for the use of the law enforcement agency, or if the property is subject to a lien which has been preserved by the court, he shall cause a notice of the sale to be made by publication as provided by law and thereafter shall dispose of the property at public auction to the highest bidder for cash without appraisal. In lieu of the sale of the property, the head of the law enforcement agency, whenever he deems it necessary or expedient, may salvage the property or transfer the property to any public or nonprofit organization, provided such property is not subject to a lien preserved by the court as provided in s. 932.703(3). The proceeds of sale shall be applied: first, to payment of the balance due on any lien preserved by the court in the forfeiture proceedings; second, to payment of the cost incurred by the seizing agency in connection with the storage, maintenance, security, and forfeiture of such property; third, to payment of court costs incurred in the forfeiture proceeding. The remaining proceeds shall be deposited in a special law enforcement trust fund established by the board of county commissioners or the governing body of the municipality, and such proceeds and interest earned therefrom shall be used for school resource officer, crime prevention, or drug education programs or for other law enforcement purposes. These funds may be expended only upon request by the sheriff to the board of county commissioners or by the chief of police to the governing body of the munici-

pality, accompanied by a written certification that the request complies with the provisions of this subsection, and only upon appropriation to the sheriff's office or police department by the board of county commissioners or the governing body of the municipality. Such requests for expenditures shall include a statement describing anticipated recurring costs for the agency for subsequent fiscal years. Such funds may be expended only to defray the costs of protracted or complex investigations; to provide additional technical equipment or expertise, which may include automated fingerprint identification equipment and an automated uniform offense report and arrest report system; to provide matching funds to obtain federal grants; or for school resource officer, crime prevention, or drug abuse education programs or such other law enforcement purposes as the board of county commissioners or governing body of the municipality deems appropriate and shall not be a source of revenue to meet normal operating needs of the law enforcement agency. In the event that the seizing law enforcement agency is a state agency, all remaining proceeds shall be deposited into the state General Revenue Fund. However, in the event the seizing law enforcement agency is the Department of Law Enforcement, the proceeds accrued pursuant to the provisions of this chapter shall be deposited into the Forfeiture and Investigative Support Trust Fund; in the event the seizing agency is the Division of Alcoholic Beverages and Tobacco, the proceeds accrued pursuant to the provisions of this chapter shall be deposited into the Alcoholic Beverages Forfeiture and Investigative Support Trust Fund; if the seizing law enforcement agency is the Department of Natural Resources, the proceeds accrued pursuant to the provisions of this chapter shall be deposited into the Motorboat Revolving Trust Fund to be used for law enforcement purposes; *if the seizing law enforcement agency is the Division of Insurance Fraud, the proceeds accrued pursuant to the provisions of this chapter shall be deposited into the Insurance Fraud Forfeiture and Investigative Support Trust Fund;* if the seizing law enforcement agency is a state attorney's office acting within its judicial circuit, the proceeds accrued pursuant to the provisions of this chapter shall be deposited into the State Attorney's Forfeiture and Investigative Support Trust Fund to be used for the investigation of crime and prosecution of criminals within the judicial circuit; and, if the seizing law enforcement agency is the Game and Fresh Water Fish Commission, the proceeds accrued pursuant to the provisions of this chapter shall be deposited into the Wildlife Law Enforcement Trust Fund.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, strike line 2 and insert: An act relating to insurance; amending s. 626.902, F.S.; providing a penalty for representing unauthorized insurers; amending s. 626.989, F.S.; providing an exemption from subpoena for certain persons in civil actions; providing that certain investigators are eligible for membership in the Special Risk Class of the Florida Retirement System; creating s. 626.9891, F.S.; creating the Insurance Fraud Forfeiture and Investigative Support Trust Fund; providing for deposit of certain moneys into the fund; providing for use of such moneys; amending s. 817.234, F.S.; providing that presenting false, incomplete, or misleading information in applying for an insurance policy is a felony; defining "insurer"; amending s. 843.08, F.S.; making the personating of certain investigators a felony; amending s. 895.02, F.S.; including as a "racketeering activity" certain activities related to unauthorized insurers; amending s. 932.704, F.S.; providing for disposition of certain proceeds into the Insurance Fraud Forfeiture and Investigative Support Trust Fund;

Senator Dantzler moved the following amendment which was adopted:

Amendment 5 (with Title Amendment)—On page 3, line 25, insert:

Section 4. Subsection (1) and paragraphs (c) and (d) of subsection (8) of section 624.424, Florida Statutes, are amended to read:

624.424 Annual statement and other information.—

(1)(a) Each authorized insurer shall file with the department full and true statements of its financial condition, transactions, and affairs. An annual statement covering the preceding calendar year shall be filed on or before March 1, and quarterly statements covering the periods ending on March 31, June 30, and September 30 shall be filed within 45 days after each such date. The department may, for good cause, grant an extension of time for filing of an annual or quarterly statement. The statements shall contain information generally included in insurers' financial statements prepared in accordance with generally accepted insurance accounting principles and practices and in a form generally utilized by insurers for financial statements, sworn to by at least two executive officers of the insurer or, if a reciprocal insurer, by the oath of the attorney in fact or its like officer if a corporation. To facilitate uniformity in financial statements and to facilitate department analysis, the department may by rule adopt the form for financial statements approved by the National Association of Insurance Commissioners in 1990, and may adopt subsequent amendments thereto if the methodology remains substantially consistent, and may by rule require each insurer to submit to the department or such organization as the department may designate all or part of the information contained in the financial statement in a computer-readable form compatible with the electronic data processing system specified by the department.

(b) *Each insurer's annual statement must contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American Academy of Actuaries or by a qualified loss reserve specialist under criteria established by rule of the department. In adopting the rule, the department must consider any criteria established by the National Association of Insurance Commissioners. The department may require semiannual updates of the annual statement opinion. Workpapers in support of the actuary's statement of opinion must be made available to the department upon request. This paragraph does not apply to life insurance or title insurance.*

(c) The department may by rule require reports or filings required under the insurance code to be submitted on a computer-diskette compatible with the electronic data processing equipment specified by the department.

(8)

(c)*1. Each insurer shall have an independent audit committee made up solely of outside directors who are independent of the management of the insurer. The committee shall have access to its own outside counsel.*

2. Each insurer shall provide written notification to the department, and a copy of such notification to the independent auditor, of the resignation or dismissal of the insurer's independent auditor or the engagement of a new independent auditor by the insurer, including a statement of the reasons for such change, within 15 calendar days after the occurrence of the event. The independent auditor may provide a written response to the department within 10 days after receiving the copy of such notification.

3. Each certified public accounting firm performing audit services for an insurer must have a quality review as provided by s. 473.316(1)(d). The standards and procedures for conducting such a quality review shall be established by the Florida Board of Accountancy.

4. Each auditor responsible for the planning, directing, or reporting on the audit of an insurer in accordance with generally accepted auditing standards must annually complete an 8-hour education course in subjects and topics directly related to insurer auditing. The course shall be designed to ensure that each auditor has the specific knowledge and skills necessary to perform an audit of an insurer. The content and subject matter of the course shall be approved and adopted by the Florida Board of Accountancy.

5. Each insurer shall provide to the department a copy of the audit report and management letter within 15 days after receipt of such report and letter from the insurer's independent auditors.

6. The department may review for deficiencies any audit report or management letter submitted by an insurer. The department has standing to file a complaint with the Florida Board of Accountancy and, if a complaint is filed, shall submit the investigative report of the department to the board. The Florida Board of Accountancy shall investigate the complaint to determine compliance with the provisions of chapter 473. ~~The board of directors of an insurer shall hire the certified public accountant that prepares the audit required by this subsection and the board shall establish an audit committee of three or more directors of the insurer or an affiliated company. The audit committee shall be responsible for discussing audit findings and interacting with the certified public accountant with regard to his findings. The audit committee shall be comprised solely of members who are free from any relationship that, in the opinion of its board of directors, would interfere with the exercise of independent judgment as a committee member. The audit committee shall report to the board any findings of adverse financial conditions or~~

~~significant deficiencies in internal controls that have been noted by the accountant. The insurer may request the department to waive this requirement of the audit committee membership based upon unusual hardship to the insurer.~~

(d) An insurer may not use the same accountant or partner of an accounting firm responsible for preparing the report required by this subsection for more than ~~7~~ 5 consecutive years. Following this period, the insurer may not use such accountant or partner for a period of 2 years, but may use another accountant or partner of the same firm. An insurer may request the department to waive this prohibition based upon an unusual hardship to the insurer and a determination that the accountant is exercising independent judgment that is not unduly influenced by the insurer considering such factors as the number of partners, expertise of the partners or the number of insurance clients of the accounting firm; the premium volume of the insurer; and the number of jurisdictions in which the insurer transacts business.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 10, insert: An act relating to insurance; amending s. 624.424, F.S.; requiring insurers to have certain independent audit committees; requiring notice of dismissal or engagement of an auditor by an insurer; requiring a quality review of certain accounting firms; requiring certain auditors to complete educational requirements established by the Florida Board of Accountancy; authorizing the department to review audit reports or management letters; authorizing the department to file complaints with the Florida Board of Accountancy; requiring the board to investigate such complaints; increasing the allowable period an insurer may use certain accountants;

Senator Burt moved the following amendments which were adopted:

Amendment 6—On page 3, line 25, insert:

Section 4. Subsection (3) is added to section 627.678, Florida Statutes, to read:

627.678 Rules.—

(3) The department is not authorized to limit commissions paid by insurance companies or to require insurance companies to issue experience refunds on a group or individual basis.

(Renumber subsequent sections.)

Amendment 7—In title, on page 1, strike line 2 and insert: An act relating to insurance; amending s. 627.678, F.S., to create subparagraph (3); creating

On motion by Senator Dantzler, by two-thirds vote **CS for SB 1998** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36 Nays—2

SB 2040—A bill to be entitled An act relating to motor vehicle licensing; creating s. 320.525, F.S.; providing a definition; exempting port vehicles and equipment from registration, license tax, and display requirements; providing for the application of the exemption; providing an effective date.

—was read the second time by title.

One amendment was adopted to **SB 2040** to conform the bill to **CS for HB 1665**.

Pending further consideration of **SB 2040** as amended, on motions by Senator Forman, by two-thirds vote **CS for HB 1665** was withdrawn from the Committees on Transportation; Finance, Taxation and Claims; and Appropriations.

On motion by Senator Forman—

CS for HB 1665—A bill to be entitled An act relating to motor vehicle licensing; creating s. 320.525, F.S.; providing a definition; exempting port vehicles and equipment from registration, license tax, and display requirements; providing for the application of the exemption; providing an effective date.

—a companion measure, was substituted for **SB 2040** and read the second time by title. On motion by Senator Forman, by two-thirds vote **CS for HB 1665** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

CS for SB 1706—A bill to be entitled An act relating to regulation of professions and occupations; amending s. 20.30, F.S., relating to the Department of Professional Regulation; revising provisions relating to the Division of Professions; revising provisions relating to the membership of regulatory boards; providing legislative intent; amending s. 215.37, F.S.; revising provisions relating to revenues collected, deposited, and budgeted; amending s. 455.01, F.S.; revising definitions; amending s. 455.11, F.S., relating to qualification of immigrants for examination; amending s. 455.201, F.S., relating to professions regulated by the department; providing for public funds and expenditures; amending s. 455.203, F.S.; revising provisions relating to the power and duties of the Department of Professional Regulation; deleting a provision relating to peer review of certain health care providers; creating s. 455.204, F.S.; requiring long-range planning; amending s. 455.207, F.S.; revising provisions relating to board meetings and special committees to settle differences between boards; amending s. 455.208, F.S.; revising provisions relating to the publication of information, amending s. 455.209, F.S.; providing for defense of a board member's company under certain circumstances; amending s. 455.211, F.S., relating to board rules; amending s. 455.213, F.S.; revising general licensure provisions; authorizing the refusal to issue an initial license to an applicant under prosecution for certain actions; authorizing the boards to accept the performance of pro bono services and other acts to satisfy professional continuing education hours; creating s. 455.214, F.S.; providing for limited licenses and fees therefor; amending s. 455.217, F.S.; authorizing licensure examinations in an applicant's native language; revising provisions relating to development, administration, and evaluation of examinations; amending s. 455.218, F.S., relating to licensure of foreign-trained professionals; amending s. 455.219, F.S.; revising provisions relating to fees and disposition of funds and requiring management reports; authorizing the boards or the department to assess a one-time fee from licensees to eliminate cash deficits; authorizing the department to contract with public and private entities; amending s. 455.2226, F.S., relating to continuing education requirements on human immunodeficiency virus and acquired immune deficiency syndrome; creating s. 455.2235, F.S., authorizing the designation of certain violations by regulated professionals as appropriate for mediation; providing informal mediation procedures; providing that certain communication relating to mediation proceedings is inadmissible in disciplinary proceedings and exempt from public records requirements of ch. 119, F.S.; providing for future legislative review of the exemption pursuant to the Open Government Sunset Review Act; amending s. 455.224, F.S.; revising procedures relating to the service of citations; amending s. 455.225, F.S.; revising provisions relating to disciplinary proceedings; revising requirements relating to probable cause panels; authorizing the department to disclose investigative information to the subject of disciplinary cases; amending s. 455.227, F.S.; providing penalties; amending s. 455.2273, F.S.; requiring the adoption, by rule, of disciplinary guidelines; requiring the department to review disciplinary guidelines pursuant to certain standards; requiring hearing officers to follow disciplinary guidelines; authorizing the secretary of the department to challenge the disciplinary guidelines under certain circumstances; creating s. 455.2274, F.S.; providing requirements for inactive status; amending s. 455.2275, F.S., relating to penalty for false information; creating s. 455.2277, F.S.; providing for the reporting of certain criminal violations; amending s. 455.228, F.S.; providing that the issuance of a notice of cease and desist is not agency action for which an administrative hearing is required; creating s. 455.2281, F.S., relating to unlicensed activity; providing for the imposition of a special fee; amending s. 455.2285, F.S.; requiring financial information in department annual report; amending s. 455.229, F.S., relating to public inspection of licensing applicant's information; amending s. 455.232, F.S., relating to the disclosure of confidential information; amending s. 455.24, F.S., relating to advertisements by health care providers of discounted or free services; amending s. 455.241, F.S., relating to patient records; amending s. 455.2415, F.S., relating to the confidentiality of communications; amending s. 455.242, F.S., relating to disposition of deceased or relocating practitioners; amending s. 455.243, F.S., relating to authority to inspect; amending s. 455.245, F.S.; revising provisions relating to immediate suspension of health care practitioners' licenses; amending s. 455.26, F.S.; revising provisions relating to the Impaired Practitioners Committee; creating s. 455.261, F.S.; establishing procedures relating to treatment programs for impaired practitioners; amending ss. 468.384, 472.007, 484.042, 489.515, 492.103, F.S., relating to membership of various boards; amending ss. 457.108, 458.321, 459.009, 461.008, 462.19, 463.008, 464.014, 465.012, 466.015, 468.1205, 468.1725, 468.363, 468.3852, 468.515, 468.528, 470.016, 471.019, 472.019, 473.313, 474.212, 475.183, 476.155, 477.0212, 480.0425, 481.217, 481.315, 484.009, 486.085, 489.519, 490.008, 491.008, 492.1101, F.S.; revising requirements

relating to inactive status for acupuncturists, medical physicians, osteopaths, podiatrists, naturopaths, optometrists, nurses, pharmacists, dentists, speech and language pathologists and audiologists, nursing home administrators, respiratory therapists, auctioneers, dietitians and nutrition counselors, employee leasing companies, funeral directors, engineers, land surveyors, accountants, veterinarians, real estate brokers and salespersons, barbers, cosmetologists, massage therapists, architects and interior designers, landscape architects, opticians, physical therapists, electrical contractors and alarm system contractors, psychologists and school psychologists, marriage and family therapists, mental health counselors and clinical social workers, and geologists; repealing ss. 463.017, 466 029, 468.1305, 468.1765, 470.037, 471.035, 472.035, 473.324, 474.218, 475 454, 480.048, 481.227, 481.327, 484.016, 484.057, 489.535, F.S., relating to the reporting of criminal violations of the statutes regulating professions and occupations; repealing ss. 458.3315, 459.0155, 460.417, 461.0132, 463.0165, 464.0185, 465.0165, 466.0283, 474.2141, 490.0095, 491.0095, F.S., relating to treatment programs for impaired practitioners; providing an effective date.

—was read the second time by title.

Two amendments were adopted to **CS for SB 1706** to conform the bill to **CS for HB 2249**.

Pending further consideration of **CS for SB 1706** as amended, on motions by Senator Yancey, by two-thirds vote **CS for HB 2249** was withdrawn from the Committees on Professional Regulation; Finance, Taxation and Claims; and Appropriations.

On motion by Senator Yancey—

CS for HB 2249—A bill to be entitled An act relating to regulation of professions; amending s. 20.30, F.S., relating to the Department of Professional Regulation; revising provisions relating to the Division of Medical Quality Assurance; revising provisions relating to regulatory boards and their membership; providing legislative intent; amending s. 215.37, F.S.; revising provisions relating to revenues collected, deposited, and budgeted; amending s. 455.01, F.S.; revising and adding definitions; amending s. 455.11, F.S., relating to qualification of immigrants for examination; amending s. 455.201, F.S., relating to professions regulated by the department; providing for policies relating to expenditures; amending s. 455.203, F.S., relating to department powers and duties; creating s. 455.204, F.S.; requiring long-range planning; amending s. 455.207, F.S.; revising provisions relating to board meetings; amending s. 455.208, F.S., relating to publication of information; amending s. 455.209, F.S.; providing for certain defense; amending s. 455.211, F.S., relating to board rules; amending s. 455.213, F.S.; providing for rules for continuing education for license renewal; providing for the employment of elected officials by a public agency; creating s. 455.214, F.S.; providing for limited licenses and fees therefor; amending s. 455.217, F.S.; relating to development, administration, and evaluation of examinations; authorizing licensure examinations in an applicant's native language; amending s. 455.218, F.S., relating to licensure of foreign-trained professionals; amending s. 455.219, F.S.; revising provisions relating to fees and disposition of funds and requiring management reports; amending s. 455.2226, F.S., relating to continuing education; creating s. 455.2235, F.S.; providing mediation requirements; amending s. 455.224, F.S.; revising provisions relating to issuance of citations; amending s. 455.225, F.S.; revising provisions relating to disciplinary proceedings; revising provisions relating to probable cause panels; amending s. 455.227, F.S.; providing penalties; amending s. 455.2273, F.S.; revising provisions relating to disciplinary guidelines; amending s. 455.2275, F.S., relating to penalty for false information; creating s. 455.2277, F.S.; providing for prosecution of criminal violations; amending s. 455.228, F.S., relating to cease and desist notice and civil penalties; creating s. 455.2281, F.S., relating to unlicensed activity; providing for imposition of a special fee; amending s. 455.2285, F.S.; requiring financial information in department annual report; amending s. 455.229, F.S., relating to public inspection of applicant information; amending s. 455.232, F.S., relating to disclosure of confidential information; amending s. 455.24, F.S., relating to advertisement by a health care provider of certain services; amending s. 455.241, F.S., relating to patient records; amending s. 455.2415, F.S., relating to confidentiality of communications; amending s. 455.242, F.S., relating to disposition of certain records; amending s. 455.243, F.S., relating to authority to inspect; amending s. 455.245, F.S.; revising provisions relating to immediate suspension of health care practitioners' licenses; amending s. 455.26, F.S., relating to the Impaired Practitioners Committee; creating s. 455.261, F.S.; providing requirements for treatment programs for impaired practitioners; providing exemption from public records requirements for information concerning a practitioner and for future review and repeal of such exemption; amending ss. 458 331, 459.015, 460.413, 461.013, 463.003, 464.018, 465.016, 466.028, and 489.515, F.S.; correcting cross references; amending ss. 468.384, 472.007, 484.042, and 492.103, F.S., relating to membership of various boards; conforming provisions; repealing s. 455.20, F.S., relating to definition of "board"; repealing s. 455.215, F.S., relating to board intervention in licensing proceedings; repealing s. 455.2182, F.S., relating to construction of provisions; repealing s. 455.28, F.S., relating to reporting of violations; repealing s. 462.15, F.S., relating to license revocation proceedings; providing for the restricted licensure of physicians under certain circumstances; providing qualifications for such physicians prior to licensure; repealing ss. 463.017, 466.029, 468.1305, 468.1765, 470.037, 471.035, 472.035, 473.324, 474.218, 475.454, 480.048, 481.227, 481.327, 484.016, 484.057, 489.535, and 489.559, F.S., relating to prosecution of criminal violations, repealing ss. 458.3315, 459.0155, 460.417, 461.0132, 463.0165, 464.0185, 465.0165, 466.0283, 474.2141, 490.0095, and 491.0095, F.S., relating to treatment programs for impaired practitioners; amending ss. 455.301, F.S.; providing a definition relating to asbestos abatement; creating s. 455.3022, F.S.; providing exemptions; creating 455.310, F.S.; providing for approval of Asbestos Training courses and providers; amending s. 489.105, F.S.; relating to construction contracting; redefining the term "contractor"; including in the term "contractor" the term "specialty contractor"; amending s. 489.109, F.S.; providing a 90-day grace period for license inactivation; amending s. 489.113, F.S.; limiting the nature of the specialty contractor classification; providing that the addition of a new profession to the part does not limit the job scope of an established profession; amending s. 489.115, F.S.; clarifying language with respect to certification criteria; amending s. 489.117, F.S.; limiting the types of locally licensed contractors who may be required to register; creating s. 489.124, F.S.; requiring contractors to maintain business records; amending s. 489.129, F.S.; providing additional grounds for discipline; amending s. 489.131, F.S.; revising language with respect to applicability; clarifying terminology with respect to occupational licenses; amending s. 489.503, F.S.; providing an additional exemption to contracting registration requirements; amending s. 489.511, F.S.; providing that the board shall provide, by rule, for the scope of work and responsibility of specialty contractors; relating to construction contracting; amending s. 489.119, F.S.; prohibiting certain persons registered or certified who have had their license revoked from being employed in a managerial or supervisory capacity in certain business organizations; creating s. 489.120, F.S.; providing for an automated information system; amending s. 489.127, F.S.; providing that certain penalties shall be retained locally; authorizing local building departments to collect certain outstanding fines against registered or certified contractors; amending s. 489.131, F.S.; revising language with respect to applicability; providing for disciplinary proceedings against local contractors by local governments; providing for a fine; relating to professional regulation; amending s. 489.509, F.S.; providing a 90-day grace period before making a license involuntarily inactive; providing voluntary inactive provisions; amending s. 458.311, F.S.; modifying and continuing requirements for licensure of foreign medical graduates by examination; amending ss. 458.313 and 458.317, F.S.; revising requirements for licensure by endorsement and limited licenses to practice medicine; amending s. 458.3145, F.S.; revising requirements for a medical faculty certificate; amending s. 458.327, F.S.; clarifying penalties for practicing medicine without a license or with an inactive license; amending s. 458.345, F.S., relating to registration of resident physicians, interns, and fellows; amending s. 459.003, F.S.; renaming the Board of Osteopathic Medical Examiners as the Board of Osteopathic Medicine; amending ss. 20.30, 395.012, 395.1015, 440.37, 455.213, 458.335, 459.004, 459.0075, 465 186, 766.314, and 817.234, F.S., to conform; amending ss. 459.006, 459.007, and 459.0092, F.S.; updating the name of the National Board of Osteopathic Medical Examiners; amending s. 459.021, F.S.; requiring registration of resident osteopathic physicians, interns, and fellows; providing a fee; providing for annual renewal; providing for termination upon issuance of a license to practice osteopathic medicine; requiring hospitals to furnish a list of employees; providing penalties; amending s. 459.022, F.S.; extending the period for notification of employment as an osteopathic physician assistant; amending s. 460.406, F.S.; modifying procedures for licensure of chiropractors by examination; amending s. 460.413, F.S.; revising a ground for disciplinary action by the Board of Chiropractic; amending s. 464.008, F.S.; deleting a requirement relating to licensure by examination; amending s. 465.0276, F.S.; increasing the registration fee for a practitioner who dispenses medicinal drugs; amending s. 466.004, F.S.; providing for meetings of the Council on Dental Hygiene; amending s. 466.007, F.S.; providing for examination of certain dental hygienists; creating s. 466.008, F.S.; providing procedure for certification of certain foreign dental schools; providing for fees and for costs

and expenses; amending s. 466.025, F.S.; providing for temporary certificates of dentists who practice in state and county government facilities; amending s. 468.1125, F.S.; modifying definition of "direct supervision" in the practice of speech-language pathology and audiology; amending s. 468.1155, F.S.; modifying requirements for provisional licenses; amending s. 468.1175, F.S.; amending provisions relating to examination; amending s. 468.1225, F.S.; revising provisions relating to procedures and equipment used in such practice; amending s. 468.1245, F.S.; requiring a contract in the purchase of a hearing aid; amending s. 468.1265, F.S., relating to sale of hearing aids through the mail; amending s. 468.203, F.S.; correcting terminology; amending s. 474.203, F.S.; revising provisions relating to exemptions; amending s. 490.005, F.S.; increasing the maximum fee for licensure as a psychologist by examination; amending s. 490.007, F.S.; increasing the maximum license renewal fee for a psychologist or school psychologist; amending s. 490.0085, F.S.; increasing the maximum fee for approval of continuing education providers; amending s. 490.009, F.S.; amending s. 490.012, F.S.; revising provisions relating to psychologists and school psychologists; amending s. 490.014, F.S.; revising provisions relating to exemption from licensure; amending s. 490.0141, F.S.; revising provisions relating to hypnosis; providing an exemption; amending s. 490.0121, F.S.; providing for private sector practice by licensed school psychologists under certain circumstances; creating s. 490.0148, F.S.; clarifying provisions relating to discipline, and establishing recordkeeping requirements, for psychologists and school psychologists; amending s. 491.012, F.S.; revising provisions relating to unlawful practice of clinical social work, marriage and family therapy, and mental health counseling; amending s. 491.035, F.S.; revising experience requirement for certain applicants; amending s. 491.014, F.S.; revising provisions relating to exemption; amending s. 491.0141, F.S.; revising provisions relating to hypnosis; providing an exemption; amending s. 877.04, F.S.; providing an exception to the prohibition against tattooing; amending s. 465.185, F.S., relating to prohibited rebates; repealing section 109 of chapter 91-282, Laws of Florida, relating to continuing education exemption for graduates of foreign-trained dental schools; repealing ss. 490.0141 and 491.0141, F.S.; relating to the practice of hypnosis; repealing s. 491.035, F.S.; relating to an experience requirement for certain applicants January 1, 1993; repealing ss. 458.322, 459.0095, 460.4095, 461.0074, and 499.037, F.S., relating to Medicare assignments, participation in the Medicare program, and manufacture, distribution, delivery, possession, sale, use, regulation, and inspection of laetrile; amending s. 468.393, F.S.; revising provisions with respect to licensure surcharges used to maintain the Auctioneer Recovery Fund; amending s. 468.395, F.S.; specifying the effective date of the Auctioneer Recovery Fund; amending s. 468.526, F.S.; modifying license requirements for employee leasing companies; amending s. 470.002, F.S.; revising definitions; amending s. 470.005, F.S.; authorizing the Board of Funeral Directors and Embalmers to adopt rules to regulate specified hazardous materials; requiring the Department of Professional Regulation to adopt rules establishing requirements for inspection of funeral establishments and cinerators; amending s. 470.007, F.S.; providing for registration of temporary embalmers; providing a fee; amending s. 470.008, F.S.; requiring the board to adopt rules governing embalmer intern supervisors; amending s. 470.011, F.S.; providing for registration of temporary funeral directors; providing a fee; amending s. 470.012, F.S.; requiring the board to adopt rules governing funeral director intern supervisors; amending s. 470.013, F.S.; requiring display of licenses; amending s. 470.025, F.S.; specifying that cinerator facilities may only receive dead human bodies for cremation; requiring cinerators to be under the general supervision of a licensed funeral director or registered direct disposer; amending s. 471.013, F.S.; providing an exemption from the fundamentals of engineering examination; providing additional examination requirements for qualification as an engineer; amending s. 471.021, F.S.; providing for licensure by endorsement for specified engineers from other states; amending ss. 471.023, 471.025, and 471.033, F.S.; conforming terminology; amending s. 474.217, F.S.; revising provisions relating to licensure of veterinarians by endorsement; amending s. 475.25, F.S.; revising provisions with respect to specified disciplinary procedure by the Florida Real Estate Commission; revising provisions with respect to mediation under certain circumstances; authorizing the adoption of rules by the department; creating s. 475.422, F.S.; requiring disclosure of specified information in real estate transactions; amending s. 475.611, F.S.; clarifying definitions of "certified residential appraiser" and "licensed appraiser"; amending s. 475.613, F.S.; revising provisions with respect to the composition of the Florida Real Estate Appraisal Board; amending s. 475.618, F.S.; providing for renewal of appraiser instructor permits; amending s. 475.622, F.S.; revising provisions with respect to display and disclosure of license or certification by appraisers; amending s. 475.627, F.S.; expanding requirements for appraisal course instructors; amending s. 476.144, F.S.; clarifying language with respect to restricted licensure requirements for barbers; amending s. 476.184, F.S.; providing a fee for the transfer of a license to operate a barbershop; amending s. 484.007, F.S.; revising requirements for the training of apprentice opticians; amending s. 489.107, F.S.; increasing the membership of the Construction Industry Licensing Board; deleting a requirement that the board establish specified probable cause panels; deleting obsolete provisions; amending s. 489.507, F.S.; providing additional requirements for membership on the Electrical Contractors' Licensing Board; specifying that certain treatment providers may refuse to treat a Medicare beneficiary; requiring treatment providers to accept Medicare assignment for certain emergencies; requiring the acceptance of assignment for a beneficiary referred by a primary physician who accepts assignment for that beneficiary, unless the beneficiary otherwise consents in writing; restricting the amount of payment a physician who accepts such referral may attempt to collect from the beneficiary; creating ss. 458.3095 and 459.0051, F.S.; providing exemptions from the state's licensing requirements for certain out-of-state physicians and osteopathic physicians; providing an effective date.

—a companion measure, was substituted for **CS for SB 1706** and read the second time by title. On motion by Senator Yancey, by two-thirds vote **CS for HB 2249** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

RECESS

On motion by Senator Thomas, the Senate recessed at 6:57 p.m. to reconvene at 8:00 p.m. or upon call of the President.

EVENING SESSION

CALL TO ORDER

The Senate was called to order by the President at 8:00 p.m. A quorum present—29:

Madam President	Dudley	Langley	Walker
Bankhead	Girardeau	Malchon	Weinstein
Beard	Gordon	McKay	Weinstock
Burt	Grant	Meek	Wexler
Childers	Grizzle	Myers	Yancey
Crotty	Johnson	Plummer	
Dantzler	Kiser	Scott	
Davis	Kurth	Thomas	

SPECIAL ORDER, continued

On motions by Senator Kiser, by two-thirds vote **CS for HB 2111** was withdrawn from the Committees on Governmental Operations and Appropriations.

On motion by Senator Kiser—

CS for HB 2111—A bill to be entitled An act relating to the Department of State; amending ss. 265.284 and 267.061, F.S.; allowing the Division of Cultural Affairs and the Division of Historical Resources of the Department of State to enter into contracts to insure certain items to which it holds title; providing an effective date.

—a companion measure, was substituted for **CS for SB 2010** and read the second time by title. On motion by Senator Kiser, by two-thirds vote **CS for HB 2111** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

Consideration of **CS for SB 1352** and **CS for SB 1988** was deferred.

SB 2512—A bill to be entitled An act relating to trail designations; designating a portion of the Florida Rails to Trails Program as the "General James A. Van Fleet State Trail"; providing an effective date.

—was read the second time by title. On motion by Senator Yancey, by two-thirds vote **SB 2512** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

Consideration of **SB 2524** was deferred.

On motions by Senator Kiser, by two-thirds vote **CS for HB 2179** was withdrawn from the Committees on Community Affairs and Judiciary.

On motions by Senator Kiser, by two-thirds vote—

CS for HB 2179—A bill to be entitled An act relating to mobile homes; amending s. 713.10, F.S.; revising a provision of law governing mechanics' liens to prohibit the interest of the lessor being subject to liens for improvements made by the lessee when the lessee is a mobile home park owner under certain circumstances; amending s. 713.78, F.S.; providing for a towing lien for a mobile home evicted from a mobile home park; conforming to the act with respect to vehicles sold by a lienor; providing for the collection of unpaid rent from the proceeds of the sale of the mobile home; amending s. 723.002, F.S.; providing for the applicability of the Florida Mobile Home Act to a park trailer located on a lot in a mobile home park; amending s. 723.004, F.S.; providing legislative intent; amending s 320.01, F.S.; defining the term "manufactured home"; amending s. 320 8285, F.S.; revising language with respect to onsite inspections to include reference to manufactured homes; amending 320.77, F.S.; providing for set-up operation by licensees; amending s. 723.037, F.S.; revising language with respect to notice concerning lot rental increases; amending s. 723.038, F.S.; revising language with respect to dispute settlement; amending 723.0381, F.S.; providing compensation for aribtrators; creating 723.046, F.S.; providing for payment of capital improvements; amending s. 723.061, F.S.; revising language with respect to notice for eviction; amending s. 723.077, F.S.; revising language with respect to articles of incorporation; amending s. 723.078, F.S.; revising language with respect to the bylaws of homeowners' associations; providing for conversion; amending s. 723.079, F.S.; providing additional powers and duties of homeowners' associations; providing for storage charges on mobile homes under certain circumstances; providing for the rights of lienholders on mobile homes in rental mobile home parks; providing for reasonable attorney's fees and costs; providing for storage charges; providing for rights of lien holder; providing for contract rights; providing for attorneys fees and costs; repealing s. 723.010, F.S., relating to disclosure of lot rental amount increases; repealing s. 723.013(4), F.S., and amending s. 723.014, F.S., to conform; providing for retroactive application; providing an effective date.

—a companion measure, was substituted for **CS for SB 1232** and by two-thirds vote read the second time by title. On motion by Senator Kiser, by two-thirds vote **CS for HB 2179** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

SB 300—A bill to be entitled An act relating to children's access to tobacco; creating the Florida Sale of Tobacco Products to Children Control Act; providing legislative intent; amending s. 210.01, F.S.; redefining the term "retail dealer" with respect to the tax on cigarettes; creating s. 210.171, F.S.; providing for retail tobacco dealer permits; providing fees; providing penalties; providing for the powers and duties of the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation; creating s. 210.1715, F.S.; prohibiting the sale of tobacco products in vending machines; providing exceptions; providing that retail dealers who sell tobacco products must keep the products behind the counter; providing penalties; amending s. 561.025, F.S.; providing a cross reference in conformance to the act; amending s. 859.06, F.S.; relating to the sale of tobacco products to persons under 21 years of age; revising the penalty for such a sale; amending s. 859.061, F.S.; relating to the posting of a sign with respect to the prohibition of the sale of tobacco products to persons under 21 years of age; revising a penalty; creating s. 381.046, F.S.; creating a tobacco prevention and education program by the Department of Health and Rehabilitative Services; providing for required reports; amending s. 386.205, F.S.; prohibiting the designation of a smoking area under the Florida Clean Indoor Air Act at day care centers, schools, or other educational facilities; providing for the use of revenues by the Department of Education for tobacco prevention and education activities; providing an effective date.

—was read the second time by title.

The Committee on Commerce recommended the following amendments which were moved by Senator Grant and failed:

Amendment 1—On page 4, line 11, strike "$50" and insert: $15

Amendment 2—On page 4, line 15, strike "$30" and insert: $10

Amendment 3 (with Title Amendment)—On page 8, lines 28 and 30, and on page 9, lines 11-12, strike "*persons under 21 years of age*" and insert: minors

And the title is amended as follows:

In title, on page 1, lines 21-27, strike all of said lines and insert: F.S.; revising the penalty for the sale of cigarettes to minors; amending s. 859.061, F.S.; revising a penalty; creating s. 381.046,

Senator Grant moved the following amendment which was adopted:

Amendment 4 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. Short title.—This act may be cited as the "Florida Sale of Tobacco Products to Children Control Act."

Section 2. Subsection (7) of section 210.01, Florida Statutes, is amended to read:

210.01 Definitions.—When used in this part the following words shall have the meaning herein indicated:

(7) "Retail dealer" means any person *engaged in the business of selling tobacco products to the ultimate consumer* ~~other than a wholesale dealer engaged in the business of selling cigarettes~~.

Section 3. Subsections (6), (7), (8), and (9) of section 210.04, Florida Statutes, are amended to read:

210.04 Construction; exemptions; collection.—

~~(6) The sale of single or loose unpacked cigarettes is prohibited. The division may authorize any person to give away sample packages of cigarettes, each to contain not less than two cigarettes upon which the taxes have been paid.~~

(6)~~(7)~~ Nothing in this part shall be construed to prohibit the sale of cigarettes, upon which the tax has been advanced, through the medium of vending machines where the tax is collected by the said vending machines.

(7)~~(8)~~ Except as ~~hereinafter~~ provided *in subsection (8)*, all agents shall be liable for the collection and payment of the tax imposed by this part and shall pay the tax to the division by purchasing, under such regulations as it shall prescribe, adhesive stamps of such design and denominations as it shall prescribe.

(8)~~(9)~~ Agents, located within or without the state, shall purchase stamps and affix such stamps in the manner prescribed to packages or containers of cigarettes to be sold, distributed, or given away within the state, in which case any dealer subsequently receiving such stamped packages of cigarettes will not be required to purchase and affix stamps on such packages of cigarettes. However, the division may, in its discretion, authorize manufacturers to distribute in the state free sample packages of cigarettes containing not less than 2 or more than 20 cigarettes without affixing any tax stamps provided copies of shipping invoices on such cigarettes are furnished, and payment of all taxes imposed on such cigarettes by law is made, directly to the division not later than the 10th day of each calendar month. The tax on cigarettes in sample packages shall be based on a unit in accordance with the taxing provisions of s. 210.02(1).

Section 4. Section 210.171, Florida Statutes, is created to read:

210.171 Retail dealer permits; penalties.—

(1)(a) Each person, firm, association, or corporation choosing to deal in cigarettes or other tobacco products as a retail dealer within this state or who permits a tobacco products vending machine to be located on his premises shall file an application for a retail tobacco permit for each place of business with the Division of Alcoholic Beverages and Tobacco. Except as otherwise provided in this section, each retail dealer owning, leasing, furnishing, or operating tobacco products vending machines shall obtain a permit for each machine and shall post it in a conspicuous place on or near the machine. If a retail dealer has more than one machine at one location or if tobacco products are sold over the counter and through a tobacco products vending machine at one location, the retail dealer pays only one fee. Each application for a retail dealer permit shall be made on forms furnished by the division and shall set forth the name under which the applicant transacts or intends to transact business, each location of his place of business within the state, and such other informa-

tion as the division may require. If the applicant has or intends to have more than one place of business dealing in tobacco products within this state, an application must be made for each location of each place of business If the applicant is a firm or an association, the application shall set forth the names and addresses of the persons constituting the firm or association, and if a corporation, the names and addresses of the principal officers thereof and any other information prescribed by the division for the purpose of identification of applicant firm, association, or corporation. The application shall be signed and verified by oath or affirmation by the owner, if a natural person, and if a firm, association, or partnership, by the members or partners thereof, and if a corporation, by an executive officer thereof or by any person authorized by the corporation to sign the application, together with the written evidence of this authority. Each tobacco permit for a retail dealer shall be issued annually beginning January 15, 1993, for which an annual fee shall be charged. The fee shall be in an amount sufficient to meet all costs incurred by the division in carrying out its permitting, enforcement, and administrative responsibilities under this act but may not exceed $50. The proceeds shall be deposited in the Alcoholic Beverage and Tobacco Trust Fund and shall be used to administer and enforce this act and to provide for tobacco education and research activities.

(b) The holder of any duly issued, annual permit for a retail tobacco products dealer shall be entitled to a renewal of his annual permit from year to year, as a matter of course, upon payment of this annual permit fee. Permittees not timely renewing shall pay a delinquent renewal fee of $5 for each month or portion of a month occurring after the expiration of the permit. The division shall establish a renewal process, by rule, that, to the greatest extent possible, combines the application and permitting process for retail tobacco dealers with the alcoholic beverage application and licensing system.

(c) The permit for a retail dealer shall be issued only to persons who are not less than 18 years of age. Retail dealer permits to corporations shall be issued only to corporations whose officers are not less than 18 years of age. There shall be no exemptions from the permit fees herein provided to any person, firm, association, or corporation, any law to the contrary notwithstanding.

(d) The division may refuse to issue a retail tobacco dealer permit to any person, firm, association, or corporation whose permit under the cigarette law of this state has been revoked or to any corporation, an officer of which has had his permit under the cigarette law of this state revoked, or to any person who is or has been an officer of a corporation whose permit has been revoked under the cigarette law of this state. Any permit issued to a firm, association, or corporation prohibited from obtaining such permit under the cigarette law may be revoked by the division

(2) Upon approval of the application, the division shall grant and issue to each applicant a tobacco permit for each place of business set forth in this application. Tobacco permits shall not be assignable and shall be valid only for the persons in whose names issued and for the transaction of business at the places designated therein and shall at all times be conspicuously displayed at the places for which issued.

(3) All permits of retail dealers shall remain in force and effect for 1 year following their issuance, or until suspended, surrendered, or revoked for cause by the division.

(4) Whenever any permit issued under the provisions of this part is destroyed or lost, the holder thereof may request a duplicate permit from the division. The division will issue a duplicate license for a $15 administrative fee which shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund.

(5) Applicants for a permit hereunder, by the acceptance of such permit, agree that their places of business covered by such permit shall always be subject to inspection and search without search warrant by the division or any of its authorized assistants and also by sheriffs, deputy sheriffs, or police officers to determine compliance with this chapter. Should noncompliance with this chapter be determined, the division shall have full authority and powers, as established in subsection (7), to revoke or suspend such permits and to assess civil penalties.

(6) Every person, firm, association, or corporation who deals in, or sells, stores, or operates as a retail dealer in, tobacco products, or who acts as a tobacco product retail dealer in any manner whatsoever, and who does so without a retail tobacco product permit as required by this section is:

(a) Upon first conviction, guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Upon a second conviction, guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) Upon a third or subsequent conviction, guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(7) The Division of Alcoholic Beverages and Tobacco is given full power and authority upon sufficient cause appearing of the violation of any of the provisions of this chapter by any retail tobacco dealer, their agents, servants, or employees receiving a permit to engage in business under this chapter to revoke the permit of such retail tobacco dealer. The division may suspend for a reasonable period of time, in its discretion, the permits of retail tobacco dealers issued under the provisions of this part for the same causes and under the same limitations as is authorized hereunder to revoke the permits of such retail tobacco dealers. The division may also assess and accept civil penalties of up to $1,000 per violation. No order imposing a civil penalty shall become effective until at least 15 days after the date of the order. The division may suspend the imposition of any penalty conditioned upon terms the division should in its discretion deem appropriate.

(8) The division shall adopt rules for implementing the provisions of this section.

Section 5. Section 210.1715, Florida Statutes, is created to read:

210.1715 Sale and delivery of tobacco products.—

(1) The gift or sale of cigarettes or tobacco products in any form through vending machines or tobacco products machines is prohibited in this state with the exception that said machines are allowed in any business or facility when said machines are located within the unobstructed line of sight of the cashier or management personnel.

(2) No distribution by free sample of cigarettes or tobacco products by a manufacturer or vendor shall be permitted in this state to any person under age 18.

(3) The sale of single or loose unpacked cigarettes is prohibited.

(4) Retail dealers shall have the right to require picture identification.

(5) Upon notification by the division that a retail tobacco dealer's permit has been revoked, no wholesale dealer or distributor shall sell or otherwise deliver cigarettes or other tobacco products to the retail dealer until such time as the permit has been reinstated.

(6) A violation of any provision of this section shall be punishable as provided for in s. 210.171(7).

(7) The division shall promulgate suitable rules for implementing the provisions of this section.

Section 6. Section 561.025, Florida Statutes, is amended to read:

561.025 Alcoholic Beverage and Tobacco Trust Fund.—There is created within the State Treasury the Alcoholic Beverage and Tobacco Trust Fund. All funds collected by the division under the provisions of ss. 210.15, *210.171,* 210.40, 561.14(6), 561.181, 561.19(2) and (3), 561.27, 561.32, 561.331, 561.422, 561.57, 561 65, 563.02, 563.025, 563.045, 564.02, 564.025, 564.041, 565.02, 565.03, and 565.09 shall be deposited in the State Treasury to the credit of the trust fund, notwithstanding any other provision of law to the contrary. All moneys deposited to the credit of the trust fund shall be used to operate the division and to provide a proportionate share of the operation of the office of the Secretary of Business Regulation, except that the revenue transfer provisions of ss. 561.32 and 561.342(1) and (2) shall continue in full force and effect, and the division shall cause such revenue to be returned to the municipality or county in the manner provided for in s. 561.32 or s 561 342(1) and (2). The Department of Business Regulation shall review annually the balance remaining in the trust fund, and any funds found to be in excess of the needs of the division shall be transferred to the General Revenue Fund. In no event shall the department permit the fund to retain a fund equity in excess of 15 percent of the prior year's receipts.

Section 7. Section 859.06, Florida Statutes, is renumbered as section 210.172, Florida Statutes, and amended to read:

210.172 ~~859.06~~ Sale of tobacco products and cigarette wrappers to *persons under 18 years of age* ~~minors~~.—

(1) No person shall sell, deliver, barter, furnish, or give away, directly or indirectly, to any *person under 18 years of age* ~~minor~~, any cigarette, cigarette wrapper, or other tobacco product. As used in this section, the word "cigarette" includes clove cigarettes and tobacco substitutes. Any person who violates the provisions of this section *commits* ~~is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who violates subsection (1) shall have a complete defense to any criminal action, or any administrative action by the division under this chapter, if at the time the cigarettes or other tobacco products were sold or given, the person buying or receiving the cigarettes or other tobacco products falsely evidenced that he was of legal age to purchase, and the appearance of such person was such that an ordinarily prudent person would believe him to be of legal age to purchase cigarettes or other tobacco products, and if the person selling the cigarettes or tobacco products carefully checked a driver's license or an identification card issued by this state or another state of the United States, a passport, or a United States Uniformed Services identification card, and acted in good faith and in reliance upon the representation and appearance of the person in the belief that he or she was of legal age to purchase the cigarettes or other tobacco products.

Section 8. Section 859.061, Florida Statutes, is renumbered as section 210.173, Florida Statutes, and amended to read:

210.173 ~~859.061~~ Posting of a sign stating the sale of cigarettes and tobacco products to *persons under 18 years of age* ~~minors~~ is prohibited; enforcement; penalty.—

(1) Any retail dealer or owner of a place of business that sells cigarettes or tobacco products, as defined under s. 210.01(1) or s. 210.25(11), shall post a clear and conspicuous sign in the place of business which states the following:

THE SALE OF CIGARETTES AND ALL TOBACCO PRODUCTS TO PERSONS UNDER THE AGE OF 18 IS AGAINST FLORIDA LAW (Section *210.172* ~~859.06~~, Florida Statutes). PROOF OF AGE IS REQUIRED FOR PURCHASE.

(2) The Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation shall make available to cigarette retailers a sign to meet the requirements of this section ~~and charge $1.00 per sign~~.

(3) The Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation, through its agents and inspectors, shall enforce this section.

(4) Any person who fails to comply with the requirements of this section *commits* ~~is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 9. Section 210.1716, Florida Statutes is created to read:

210.1716 Responsible retail tobacco dealers; definitions; qualifications; exemption.—

(1) RESPONSIBLE RETAIL TOBACCO DEALERS.—It is the intent of the Legislature to eliminate the sale of tobacco products to underaged persons and to encourage retail tobacco dealers to comply with responsible practices in accordance with this section.

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

(a) "Division" means the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation.

(b) "Retail tobacco dealer" means a person, firm, or corporation permitted to sell tobacco products pursuant to this chapter.

(3) RESPONSIBLE RETAIL TOBACCO DEALER QUALIFICATION.— To qualify as a responsible retail tobacco dealer, the retail tobacco dealer must establish and implement procedures designed to ensure employee adherence with tobacco sales laws and must provide a course of instruction for employees that shall address tobacco usage and sales to include at least the following:

(a) Laws covering the sale of cigarettes and other tobacco products.

(b) Methods of recognizing and dealing with underaged customers with respect to the sale of tobacco products.

(c) Procedures on proper examination of identification cards in order to verify age.

(d) Where possible, the use of an age audit identification function on electronic point of sale equipment.

(4) EXEMPTION FROM PERMIT SUSPENSION OR REVOCATION; MITIGATION FOR CERTAIN TOBACCO PRODUCTS VIOLATIONS.—

(a) In determining penalties under this chapter, the division shall consider mitigation of any penalties resulting from an employee's illegal sale of tobacco products to a person less than 18 years of age if the following conditions are met:

1. The retail dealer is qualified as a responsible retail tobacco dealer under this section.

2. The retail tobacco dealer administered the applicable training program to the employee prior to the sale.

3. The retail tobacco dealer had no knowledge of the violation and did not participate in or commit the violation.

4. If the sale was made through a vending machine, the machine was equipped with an operational lock out device.

(b) No retail tobacco dealer may use as a defense to a civil penalty or to suspension or revocation of a retail tobacco dealer permit, the fact that he was absent from the permitted premises at the time a violation occurred if violations are flagrant, persistent, repeated, or recurring.

(5) The division shall develop and make available model procedures and training criteria designed to ensure adherance to tobacco sales laws by retail tobacco dealers and their employees that if followed would qualify the dealer as a responsible retail tobacco dealer.

(6) The division shall promulgate any rules necessary to implement this section.

Section 10. Ten percent of the revenues generated from retail tobacco permit fees provided for in s. 210.171(1)(a) shall be transferred from the Alcoholic Beverage and Tobacco Trust Fund to the Department of Education to provide for tobacco prevention and education activities pursuant to s. 233.067, Florida Statutes, and for associated research and evaluation.

Section 11. Thirty-two positions are authorized, and the sum of $1,195,895 is appropriated from the Alcoholic Beverage and Tobacco Trust Fund to the Department of Business Regulation in fiscal year 1992-1993 to implement the provisions of this act.

Section 12. This act shall take effect October 1, 1992.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to children's access to tobacco; creating the Florida Sale of Tobacco Products to Children Control Act; redesignating chapter 210, F.S., as Tobacco Products, Taxation and Control; amending s. 210.01, F.S.; redefining the term "retail dealer" with respect to the tax on cigarettes; amending s. 210.04, F.S.; conforming to the act; creating s. 210.171, F.S.; providing for retail tobacco dealer permits; providing fees; providing penalties; providing for the powers and duties of the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation; creating s. 210.1715, F.S.; restricting the sale of tobacco products through vending machines; providing an exception; prohibiting free samples to persons under age 18; prohibiting the sale of single or loose cigarettes; authorizing dealers to require picture ID; providing that wholesale dealers shall not deliver tobacco products to retail dealers who have had their permits revoked; providing penalties; amending s. 561.025, F.S.; providing a cross reference in conformance to the act; amending s. 859.06, F.S., relating to the sale of tobacco products to persons under 18 years of age; revising language with respect to the penalty for such a sale; providing a defense against civil actions resulting from use of false identification; amending s. 859.061, F.S., relating to the posting of a sign with respect to the prohibition of the sale of tobacco products to persons under 18 years of age; revising a penalty; creating s. 210.1716, F.S.; pro-

viding for responsible retail tobacco dealers; providing legislative intent; providing definitions; providing qualifications; creating s. 210.1717, F.S.; providing for oversight committees; providing for appropriations and for positions; providing for the use of revenues by the Department of Education for tobacco prevention and education activities and for research and evaluation; providing an effective date.

WHEREAS, tobacco products cause in excess of 400,000 deaths annually in the United States and in excess of 28,000 deaths annually in the State of Florida, and

WHEREAS, the number of annual deaths caused by tobacco products exceeds the combined annual number of deaths due to alcohol, cocaine, heroin, homicide, suicide, automobile accidents, fires, and AIDS, and

WHEREAS, tobacco-related health care costs are estimated to be in excess of $50 billion in the United States and in excess of $2.5 billion in the State of Florida, and

WHEREAS, tobacco contains nicotine, an extremely addictive substance, and

WHEREAS, more than one-third of adult smokers try to quit each year, more than two-thirds of adult smokers have tried to quit at least once and one-half of adult smokers eventually succeed in quitting, and

WHEREAS, tobacco advertising has the effect of inducing children to use tobacco products, and

WHEREAS, the tobacco industry makes profits from child smokers in excess of $200 million annually, and

WHEREAS, 90 percent of smokers begin smoking before the age of 21, and

WHEREAS, it is estimated that some 39 million packs of cigarettes are illegally sold to children in Florida each year, NOW, THEREFORE,

The vote was:

Yeas—28 Nays—11

POINT OF ORDER

Senator Bruner raised a point of order that pursuant to Rule 4.8 the bill should be referred to the Committee on Appropriations.

RULING ON POINT OF ORDER

The President ruled the point not well taken.

Pending further consideration of **SB 300** as amended, on motions by Senator Grant, by two-thirds vote **CS for HB 2375** was withdrawn from the Committees on Commerce, Education and Appropriations.

On motion by Senator Grant—

CS for HB 2375—A bill to be entitled An act relating to children's access to tobacco; creating the Florida Sale of Tobacco Products to Children Control Act; redesignating chapter 210, F.S., as Tobacco Products, Taxation and Control; amending s. 210.01, F.S.; redefining the term "retail dealer" with respect to the tax on cigarettes; amending s. 210.04, F.S.; conforming to the act; creating s. 210.171, F.S.; providing for retail tobacco dealer permits; providing fees; providing penalties; providing for the powers and duties of the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation; creating s. 210.1715, F.S.; restricting the sale of tobacco products through vending machines; providing an exception; prohibiting free samples to persons under age 18; prohibiting the sale of single or loose cigarettes; authorizing dealers to require picture ID; providing that wholesale dealers shall not deliver tobacco products to retail dealers who have had their permits revoked; providing penalties; amending s. 561.025, F.S ; providing a cross reference in conformance to the act; amending s. 859 06, F.S., relating to the sale of tobacco products to persons under 18 years of age; revising language with respect to the penalty for such a sale; providing a defense against civil actions resulting from use of false identification; amending s. 859.061, F.S., relating to the posting of a sign with respect to the prohibition of the sale of tobacco products to persons under 18 years of age; revising a penalty; creating s. 210.1716, F.S.; providing for responsible retail tobacco dealers; providing legislative intent; providing definitions; providing qualifications; creating s. 210.1717, F.S.; providing for oversight committees; providing an appropriation; providing for the use of revenues by the Department of Education for tobacco prevention and education activities and for research and evaluation; providing an effective date.

—a companion measure, was substituted for **SB 300** and read the second time by title.

Senator Bruner moved the following amendment:

Amendment 1—On page 7, line 29, strike "$15" and insert: $10

Senator Weinstock moved that debate be limited to one minute on each amendment. The motion failed. The vote was:

Yeas—16 Nays—20

On motion by Senator Thomas, further consideration of **CS for HB 2375** with pending **Amendment 1** was deferred.

RECESS

On motion by Senator Crenshaw, the Senate recessed at 9:02 p.m. to reconvene upon call of the President.

CALL TO ORDER

The Senate was called to order by the President at 9:50 p.m. A quorum present—40:

President	Davis	Jennings	Plummer
Bankhead	Diaz-Balart	Johnson	Scott
Beard	Dudley	Kirkpatrick	Souto
Bruner	Forman	Kiser	Thomas
Burt	Gardner	Kurth	Thurman
Casas	Girardeau	Langley	Walker
Childers	Gordon	Malchon	Weinstein
Crenshaw	Grant	McKay	Weinstock
Crotty	Grizzle	Meek	Wexler
Dantzler	Jenne	Myers	Yancey

SPECIAL ORDER, continued

CS for HB 1863—A bill to be entitled An act relating to the Water Quality Assurance Trust Fund; amending s. 376.307, F.S.; providing for an additional use of trust fund moneys; transferring funds from the Florida Coastal Protection Trust Fund to the Water Quality Assurance Trust Fund; providing an effective date.

—was read the second time by title. On motion by Senator Plummer, by two-thirds vote **CS for HB 1863** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40 Nays—None

On motion by Senator Yancey, by two-thirds vote **HB 2513** was withdrawn from the Committee on Natural Resources and Conservation.

On motion by Senator Yancey, by unanimous consent—

HB 2513—A bill to be entitled An act relating to trail designations; designating a portion of the Florida Rails to Trails Program as the "General James A. Van Fleet State Trail"; providing an effective date.

—was taken up out of order and read the second time by title. On motion by Senator Yancey, by two-thirds vote **HB 2513** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

On motions by Senator Diaz-Balart, by two-thirds vote **HB 2223** was withdrawn from the Committees on International Trade, Economic Development and Tourism; and Appropriations.

On motion by Senator Diaz-Balart—

HB 2223—A bill to be entitled An act relating to film financing; providing legislative findings; creating the Florida Film and Television Investment Board; providing the purpose of the board; providing membership requirements; requiring public disclosure; providing powers and duties; creating the Florida Film and Television Investment Trust Fund; authorizing the investment of funds; providing conditions for investment; requiring an annual report; providing an effective date.

—a companion measure, was substituted for **CS for SB 2124** and read the second time by title. On motion by Senator Diaz-Balart, by two-thirds vote **HB 2223** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

The Senate resumed consideration of—

CS for HB 1723—A bill to be entitled An act relating to insurance; creating s. 627.707, F.S.; establishing minimum standards for investigation of sinkholes by insurers; prohibiting nonrenewal of homeowner policies under certain conditions; providing for a study of sinkhole activities and insurance coverage of sinkholes; amending s. 213.053, F.S.; authorizing the Insurance Commissioner to receive information; amending s. 624.610, F.S.; revising procedures with respect to certain summary statements; requiring the Department of Insurance to adopt certain rules in conformance with certain manuals; creating s. 626.032, F.S.; defining "administrative agent"; providing for continuing education; providing for designation; providing application fees; amending s. 626.072, F.S.; providing reference to an agency; amending s. 626.091, F.S.; excluding certain attorneys from the definition of managing general agent; amending s. 626.281, F.S.; providing for application for reexamination; providing for fees; amending s. 626.2815, F.S.; requiring sponsors of continuing education courses to provide certain information; providing an exemption from continuing education requirements; amending s. 626.381, F.S.; providing for renewal of appointments in birth month; amending s. 626.551, F.S.; requiring notice of changes in street or mailing addresses; amending s. 626.601, F.S.; providing confidentiality of certain investigative information; amending ss. 626.611 and 626.621, F.S.; applying certain departmental referral, suspension, revocation, or denial of a license or application to customer representatives; amending s. 626.631, F.S.; providing for revocation of licenses and appointments upon conviction of a felony; providing for hearings; amending s. 626.641, F.S.; clarifying prohibited activities by former agents; amending s. 626.7351, F.S.; deleting a requirement for qualification for a customer representative's license; amending s. 626.7352, F.S.; clarifying provisions relating to customer representative's officer; amending s. 626.7353, F.S.; providing for appointment of a customer representative by a general lines agency; amending ss. 626.7851 and 626.8311, F.S.; providing additional qualifications for licensure as a life agent or a life and health agent; amending s. 626.837, F.S.; clarifying provisions relating to excess or rejected business; amending s. 626.8373, F.S.; specifying certain types of health insurance with respect to overinsurance; creating ss. 626.8695, 626.8696, and 626.8697, F.S.; providing for the licensure of primary adjusters and adjustment firms; providing for refusal, suspension, or revocation of adjusting firm licenses; amending s. 626.891, F.S.; clarifying provisions relating to suspending or revoking certificates of authority of administration; amending ss. 626.916 and 626.918, F.S., requiring certain statements rather than affidavits; amending ss. 626.931, 626.932, 626.936, and 626.938, F.S.; specifying the format and content of certain reports; providing for interest on delinquent taxes; amending s. 626.9361, F.S.; providing for an administrative fine for failing to file a quarterly report; providing for deposit of such fines; amending s. 626.939, F.S.; requiring production of certain records under certain circumstances; amending s. 626.9521, F.S.; providing for fines for unfair trade practices; amending s. 626.9541, F.S.; defining unfair trade practices; including impaired insurers in provisions relating to unfair trade practices; including certain exercise of the power of attorney and sliding as unfair competition or deceptive acts; amending s. 627.4085, F.S.; requiring certain information on applications for insurance; creating s. 626.7491, F.S.; creating the Business Transacted with Producer Controlled Property or Casualty Insurer Act; providing definitions; providing applicability; providing minimum standards; providing for required contract provisions; providing for audit committees; providing for reporting requirements; providing penalties; providing disclosure requirements; creating s. 626.7492, F.S.; creating the Reinsurance Intermediary Act; providing definitions; providing for licensure; specifying certain contract provisions for reinsurance brokers; requiring certain recordkeeping; providing duties of insurers using reinsurance intermediary brokers; specifying certain contract provisions for reinsurance intermediary managers; prohibiting certain activities of reinsurance intermediary managers; providing duties of certain reinsurers; providing for examination of reinsurance intermediaries by the Department of Insurance; providing penalties; amending s. 626.171, F.S.; providing for application to reinsurance intermediaries; amending s. 626.521, F.S.; providing for character reports for reinsurance intermediaries; amending s. 624.501, F.S.; providing license and appointment fees for reinsurance intermediaries; providing an effective date.

—which had been previously considered this day.

On motion by Senator Kiser, **CS for HB 1723** was read by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

On motions by Senator Weinstein, by two-thirds vote **CS for HB 397** was withdrawn from the Committees on Criminal Justice, Judiciary and Appropriations.

On motion by Senator Weinstein—

CS for HB 397—A bill to be entitled An act relating to contraband forfeiture; amending s. 932.701, F.S.; providing definitions; amending s. 932.702, F.S.; revising language with respect to the transportation, concealment, or possession of contraband articles; amending s. 932.703, F.S.; revising language with respect to forfeiture; prohibiting use of seized property until perfected; providing exceptions; providing for reasonable maintenance; providing for the seizure of real property; providing for notice of adversarial hearing; providing for least restrictive means; providing for forfeiture of other property; providing a burden of proof to protect interests; providing for the protection of husband and wife interests; amending s. 932.704, F.S.; providing a policy statement; providing exceptions for rented or leased vehicles; providing procedures; providing for jury trial; providing for notice to owners; providing for lis pendens; providing for responsive pleadings; providing for settlements; providing burden of proof for forfeiture; providing for forfeiture; providing for release of property; prohibiting assessment of costs; providing for approval; providing for court costs and attorney fees; creating s. 932.705; providing for disposition of liens and forfeited property; providing for sale of property; providing for disbursement of proceeds; providing for local trust funds; providing expenditures from trust fund; limiting use of trust funds; requiring certain expenditures from trust fund; providing exceptions; providing for state agency trust funds; providing for issuance of titles; providing for reports; prohibiting anticipating forfeiture proceeds; creating s. 932.706, F.S.; providing for training; creating s. 932.707, F.S.; providing penalty for noncompliance with reporting; providing a civil fine; amending s. 895.09, F.S.; clarifying the formula for distributing funds obtained pursuant to forfeiture proceedings under the act; repealing s. 6, ch. 89-102, Laws of Florida; abrogating the repeal of s. 895.09(2), F.S., relating to such distribution formula; amending s. 328.07, F.S., providing for hull identification numbers; providing exceptions; providing for documentation; providing prohibitions from forfeiture; providing for replacing hull numbers and plates; providing prohibitions from altering and replacing hull numbers; providing an effective date.

—a companion measure, was substituted for **CS for SB 1908** and read the second time by title. On motion by Senator Weinstein, by two-thirds vote **CS for HB 397** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—1

On motions by Senator Girardeau, by two-thirds vote **CS for HB 241** was withdrawn from the Committees on Personnel, Retirement and Collective Bargaining; and Appropriations.

On motion by Senator Girardeau—

CS for HB 241—A bill to be entitled An act relating to state retirement systems; amending s. 122.08, F.S.; providing for retirement after 30 years of service for members of the State and County Officers and Employees Retirement System; conforming cross references; amending s. 122.35, F.S.; providing for increased contributions to be paid by the employer; amending s. 238.07, F.S.; providing that a member of the Teachers' Retirement System of Florida may take normal retirement at any age upon completion of 30 years of service; conforming a cross reference; amending s. 238.11, F.S.; providing for increased contributions to be paid by the employer; providing an effective date.

—a companion measure, was substituted for **CS for SB 398** and read the second time by title. On motion by Senator Girardeau, by two-thirds vote **CS for HB 241** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motions by Senator Meek, by two-thirds vote **CS for CS for HB 189** was withdrawn from the Committees on Health and Rehabilitative Services; Education; and Appropriations.

On motion by Senator Meek, by unanimous consent—

CS for CS for HB 189—A bill to be entitled An act relating to post-secondary education; amending s. 240.4075, F.S.; providing that funds in the Nursing Student Loan Forgiveness Trust Fund shall be available for use in the nursing scholarship loan program; deleting provisions limiting the use of funds; creating s. 240.4076, F.S.; establishing the nursing scholarship loan program within the Department of Health and Rehabilitative Services; providing for eligibility, amount of awards, repayment of loans, default allowances, and default penalties; providing for rules; providing for funding; providing an appropriation; providing an effective date.

—was taken up out of order and read the second time by title. On motion by Senator Meek, by two-thirds vote **CS for CS for HB 189** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—None

CS for HB 861—A bill to be entitled An act relating to alcoholic beverages; amending s. 561.01, F.S.; defining the term "performing arts center", amending s. 561.20, F.S.; authorizing the Division of Alcoholic Beverages and Tobacco to issue special licenses to performing arts centers; providing a limitation on the license; providing a limitation on fees for such licenses; providing an effective date.

—was read the second time by title. On motion by Senator Wexler, by two-thirds vote **CS for HB 861** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33 Nays—4

MOTIONS

On motions by Senator Thomas, by two-thirds vote **House Bills 1215, 1295, 1463, 1569, 1637, 2019, 2051, 2141** and **2175** were placed on the Local Bill Calendar.

LOCAL BILLS

On motions by Senator Myers, by two-thirds vote—

HB 1215—A bill to be entitled An act relating to Martin County; amending chapter 29542, Laws of Florida, 1953, as amended; revising language with respect to the membership on the Board of Trustees of the Martin County Law Library; authorizing the Board of County Commissioners to establish a fee, by resolution, as costs in civil causes to purchase, maintain, and operate the library; providing for compliance with the general law cap on filing fees; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motions by Senator Myers, by two-thirds vote—

HB 1295—A bill to be entitled An act relating to the Loxahatchee River Environmental Control District; amending chapter 71-822, Laws of Florida, as amended, to include a specified parcel of land within the territorial limits of the district; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motions by Senator Myers, by two-thirds vote—

HB 1463—A bill to be entitled An act relating to the Loxahatchee Groves Water Control District, Palm Beach County, created pursuant to chapter 298, F.S.; providing definitions; authorizing the permitting of hauling operations on the road and roadways of the district; providing for a form of permit application; providing that the use of district roads and roadways may be limited or restricted and otherwise coordinated with the district board of supervisors; requiring that the hauling operator maintain or pay for the expenses of repair and maintenance of district roads and roadways; providing that the hauling operator maintain liability insurance; providing that the permit applicant and hauling operator indemnify the district for any damage caused by hauling activities and establishing an attorneys' fees provision; authorizing hauling permit fees; authorizing the promulgation of rules to implement this chapter; providing for civil and criminal penalties for failure to obtain or abide by the conditions of a hauling permit; providing for assessments for damage done to district roads and roadways; providing for liens for unpaid assessments; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motions by Senator Myers, by two-thirds vote—

HB 1569—A bill to be entitled An act relating to Indian Trail Water Control District, Palm Beach County, created by chapter 57-646, Laws of Florida; granting additional powers to the district to construct, maintain, and operate recreational areas, facilities, and programs; to finance costs; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motions by Senator Myers, by two-thirds vote—

HB 1637—A bill to be entitled An act relating to Palm Beach County; providing for legislative intent; providing for inclusion of non-ad valorem assessments within any notice of proposed property taxes; providing for exemptions; providing for severability; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motions by Senator Childers, by two-thirds vote—

HB 2019—A bill to be entitled An act relating to Escambia County; codifying and reenacting provisions relating to the county law library; providing for the staggering of terms of members of the law library board; specifying the length of terms of office of board members; providing for the filling of vacancies on the board; repealing chapters 61-2130, 69-1048, 72-533, and 85-407, Laws of Florida, relating to the law library, to conform; repealing this act; providing severability; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motions by Senator Forman, by two-thirds vote—

HB 2051—A bill to be entitled An act relating to Broward County; amending chapter 84-396, Laws of Florida, which created the Performing Arts Center Authority; increasing the membership of the authority and requiring minority representation; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motions by Senator Bruner, by two-thirds vote—

HB 2141—A bill to be entitled An act relating to the Cities of Cinco Bayou, Crestview, Destin, Fort Walton Beach, Laurel Hill, Mary Esther, and Shalimar, Okaloosa County; providing legislative intent; providing uniform filing and election dates for municipal elections in those municipalities; providing for conduct of such municipal elections by the Okaloosa County Supervisor of Elections; providing for reimbursement of costs; providing that the candidate with the highest number of votes shall be the winner and take office within a specified period after the election, with the specific day provided by ordinance; providing for application to present terms of office; providing for correspondence of subsequent terms of office to the common dates provided in the act; providing for composition and duties of canvassing boards; providing for special elections; providing that general law for absentee ballots shall apply to absentee ballots in such municipal elections; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motions by Senator Johnson, by two-thirds vote—

HB 2175—A bill to be entitled An act relating to the Englewood Water District in Charlotte and Sarasota Counties; amending chapter 59-931, Laws of Florida, as amended; enlarging the area of the Englewood Water District; providing for a referendum; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motions by Senator Thomas, by two-thirds vote **HB 1167** was withdrawn from the Committees on Agriculture; and Finance, Taxation and Claims.

On motion by Senator Thomas, by unanimous consent—

HB 1167—A bill to be entitled An act relating to the animal industry; amending s. 585.01, F.S.; redefining the terms "domestic animal" and "livestock" to include reference to the ostrich; amending s. 212.08, F.S.; providing a sales tax exemption for feed used for ostriches; amending s. 588.13, F.S. relating to livestock running at large; redefining the term "livestock" to include reference to the ostrich; amending s. 828.23, F.S.; redefining the term "livestock" to include reference to the ostrich; providing a penalty for certain prohibited acts by a slaughterer, packer, or stockyard operator; reenacting s. 468.382(6), F.S., relating to auctioneers, to incorporate the amendments to ss. 585.01 and 588.13, F.S., in references thereto; providing an effective date.

—was taken up out of order and read the second time by title. On motion by Senator Jenne, by two-thirds vote **HB 1167** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—25 Nays—4

REPORTS OF COMMITTEES

The Committee on Appropriations recommends a committee substitute for the following: CS for CS for SB 2412

The bill with committee substitute attached was placed on the calendar.

COMMITTEE SUBSTITUTES

FIRST READING

By the Committees on Appropriations; Governmental Operations; Health and Rehabilitative Services; and Senator Weinstock—

CS for CS for CS for SB 2412—A bill to be entitled An act relating to the Department of Health and Rehabilitative Services; creating the "Health and Rehabilitative Services Reorganization Act of 1992"; providing legislative findings and intent; specifying preference for functional organization of services and programs of the department; providing for a functional organization plan; providing for a pilot project to test the feasibility of a functional, integrated system of children's services; providing criteria and requiring reports; amending s. 20.19, F.S.; expanding purposes of the department; expanding duties of department administrators; creating the position of Assistant Secretary for Delinquency Services; assigning duties; providing for the issuance of health advisories by the State Health Officer; establishing a Medicaid Program Office; requiring advisory boards to civil mental health and developmental services institutions; reorganizing service districts; creating district health and human services boards and providing membership, powers, and duties; providing for removal of members; providing for reimbursement of travel and per diem expenses; providing for organization and meetings; requiring reports; creating district nominee qualifications review committees and providing membership, powers, and duties; providing for a district administrator and providing powers and duties; creating a statewide health and human services board; deleting district advisory councils; revising provisions relating to information systems; providing duties; deleting obsolete reporting requirements; providing for the establishment of innovation zones for the purpose of testing model programs, policy options, and new technologies for the department; authorizing the Secretary of Health and Rehabilitative Services to propose changes to policies or procedures or waivers of rules for purposes of an innovation zone proposal; providing for clarifying language; amending s. 381.702, F.S.; providing districts for health planning; amending s. 402.165, F.S.; revising membership of the Statewide Human Rights Advocacy Committee; amending ss. 394.67, 396.1818, 397.217, 410.023, 410.603, 415.602, 420.621, F.S., relating to juvenile substance abuse prevention and early intervention councils, mental health, community care services, health maintenance services, domestic violence services, and social services, to conform; repealing s. 394.715, F.S., relating to alcohol, drug abuse and mental health planning councils; amending ss. 316.1932, 316.1933, 316.1934, 322.63, 327.354, F.S.; transferring duties and functions with respect to rules and procedures for tests determining the presence of alcohol or controlled substances from the Department of Health and Rehabilitative Services to the Department of Law Enforcement; providing for the Department of Law Enforcement to establish standards and issue permits for certain blood tests; amending s. 316.1938, F.S.; transferring the authority and responsibilities for certifying ignition interlock devices from the Department of Health and Rehabilitative Services to the Department of Law Enforcement; amending ss. 483.021, 483.031, 483.051, 483.172, 483.23, F.S.; deleting provisions relating to the licensing and regulation of clinical laboratory personnel by the Department of Health and Rehabilitative Services; creating ss. 483.800-483.827, F.S.; providing a statement of purpose; providing for regulation of clinical laboratory personnel by the Board of Clinical Laboratory Personnel within the Department of Professional Regulation; amending s. 395.1015, F.S.; conforming a cross-reference; amending s. 20.30, F.S.; providing for the Board of Clinical Laboratory Personnel within the Division of Medical Quality Assurance; repealing ss. 483.041(2) and (4), 483.053, 483.071, 483.141, 483.151, 483.152, 483.153, 483.154, 483.161, 483.21, F.S., relating to clinical laboratory personnel; providing a saving clause; amending s. 409.029, F.S.; authorizing the Department of Health and Rehabilitative Services to contract for certain services provided under the Florida Employment Opportunity Act; amending s. 509.215, F.S.; requiring certain buildings to be equipped with automatic sprinkler systems; transferring, upon federal approval, the Office of Disability Determinations from the Department of Health and Rehabilitative Services to the Department of Labor and Employment Security; continuing interim planning groups created by ch. 91-158, Laws of Florida, for a specified period; providing a saving clause for rules; providing that provisions of this act do not affect the validity of certain pending judicial or administrative proceedings; providing for exceptions to certain effects of the act on certain districts; requiring the department to contract for the assessment of needs of children in the department's care; providing for reimbursement of costs of services provided by providers of assessment and case management services; requiring the Auditor General to determine costs savings resulting from such contracts; transferring the Food Distribution Program from the Department of Health and Rehabilitative Services to the Department of Agriculture and Consumer Services; amending s. 409.026, F.S.; conforming that section to the transfer; creating s. 570.072, F.S.; providing for the Department of Agriculture and Consumer Services to conduct, supervise, and administer commodity distribution services; providing duties and powers of the department; amending s. 402.305, F.S.; revising square footage requirements for child care facilities; providing an effective date.

EXECUTIVE BUSINESS

Pursuant to s. 114.05(1)(e), Florida Statutes, the Senate failed to act upon the following appointments during the 1992 regular session of the Legislature:

Office and Appointment		*For Term Ending*
Board of Trustees of Chipola Junior College		
Appointee:	Wilson, Price	05/31/95
Board of Trustees of Daytona Beach Community College		
Appointee:	Hardin, Jack D.	05/31/94
Board of Trustees of Florida Community College at Jacksonville		
Appointees:	Hightower, Michael R.	05/31/95
	Jones, Joy M.	05/31/95

Office and Appointment	*For Term Ending*
Construction Industry Licensing Board	
Appointee: Watts, Robert E., Jr.	09/30/92
Florida State Fair Authority, Congressional District 12	
Appointee: Fenn, Havert L.	06/30/93
Board of Funeral Directors and Embalmers	
Appointee: Hiers, John M.	08/01/95
Florida Housing Finance Agency	
Appointee: Pitts, Otis, Jr.	11/13/92
Florida International Affairs Commission	
Appointee: Stahl, Angelique	07/09/94
Board of Nursing	
Appointee: Darling, Sandra	08/01/93
State Retirement Commission	
Appointee: Switts, Jerry J.	12/31/93

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed HB 1295; has passed as amended CS for HB 261, CS for CS for HB 855, HB 1215, CS for CS for HB 1283, HB 1463, HB 1569, HB 1637, HB 2019, HB 2051, HB 2141, HB 2175, CS for HB 2179, HB 2431, HB 2505, HB 2521 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representative Hill—

HB 1295—A bill to be entitled An act relating to the Loxahatchee River Environmental Control District; amending chapter 71-822, Laws of Florida, as amended, to include a specified parcel of land within the territorial limits of the district; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Appropriations and Representative Jamerson and others—

CS for HB 261—A bill to be entitled An act relating to education; creating s. 231.66, F.S.; providing tuition-free courses for instructional personnel and teacher aides at area vocational-technical centers, community colleges, and state universities; amending s. 228.041, F.S.; revising terminology in definitions of the terms "school day" and "exceptional student" and defining the term "year-round school"; amending s. 228.053, F.S.; correcting a cross reference; amending s. 228.195, F.S.; providing for school breakfast programs for prekindergarten students; amending s. 229.555, F.S.; requiring school improvement plans to meet certain planning and budgeting requirements; amending s. 229.592, F.S.; correcting cross references; amending s. 229.808, F.S.; providing for biennial nonpublic school surveys; amending s. 229.8341, F.S.; revising terminology relating to services for infants and preschool children; amending s. 230.23, F.S.; revising provisions relating to district school board powers and duties for provision of special instruction and services for exceptional students; amending and renumbering s. 235.439, F.S.; revising provisions relating to program monitoring and evaluation of full school utilization programs; amending s 230.2303, F.S.; revising terminology relating to the Florida First Start Program; amending s. 230.2305, F.S., and repealing subsection (5), relating to prekindergarten early intervention program plan approval; revising terminology; revising requirements for plans and plan approval; requiring certain guidelines; amending s. 230.2316, F.S.; revising provisions relating to dropout prevention programs and program plans; deleting provisions relating to dropout retrieval assistance programs, a dropout prevention manual, community-based dropout prevention program grants, grants for mini-schools as educational alternatives, and grants for alternatives to out-of-school suspension; amending s. 230.2318, F.S.; correcting a cross reference; amending s. 230.33, F.S.; revising provisions relating to planned school programs with respect to duties of the superintendent; amending s. 230.645, F.S.; providing for certain fee waivers; amending s. 231.15, F.S.; revising fees related to certification; amending s. 231.17, F.S.; revising provisions relating to issuance of certificates, application procedures, the professional orientation program, and application of rules; revising requirements for CLAST; amending s. 231.1711, F.S.; revising provisions relating to the statement of eligibility for certification; amending s. 231.173, F.S.; providing for qualification for certification of out-of-state administrators; amending s. 231.24, F.S.; revising provisions relating to certificate renewal; amending s. 231.603, F.S.; revising provisions relating to teacher education center inservice plans; amending s. 231.606, F.S.; revising teacher education center council duties; amending s. 231.609, F.S.; deleting college and university funding for teacher education centers; amending s. 231.613, F.S.; revising provisions relating to inservice training institutes and plan approval; amending s. 231.62, F.S.; correcting a cross reference; amending s. 232.01, F.S., relating to school attendance; revising terminology; amending s. 232.032, F.S.; providing for automated transfer of immunization certification; amending s. 232.246, F.S.; revising provisions relating to funding for special instruction for certain high school students; amending s. 232.2462, F.S.; revising provisions relating to requirements for receipt of credit; creating s. 232.259, F.S.; authorizing rules to assist schools and school districts in implementing driver's license requirements; amending s. 233.056, F.S.; revising terminology relating to certain instructional programs; amending s. 233.07, F.S.; revising definition of the term "instructional materials"; amending s. 233.16, F.S.; authorizing cash deposits in lieu of bonds for instructional materials contracts; amending s. 233.18, F.S.; revising provisions relating to copies of bids, contracts, and books; amending s. 233.25, F.S.; revising provisions relating to publishers and manufacturers of instructional materials; amending s. 234.01, F.S.; authorizing the provision of certain transportation; amending s. 234.02, F.S.; revising terminology relating to transportation of certain students; including participants in teenage parent programs; amending s. 234.041, F.S.; revising terminology relating to transportation of certain students; amending s. 235.014, F.S., and repealing subsection (3), relating to off-site hazards; revising provisions relating to functions of the Office of Educational Facilities; providing Department of General Services' duties; amending s. 235.19, F.S.; providing for request relating to off-site hazards; amending s. 235.26, F.S.; revising provisions relating to conformance to the state uniform building code; amending s. 235.42, F.S., relating to educational plant construction funds; providing for certain encumbrances; amending s. 236.013, F.S., relating to definitions; revising requirements for summer school programs; amending s. 236.081, F.S.; revising provisions relating to a program membership survey of schools and year-round schools; limiting the required local effort under the Florida Education Finance Program; amending s. 236.0815, F.S.; revising provisions relating to funding of additional educational services to certain high school students; amending s. 236.083, F.S.; providing for funding for transportation to year-round schools; amending s. 236.0835, F.S.; revising terminology; amending s. 236.13, F.S.; correcting a cross reference; amending s 236 145, F.S., relating to residential nonpublic school contract reimbursement; revising terminology; amending s. 237.041, F.S.; revising provisions relating to the examination of annual budgets; amending s. 237.081, F.S.; revising provisions relating to submission of budgets; amending s. 240.405, F.S.; revising provisions relating to grants for teachers for training in exceptional student education; amending s. 242.332, F.S.; revising terminology; authorizing the Department of Education to purchase annuities to be used as reduction-in-force bonuses for eligible employees; repealing ss. 229.565(5), 231.532, 233.0615, 236.022, 236.1227, and 236.135, F.S., relating to evaluation of prekindergarten early intervention programs, district quality instruction incentives programs, law education, study of alternative methods of school finance, quality instruction incentive categorical program, and equipment purchasing or leasing; creating s. 231.263, F.S.; creating a recovery network program for educators who are impaired as a result of alcohol abuse, drug abuse, or a mental condition; providing an implementation date; providing eligibility for participation; providing for staff; providing for treatment contracts; providing procedures; providing an exemption from public records requirements for certain disclosed information and providing for review and repeal of the exemption; providing for determination of ineligibility for further assistance; providing for funds to implement this act; providing for rules; providing for review and repeal; amending s. 229.58, F.S.; revising provisions for establishment of school advisory councils; defining the term "education support employee"; amending s. 235.19, F.S.; providing for waivers from site standards; amending s. 235.196, F.S.; revising conditions with respect to requests for funds to construct a community educational facility; requiring the Office of Educational Facilities through an independent appraiser to determine the value of existing sites

for purposes of developing community education facilities; repealing s. 235.195(4), F.S., relating to limitations on funding for a joint-use facility; amending s. 235.211, F.S.; providing exceptions from requirements for an architect; amending s. 235.31, F.S.; providing for purchase of maintenance, repair, and site improvement services by district school boards from other governmental contracts; amending s. 232.26, F.S.; providing for the suspension of pupils charged with certain delinquent acts; specifying the length of suspensions of pupils charged with a felony or delinquent act; providing for the delivery of educational services; amending s. 230.33, F.S.; providing for extension of a suspension if additional time is required by school board to provide for a fair hearing; providing conditions to be met prior to the extension of a suspension; creating s. 234.302, F.S.; requiring certain local governmental entities to provide training programs for crossing guards; requiring adoption of training guidelines; requiring successful completion of program; providing exemptions; amending s. 318.21, F.S.; providing for the funding of crossing guard training programs from civil penalties for certain traffic infractions; amending s. 200.065, F.S.; permitting purchase of instructional equipment and software; amending s. 236.625, F.S.; permitting purchase of instructional material and software; amending s. 237.161, F.S.; permitting purchase of instructional equipment and software; amending s. 229.591, F.S.; adding the arts to the state education goals; providing effective dates.

—was referred to the Committees on Education; Personnel, Retirement and Collective Bargaining; and Appropriations.

By the Committees on Governmental Operations; Employee and Management Relations; and Representative Brennan and others—

CS for CS for HB 855—A bill to be entitled An act relating to persons with disabilities; providing for the implementation of the Americans with Disabilities Act of 1990; providing for the duties of the Division of Vocational Rehabilitation of the Department of Labor and Employment Security; providing for a statewide plan; amending s. 117.01, F.S.; providing for a surcharge on applications for appointment of notaries public; providing for the deposit of the surcharge into the Impaired Drivers and Speeders Trust Fund; providing for the use of such moneys; directing the department to adopt certain rules; providing an appropriation; creating s. 320.0899, F.S.; requiring certain drivers who have been lawfully arrested and convicted of driving a motor vehicle with a license which has been suspended, canceled, or revoked to pay an additional fee for the next two renewals; providing for the issuance of coded drivers' licenses; providing fees; amending s. 324.201, F.S.; providing for the release of certain information to recovery agents or agencies; providing for special license plate designations for certain persons whose license has been suspended for failure to maintain financial responsibility; providing a procedure when a recovery agent or agency obtains a seized license plate; amending s. 627.732, F.S.; defining the term "recovery agent"; amending s. 627.733, F.S.; providing for the disposition of fees with respect to certain license plates seized by recovery agents; creating s. 321.245, F.S.; providing for the disposition of certain funds in the Accident Reports Trust Fund; creating s. 320.95, F.S.; authorizing recovery agents and agencies to seize tags; providing for rules and for a contractual relationship with the Department of Highway Safety and Motor Vehicles; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; Governmental Operations; and Appropriations.

By Representative Hill—

HB 1215—A bill to be entitled An act relating to Martin County; amending chapter 29542, Laws of Florida, 1953, as amended; revising language with respect to the membership on the Board of Trustees of the Martin County Law Library; authorizing the Board of County Commissioners to establish a fee, by resolution, as costs in civil causes to purchase, maintain, and operate the library; providing for compliance with the general law cap on filing fees; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committees on Finance and Taxation; Criminal Justice; and Representative Cosgrove—

CS for CS for HB 1283—A bill to be entitled An act relating to motor vehicle theft prevention; creating the Florida Motor Vehicle Theft Prevention Act; providing legislative purpose; providing definitions; creating the Florida Motor Vehicle Theft Prevention Authority; providing for terms and for meetings; providing for compensation; providing for personnel; providing powers and duties; creating the Florida Motor Vehicle Theft Prevention Trust Fund; providing for review and repeal; creating s. 320.08045, F.S.; providing a 50 cent surcharge on the license tax through October 1, 1998; providing an effective date.

On motions by Senator Forman, by unanimous consent **CS for CS for HB 1283** was taken up out of order and by two-thirds vote read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—1

By Representative Liberti—

HB 1463—A bill to be entitled An act relating to the Loxahatchee Groves Water Control District, Palm Beach County, created pursuant to chapter 298, F.S.; providing definitions; authorizing the permitting of hauling operations on the road and roadways of the district; providing for a form of permit application; providing that the use of district roads and roadways may be limited or restricted and otherwise coordinated with the district board of supervisors; requiring that the hauling operator maintain or pay for the expenses of repair and maintenance of district roads and roadways; providing that the hauling operator maintain liability insurance; providing that the permit applicant and hauling operator indemnify the district for any damage caused by hauling activities and establishing an attorneys' fees provision; authorizing hauling permit fees; authorizing the promulgation of rules to implement this chapter; providing for civil and criminal penalties for failure to obtain or abide by the conditions of a hauling permit; providing for assessments for damage done to district roads and roadways; providing for liens for unpaid assessments; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Liberti—

HB 1569—A bill to be entitled An act relating to Indian Trail Water Control District, Palm Beach County, created by chapter 57-646, Laws of Florida; granting additional powers to the district to construct, maintain, and operate recreational areas, facilities, and programs; to finance costs; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Hanson—

HB 1637—A bill to be entitled An act relating to Palm Beach County; providing for legislative intent; providing for inclusion of non-ad valorem assessments within any notice of proposed property taxes; providing for exemptions; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Ritchie and others—

HB 2019—A bill to be entitled An act relating to Escambia County; codifying and reenacting provisions relating to the county law library; providing for the staggering of terms of members of the law library board; specifying the length of terms of office of board members; providing for the filling of vacancies on the board; repealing chapters 61-2130, 69-1048, 72-533, and 85-407, Laws of Florida, relating to the law library, to conform; repealing this act; providing severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Graber—

HB 2051—A bill to be entitled An act relating to Broward County; amending chapter 84-396, Laws of Florida, which created the Performing Arts Center Authority; increasing the membership of the authority and requiring minority representation; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representatives Harden and Bo Johnson—

HB 2141—A bill to be entitled An act relating to the Cities of Cinco Bayou, Crestview, Destin, Fort Walton Beach, Laurel Hill, Mary Esther, and Shalimar, Okaloosa County; providing legislative intent; providing uniform filing and election dates for municipal elections in those municipalities; providing for conduct of such municipal elections by the Okaloosa County Supervisor of Elections; providing for reimbursement of costs; providing that the candidate with the highest number of votes shall be the winner and take office within a specified period after the election, with the specific day provided by ordinance; providing for application to present terms of office; providing for correspondence of subsequent terms of office to the common dates provided in the act; providing for composition and duties of canvassing boards; providing for special elections; providing that general law for absentee ballots shall apply to absentee ballots in such municipal elections; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Thomas—

HB 2175—A bill to be entitled An act relating to the Englewood Water District in Charlotte and Sarasota Counties; amending chapter 59-931, Laws of Florida, as amended; enlarging the area of the Englewood Water District; providing for a referendum; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Judiciary and Representatives Kelly and Safley—

CS for HB 2179—A bill to be entitled An act relating to mobile homes; amending s. 713.10, F.S.; revising a provision of law governing mechanics' liens to prohibit the interest of the lessor being subject to liens for improvements made by the lessee when the lessee is a mobile home park owner under certain circumstances; amending s. 713.78, F.S.; providing for a towing lien for a mobile home evicted from a mobile home park; conforming to the act with respect to vehicles sold by a lienor; providing for the collection of unpaid rent from the proceeds of the sale of the mobile home; amending s. 723.002, F.S.; providing for the applicability of the Florida Mobile Home Act to a park trailer located on a lot in a mobile home park; amending s. 723.004, F.S.; providing legislative intent; amending s. 320 01, F.S.; defining the term "manufactured home"; amending s. 320 8285, F.S.; revising language with respect to onsite inspections to include reference to manufactured homes; amending 320.77, F.S.; providing for set-up operation by licensees; amending s. 723.037, F.S.; revising language with respect to notice concerning lot rental increases; amending s. 723.038, F.S.; revising language with respect to dispute settlement; amending 723.0381, F.S.; providing compensation for aribtrators; creating 723.046, F.S.; providing for payment of capital improvements; amending s. 723.061, F.S.; revising language with respect to notice for eviction; amending s. 723.077, F.S.; revising language with respect to articles of incorporation; amending s. 723.078, F.S.; revising language with respect to the bylaws of homeowners' associations; providing for conversion; amending s. 723.079, F.S.; providing additional powers and duties of homeowners' associations; providing for storage charges on mobile homes under certain circumstances; providing for the rights of lienholders on mobile homes in rental mobile home parks; providing for reasonable attorney's fees and costs; providing for storage charges; providing for rights of lien holder; providing for contract rights; providing for attorneys fees and costs; repealing s. 723.010, F.S., relating to disclosure of lot rental amount increases; repealing s. 723.013(4), F.S., and amending s. 723.014, F.S., to conform; providing for retroactive application; providing an effective date.

—was referred to the Committees on Community Affairs and Judiciary.

By the Committee on Regulatory Reform and Representative Tobin—

HB 2431—A bill to be entitled An act relating to pesticides; amending s. 487.011, F.S.; providing for administration of the Florida Pesticide Law; amending s. 487.152, F.S.; revising purpose of chapter 487, F.S.; amending s. 487.021, F.S.; revising definitions; amending ss. 487.031 and 487.158, F.S.; revising prohibited acts; amending s. 487.041, F.S.; revising registration procedures and requirements; increasing registration fees; amending s. 487.042, F.S.; providing for designation of restricted-use pesticides; creating s. 487.0435, F.S.; providing for license classifications; creating s. 487.044, F.S.; providing for certification and examination; creating s. 487.0445, F.S.; providing for regulation of the direct infusion of chlorine gas in residential swimming pools; amending s. 489.105, F.S.; conforming provisions relating to swimming pool/spa servicing contractors; creating s. 487.045, F.S.; providing for applicator licensing fees; creating s. 487.0455, F.S.; providing for disposition of fees collected under chapter 487, F.S.; creating s. 487.046, F.S.; providing for application and licensure; creating s. 487.047, F.S.; providing for nonresident license and authorized purchase; creating s. 487.048, F.S.; providing for dealer's license and records; amending s. 487.157, F.S.; providing for license renewal, late fees, and recertification; amending s. 487.051, F.S.; revising rulemaking authority; providing for preemption of certain laws, regulations, rules, and policies pertaining to pesticides; providing an exception; amending s. 487.0615, F.S., relating to the Pesticide Review Council; amending s. 487.064, F.S.; revising antisyphon requirements for irrigation systems; amending s. 487.071, F.S., relating to inspection, sampling, and analysis of pesticides; providing for analysis of samples upon request; providing for fees; providing a penalty; amending s. 487.081, F.S., relating to exemptions; amending s. 487.091, F.S.; revising procedures for assessing penalties for deficiency, misbranding, or short measure; amending s.487.101, F.S., relating to stop sale orders; amending s. 487.111, F.S.,relating to seizure, condemnation, and sale; amending s. 487.13, F.S., relating to interagency cooperation; amending s. 487.15, F.S., relating to reclamation of suspended or canceled pesticides; amending s. 487.156, F.S., relating to governmental agencies subject to chapter 487, F.S.; amending s. 487.1585, F.S., relating to duties of licensees with respect to unlicensed applicators and mixer-loaders and fieldworkers; amending s. 487.159, F.S.; revising requirements for report of damage or injury to property, animals, or persons; amending s. 487.160, F.S., relating to recordkeeping; modifying a reporting requirement; amending s. 487.161, F.S., relating to exemptions; amending s. 487.163, F.S., relating to information and interagency agreements; amending s. 487.171, F.S., relating to antifouling paint as a restricted-use pesticide; modifying requirements for application to vessels; amending ss. 487.14, 487.158, and 487.165, F.S.; providing for penalties, administrative fines, and injunctions; amending s. 403.74, F.S.; correcting a cross reference; repealing ss. 487.151, 487.153, 487.154, 487.155, 487.164, and 487.166, F.S., relating to administration, definitions, rules, licensing, certification, examination, fee, nonresident license, enforcement, inspections, injunction, and application of law under the Florida Pesticide Application Act of 1974; repealing s. 487.170, F.S., relating to definitions with respect to antifouling paint; saving chapter 487, F.S., from Sunset repeal; saving s. 487.0615, F.S., from Sundown repeal; providing for future review and repeal; providing an effective date.

—was referred to the Committees on Agriculture; Finance, Taxation and Claims; and Appropriations.

By the Committee on Finance and Taxation; and Representative Brown—

HB 2505—A bill to be entitled An act relating to taxation; amending s. 212.055, F.S.; deleting a repeal date for the indigent care surtax for some counties; repealing section 3 of chapter 91-81, Laws of Florida, deleting repeal dates to conform; amending s. 197.162, F.S.; extending the time periods during which a taxpayer may make early payment of taxes and qualify for a discount; amending s. 197.222, F.S.; extending the time periods during which a taxpayer may prepay estimated taxes by installment and qualify for a discount; amending s. 197.254, F.S.; revising requirements relating to the notice to taxpayers of the right to defer taxes; amending s. 197.262, F.S.; deleting the requirement for a separate deferred payment tax certificate sale, and the requirement that unsold certificates be purchased by the State Board of Administration, and providing that such certificates be struck off to the county; amending s. 197.263, F.S.; providing for the sale of tax certificates for delinquencies of deferred taxes; amending s. 197.482, F.S.; excepting deferred payment tax certificates from the limitation upon lien of tax certificates; amending s. 197.502, F.S.; providing that provisions which require counties to make application for tax deeds do not apply to deferred payment tax certificates; repealing s. 215.47(2)(d), F.S., relating to investment by the State Board of Administration in deferred payment tax certificates; amending s. 199.062, F.S.; revising certain reporting requirements for security dealers and investment advisors; providing for retroactive effect; amending ss. 1, 2, and 3, ch. 67-930, Laws of Florida; revising provisions which authorize certain cities to levy a municipal resort tax, to remove an exemption for beer and malt beverages; amending s. 199.282, F.S.; expanding penalties for persons required to file certain information with

the department; providing for retroactive effect; amending s. 213.053, F.S.; authorizing the Department of Revenue to disclose certain confidential information to specified persons; amending s. 624.5092, F.S.; providing for minimum estimated insurance premium tax payments; providing for retroactive effect; amending s. 212.04, F.S.; providing an exemption from the tax on admissions for zoos owned by the Federal Government, the state, or any political subdivision of the state; amending s. 125.0104, F.S.; providing for the payment of interest on local option tourist development taxes remitted to the Department of Revenue; creating s. 213.0535, F.S.; establishing the Registration Information Sharing and Exchange Program; requiring certain local governments and state agencies to share specified tax and licensing information; providing duties of the department; providing for application of confidentiality and penalty provisions; providing for review and repeal; restricting use of such information; amending s. 216.262, F.S.; providing an additional condition under which the Administration Commission may authorize an increase in the number of positions beyond those provided in the appropriations acts; requiring state and local governmental entities administering specified local option taxes to make certain reports regarding the amounts and purposes for which moneys are withheld from tax proceeds; providing for expiration; amending s. 212.0305, F.S.; revising the use of proceeds of the charter county convention development tax; amending s. 212.04, F.S.; providing an exemption from the tax on admissions for admissions to foreign-registered vessels for certain cruises; amending s. 193.085, F.S.; requiring venue for actions challenging centrally assessed value for ad valorem tax purposes to be in Leon County; providing for application to actions currently pending; amending s. 201.022, F.S.; requiring the clerk of the circuit court to execute and file the returns required as a condition precedent to recording any deed transferring an interest in real property under certain circumstances; providing for compensation; creating s. 199.106, F.S.; providing a credits against the annual tax on certain intangible personal property in the amount of any like tax paid on such property in another state or territory or the District of Columbia; providing for retroactive application; creating s. 199.303, F.S.; providing legislative intent regarding application of such taxes and severability; amending s. 197.432, F.S.; providing that ad valorem taxes due on governmental leaseholds become liens on leaseholds and may be collected pursuant to ch. 197, F.S.; providing effective dates.

—was referred to the Committees on Finance, Taxation and Claims; and Appropriations.

By the Committee on Governmental Operations and Representative Figg—

HB 2521—A bill to be entitled An act relating to governmental reorganization; abolishing the Department of Administration and transferring its duties to other agencies; amending ss. 20.14, 20.16, and 570.29, F.S.; revising the administrative structure of the Department of Agriculture and Consumer Services and renaming it the Department of Agriculture; limiting campaign contributions by certain persons; prohibiting solicitation of campaign contributions from such persons; providing a penalty; amending ss. 570.02 and 570.242, F.S.; modifying definitions; amending s. 570.07, F.S.; modifying department powers and duties; creating s. 570.072, F.S.; authorizing establishment of an Office of Agricultural Law Enforcement within the department; providing duties and authority of officers; creating s. 570.091, F.S.; providing for deputy commissioners of agriculture; creating s. 570.092, F.S.; providing for an inspector general and providing duties; amending s. 570.30, F.S.; transferring certain responsibilities relating to public fairs and expositions from the Division of Administration to the Division of Standards and the Division of Marketing and Development; amending s. 570.33, F.S.; deleting qualifications for director of the Division of Plant Industry; amending s. 570.37, F.S.; revising qualifications for director of the Division of Animal Industry; amending s. 570.41, F.S.; deleting qualifications for director of the Division of Dairy Industry; amending s. 570.44, F.S.; renaming the Division of Inspections as the Division of Agricultural Environmental Services; transferring various duties to the Division of Food Safety, the Division of Dairy Industry, and the Office of Agricultural Law Enforcement; providing additional duties relating to soil and water conservation; transferring responsibilities for analysis of fertilizers, pesticides, commercial feed, and seed to the Division of Agricultural Environmental Services from the Division of Chemistry; amending s. 570.45, F.S.; revising duties of division director; amending s. 570.46, F.S.; transferring responsibility for testing certain samples for conformity with state specifications to the Division of Standards from the Division of Chemistry; amending s. 570.47, F.S.; deleting qualifications for division director; amending s. 570.48, F.S.; renaming the Division of Fruit and Vegetable Inspection as the Division of Fruit and Vegetables; amending s. 570.50, F.S.; renaming the Division of Chemistry as the Division of Food Safety; providing additional duties relating to inspection of meat and poultry, and food and food products; amending s. 570.51, F.S.; deleting qualifications for division director; amending s. 570.53, F.S.; renaming the Division of Marketing as the Division of Marketing and Development; providing additional responsibilities relating to public fairs and expositions; transferring s. 550.02, F.S., to ch. 570, and amending said section; transferring the Division of Pari-mutuel Wagering and the Florida Pari-mutuel Commission to the department from the Department of Business Regulation; creating s. 570.5475, F.S.; providing for a division director; amending s. 570.549, F.S.; deleting qualifications for director of the Division of Forestry; amending s. 570.55, F.S.; transferring from the Division of Inspection to the Office of Agricultural Law Enforcement enforcement duties relating to sale of avocados, mangoes, and limes; revising definitions; amending ss. 585.001, 585.002, and 585.01, F.S.; conforming provisions relating to the Division of Animal Industry; creating s. 585.715, F.S.; providing that the Division of Food Safety enforce part II of chapter 585, F.S.; amending ss. 616.001, 616.21, and 616.28, F.S.; deleting references to the Bureau of Public Fairs and Expositions; creating s. 932.706, F.S.; creating the Law Enforcement Trust Fund within the department; providing for deposit therein of revenues from certain criminal or forfeiture proceedings; amending ss. 235.014, 468.382, 550.06, and 550.37, F.S.; correcting cross references; amending ss. 487.159, 526.3135, 550.096, 550.13, 551.061, 570.09, 570.23, 570.244, 570.248, 570.31, 570.34. 570.38, 570.42, 570.49, 570.531, 570.54, 570.541, 571.23, 573.111, 574.01, 574.03, 601.28, 601.58, 601.66, and 817.415, F.S.; conforming terminology; repealing ss. 534.081(3), 570.36(6), and 590.02(4), F.S., relating to enforcement of agricultural provisions by law enforcement officers, special officers, the Division of Animal Industry, and special officers of the Division of Forestry; transferring ss. 570.542, 570.543, 570.544, and 570.545, F.S., to ch. 501, F.S., and amending said sections; transferring the Division of Consumer Services and the Florida Consumers' Council from the Department of Agriculture and Consumer Services to the Department of Business Regulation; providing intent regarding transfers; providing directives to the Statutory Revision Division; amending s. 20.22, F.S.; renaming the Department of General Services as the Department of Management Services; transferring the Division of Bond Finance to the State Board of Administration; providing that state officers with at least 8 years of service in the Florida Retirement System may continue to participate in the state health insurance program; providing for reimbursement of the receiving agency for employees participating in certain interchange agreements; amending ss. 11.25, 11.44, 20.04, 20.23, 24.120, 20.28, 110.107, 110.109, 110.1097, 110.1099, 110.1127, 110.1128, 110.116, 110.117, 110.121, 110.123, 110.1231, 110.1232, 110.1234, 110.1245, 110.1246, 110.125, 110.131, 110.151, 110.1522, 110.161, 110.171, 110.205, 110.2135, 110.215, 110.227. 110.233, 110.403, 110.405, 110.407, 110.503, 110.607, 112.0455, 112.08, 112.0804, 112.24, 112.3173, 112.352, 112.361, 112.363, 112.63, 112.665, 120.52, 120.65, 121.021, 121.025, 121.031, 121.0515. 121.055, 121.071, 121.135, 121.136, 121.1815, 121.22, 121.23, 121.24, 121 35, 121 40, 122.02, 122.03, 122.09, 122.13, 122.23, 122.34, 123.01, 123.07, 123.11, 123.24, 123.25, 123.36, 132.34, 145.19, 154.04, 163.3184, 189.4035, 189.412, 189.421, 210.20, 210.75, 215.425, 215.515, 215.94, 215.96, 216.011, 216.0165, 216.262, 218.32, 230.23, 231.262, 231.36, 238.01, 238.03, 238.08, 238.11, 240.209, 240.343, 242.68, 250.22, 252.38, 253.126, 266.0006, 266.0016, 266.0026, 266.0036, 266.0046, 266.0056, 266.0066, 284.36, 287.17, 295.11, 321.04, 321.17, 321.19, 321.191, 321.202, 321.2205, 337.165, 350.0614, 350.125, 370.0821, 376.10, 381.709, 402.35, 403.061, 406.075, 407.50, 408.001, 409.029, 443.131, 455.225, 650.02, and 760.04, F.S., and s. 18 of ch. 91-431, Laws of Florida; conforming such sections to the abolition of the Department of Administration and transfer of its duties; amending ss. 11.148, 11.45, 14.057, 24.105, 27.34, 27.54, 75.05, 110.173, 120.53, 159.345, 159.475, 159.7055, 159.803, 212.055, 215.422, 215.47, 215.58, 215.62, 215.93, 215 94, 216.0152, 216.016, 216.044, 216.0445, 216.163, 216.292, 217.01, 217.02, 217.04, 217.045, 217.07, 218.37, 218.38, 229.8052, 235.018, 235.26, 240.225, 240.417, 240.441, 253.45, 255.02, 255.043, 255.05, 255.21, 255.245, 255.25, 255.253, 255.258, 255.259, 255.28, 255.29, 255.30, 255.45, 255.451, 255.502, 255.506, 255.518, 255.555, 255.565, 259.03, 265.284, 265.285, 265.2865, 267.061, 270.27, 272.03, 272.04, 272.05, 272.06, 272.07, 272.08, 272.09, 272.12, 272.121, 272.122, 272.124, 272.129, 272.16, 272.161, 272.18, 272.185, 273.04, 273.05, 273.055, 281.02, 281.07, 281.09, 282.102, 282.1021, 282.103, 282.105, 282.1095, 282.111, 282.304, 282.3061, 282.3062, 282.307, 282.308, 282.309, 282.311, 282 314, 282.318, 282.402. 282.403, 283.30, 284.01, 284.04. 284.05, 284.08, 284 385, 284.42, 285.06. 285.14, 287.012, 287.025, 287.032, 287.042, 287.055, 287.057, 287.0572, 287.0595, 287.064, 287.073, 287.0834, 287.0943, 287.0945, 287.133, 287.15, 287.151, 287.155, 287.16, 288.13, 288.14, 288.15,

288.17, 288.18, 288.23, 288.24, 288.28, 288.281, 288.31, 288.33, 288.703, 288.704, 288.705, 320.0802, 327.25, 336.025, 337.02, 337.276, 338.227, 341.101, 341.322, 344.17, 348.0002, 348.241, 348.52, 348.755, 348.765, 348.94, 348.941, 348.963, 348.966, 349.05, 365.171, 373.4596, 377.703, 380.0662, 401.013, 401.015, 403.1834, 403.1835, 403.712, 403.714, 403.7145, 413.034, 420.503, 420.608, 553.77, 570.50, 627.096, 943.03, 944.10, 944.713, 946.504, and 946.515, F.S.; conforming such sections to the renaming of the Department of General Services and transfer of the Division of Bond Finance; eliminating the Division of Surplus Property and transferring its duties to a Bureau of Surplus Property within the Division of Purchasing; revising provisions relating to federal surplus property; repealing s. 20.31, F.S., relating to the Department of Administration; establishing drug co-payment schedules under the State Employees Prescription Drug Program; requiring all programs or contracts under the State Group Insurance Program Law to allow prescriptions to be dispensed by any licensed pharmacy; requiring the Department of Administration to develop a generic drug reimbursement schedule, implement a drug utilization review program, rebid or amend the State Group Health Self-Insurance Plan contract; repealing s. 112.192, F.S., relating to the State Officers' Compensation Commission; providing for continuation of rules of agencies involved in reorganization; providing for substitution of agencies in pending proceedings; providing for assumption of powers and duties under conflicting laws enacted in the same session; amending s. 282.003, F.S.; revising the title of the Information Resources Management Act to include paperwork reduction; amending s. 282.004, F.S.; providing legislative intent regarding minimizing the paperwork burden; amending s. 282.303, F.S.; providing definitions; amending s. 282.305, F.S.; providing duties of the Information Resource Commission regarding assistance for the review of required forms and reporting requirements and paperwork reduction; creating s. 282.3051, F.S.; providing legislative findings with respect to state government reporting requirements and required forms; directing state governmental entities to periodically identify, review, and evaluate certain reporting requirements and forms and make recommendations for the modification or elimination thereof; providing criteria for evaluation of reporting requirements and required forms; directing such entities to take specified paperwork reduction actions; directing the Information Resource Commission to coordinate development of a pilot project to eliminate or reduce forms and paperwork and report thereon; amending ss. 282.3061, 282.3062, and 282.307, F.S.; including paperwork reduction in the State Strategic Plan for Information Resources Management, the Annual Report on Information Resources Management, and the Strategic Plan for Information Resources Management submitted by each department; amending s. 282.311, F.S.; providing duties of information resource managers regarding paperwork reduction; amending s. 282.312, F.S.; requiring that Annual Performance Reports include information relating to paperwork reduction and reporting requirements; amending s. 286.001, F.S.; providing that specified governmental agencies required to make regular or periodic reports may file an abstract thereof with the designated recipient and an abstract and copy with the Division of Library and Information Services; providing duties of the division and removing responsibilities of the Executive Office of the Governor; directing agency heads to ensure that reports are created, managed, and disseminated through electronic means; amending ss. 216.031 and 216.0445, F.S.; correcting references; amending s. 287.012, F.S.; defining the term "local purchasing source"; amending s. 287.042, F.S.; authorizing the Division of Purchasing to negotiate and execute contracts for state purchases; creating s. 287.056, F.S.; allowing state agencies to make purchases from a local purchasing source for certain purchases if such purchases cost less; providing that administrative costs and the specifications, terms, and conditions developed by the division be considered in evaluating such purchases; providing for review by the Auditor General; providing an exception; providing for future review and expiration of s. 287.056, F.S.; providing for an annual review of the fiscal impact of s. 287.056, F.S.; providing for establishment of a work group to review certain functions in the Department of Management Services; providing for membership; providing duties; providing for a report; providing an expiration date; creating a Productivity Advisory Group; providing for membership and duties; providing for a report; authorizing the Departments of Revenue and Labor and Employment Security to implement specified procedures in lieu of applicable statutory procedures in the areas of personnel, budgeting, purchasing, property, construction, and leasing for a specified period; providing for emergency rules; providing an effective date.

—was referred to the Committees on Governmental Operations; Personnel, Retirement and Collective Bargaining; Agriculture; and Appropriations.

RETURNING MESSAGES ON SENATE BILLS

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the Speaker has added the following Representatives to the conference committee on CS for SB 1384: Irvine, Simone, Diaz-Balart, Martinez, Grindle (alternate), and Holzendorf (alternnate). In addition, Representatives Lombard and Garcia are no longer members of the conference committee.

John B. Phelps, Clerk

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed SJR 152 as amended, by the required Constitutional three-fifths vote of the membership.

John B. Phelps, Clerk

SJR 152—A joint resolution proposing an amendment to Section 3 of Article VII of the State Constitution relating to ad valorem taxes and exemptions.

House Amendment 1—On page 3, line 6, strike "*structures*" and insert: *properties*

On motion by Senator Malchon, the Senate concurred in the House amendment to **SJR 152**.

SJR 152 as amended was read in full as follows:

SJR 152—A joint resolution proposing an amendment to Section 3 of Article VII of the State Constitution relating to ad valorem taxes and exemptions.

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

That the following amendment to Section 3 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose, and, if approved, shall take effect January 1, 1993:

ARTICLE VII
FINANCE AND TAXATION

SECTION 3. Taxes; exemptions.—

(a) All property owned by a municipality and used exclusively by it for municipal or public purposes shall be exempt from taxation. A municipality, owning property outside the municipality, may be required by general law to make payment to the taxing unit in which the property is located. Such portions of property as are used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law from taxation.

(b) There shall be exempt from taxation, cumulatively, to every head of a family residing in this state, household goods and personal effects to the value fixed by general law, not less than one thousand dollars, and to every widow or widower or person who is blind or totally and permanently disabled, property to the value fixed by general law not less than five hundred dollars.

(c) Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant community and economic development ad valorem tax exemptions to new businesses and expansions of existing businesses, as defined by general law. Such an exemption may be granted only by ordinance of the county or municipality, and only after the electors of the county or municipality voting on such question in a referendum authorize the county or municipality to adopt such ordinances. An exemption so granted shall apply to improvements to real property made by or for the use of a new business and improvements to real property related to the expansion of an existing business and shall also apply to tangible personal property of such new business and tangible personal property related to the expansion of an existing business. The amount or limits of the amount of such exemption shall be specified by general law. The period of time for which such exemption may be granted to a new business or expansion of an existing business shall be determined by general law. The authority to grant such exemption shall expire ten years from the date of approval by the electors of the county or municipality, and may be renewable by referendum as provided by general law.

(d) By general law and subject to conditions specified therein, there may be granted an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated, to the value fixed by general law not to exceed the original cost of the device, and for the period of time fixed by general law not to exceed ten years.

(e) Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant historic preservation ad valorem tax exemptions to owners of historic properties engaging in the rehabilitation or renovation of these properties in accordance with approved historic preservation guidelines. This exemption may be granted only by ordinance of the county or municipality. The amount or limits of the amount of this exemption and the requirements for eligible properties must be specified by general law. The period of time from which this exemption may be granted to a property owner shall be determined by general law.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT
ARTICLE VII, SECTION 3

HISTORIC PRESERVATION AD VALOREM TAX EXEMPTION.—Proposing an amendment to the State Constitution, effective January 1, 1993, to permit any county or municipality to authorize ad valorem tax exemptions for owners of historic property to encourage the rehabilitation or renovation of such structures, subject to general law.

—and passed by the required constitutional three-fifths vote of the membership and was ordered enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—29 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 316 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 316—A bill to be entitled An act relating to theft; creating s. 812.15, F.S.; providing that it is unlawful to obtain personal property or equipment by trick or false pretenses, to hire or lease personal property with intent to defraud, or to fail to return hired or leased personal property; providing penalties; providing prima facie evidence of fraudulent intent; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 1, line 14, insert:

Section 1. Subsections (1) and (2) of section 812.014, Florida Statutes, are amended to read:

812.014 Theft.—

(1) A person *commits* ~~is guilty of~~ theft if he knowingly obtains or uses, or endeavors to obtain or to use, the property of another with intent to, either temporarily or permanently:

(a) Deprive the other person of a right to the property or a benefit therefrom.

(b) Appropriate the property to his own use or to the use of any person not entitled thereto.

(2)(a) If the property stolen is valued at $100,000 or more, the offender *commits* ~~is guilty of~~ grand theft in the first degree, punishable as a felony of the first degree, as provided in *s.* ~~ss.~~ 775.082, *s.* 775 083, *or s.* ~~and~~ 775.084.

(b) If the property stolen is valued at $20,000 or more, but less than $100,000, the offender *commits* ~~is guilty of~~ grand theft in the second degree, punishable as a felony of the second degree, as provided in *s.* ~~ss.~~ 775.082, *s.* 775.083, *or s.* ~~and~~ 775.084.

(c) It is grand theft of the third degree and a felony of the third degree, punishable as provided in *s.* ~~ss.~~ 775.082, *s.* 775.083, *or s.* ~~and~~ 775.084, if the property stolen is:

1. Valued at $300 or more, but less than $20,000.

2. A will, codicil, or other testamentary instrument.

3. A firearm.

4. A motor vehicle.

5. Any commercially farmed animal, including any animal of the equine, bovine, or swine class, or other grazing animal, and including aquaculture species raised at a permitted aquaculture facility.

6. Any fire extinguisher.

7. Any amount of citrus fruit consisting of 2,000 or more individual pieces of fruit.

8. Taken from a designated construction site identified by the posting of a sign as provided for in s. 810.09(2)(d).

(d) Theft of any property not specified in paragraph (a), paragraph (b), or paragraph (c) is petit theft and a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. *A person who commits petit theft and who has previously been convicted of any theft commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A person who commits petit theft and who has previously been convicted two or more times of any theft commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.* ~~Upon a second conviction for petit theft, the offender shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Upon a third or subsequent conviction for petit theft, the offender shall be guilty of a felony of the third degree, punishable as provided in ss. 775.082, 775.083, and 775.084.~~

(e)1. Every judgment of guilty or not guilty of a petit theft shall be in writing, signed by the judge, and recorded by the clerk of the circuit court. The judge shall cause to be affixed to every such written judgment of guilty of petit theft, in open court and in the presence of such judge, the fingerprints of the defendant against whom such judgment is rendered. Such fingerprints shall be affixed beneath the judge's signature to such judgment. Beneath such fingerprints shall be appended a certificate to the following effect:

"I hereby certify that the above and foregoing fingerprints on this judgment are the fingerprints of the defendant, ... , and that they were placed thereon by said defendant in my presence, in open court, this the . . . . day of . . . . , 19. . . . ."

Such certificate shall be signed by the judge, whose signature thereto shall be followed by the word "Judge."

2. Any such written judgment of guilty of a petit theft, or a certified copy thereof, *is* ~~shall be~~ admissible in evidence in the ~~several~~ courts of this state as prima facie evidence that the fingerprints appearing thereon and certified by the judge ~~as aforesaid~~ are the fingerprints of the defendant against whom such judgment of guilty of a petit theft was rendered.

Section 2. Subsection (6) of section 812.015, Florida Statutes, is amended to read:

812.015 Retail and farm theft; mandatory fine; alternative punishment; detention and arrest; exemption from liability for false arrest; resisting arrest; penalties.—

(2) Upon a second or subsequent conviction for petit theft from a merchant or farmer, the offender shall be punished as provided in s. 812.014(2)(d), except that the court shall impose a fine of not less than $50 or more than $1,000. However, in lieu of such fine, the court may require the offender to perform public services designated by the court. In no event shall any such offender be required to perform fewer than the number of hours of public service necessary to satisfy the fine assessed by the court, as provided by this subsection, at the minimum wage prevailing in the state at the time of sentencing.

(6) An individual who, *while committing or after committing theft of property,* resists the reasonable effort of a law enforcement officer, merchant, merchant's employee, or farmer to recover the property which the law enforcement officer, merchant, merchant's employee, or farmer had probable cause to believe the individual had concealed or removed from its place of display or elsewhere *commits* ~~and who is subsequently found to be guilty of theft of the subject property is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, unless the individual did not know, or did not have reason to know, that the person seeking to recover the property was a law enforcement officer,

merchant, merchant's employee, or farmer. For purposes of this section the charge of theft and the charge of resisting may be tried concurrently.

Section 3. For the purpose of incorporating the amendment to section 812.015, Florida Statutes, in references thereto, the sections or subdivisions of Florida Statutes set forth below are reenacted to read:

538.09 Registration.—

(5) In addition to the fine provided in subsection (4), registration under this section may be denied or any registration granted may be revoked, restricted, or suspended by the department if the department determines that the applicant or registrant:

(f) Has, within the preceding 5-year period, been convicted of, or has entered a plea of guilty or nolo contendere to, a crime against the laws of this state or any other state or of the United States which relates to registration as a secondhand dealer or which involves theft, larceny, dealing in stolen property, receiving stolen property, burglary, embezzlement, obtaining property by false pretenses, possession of altered property, any felony drug offense, any violation of s. 812.015, or any fraudulent or dishonest dealing;

In the event the department determines to deny an application or revoke a registration, it shall enter a final order with its findings on the register of secondhand dealers and their business associates, if any; and denial, suspension, or revocation of the registration of a secondhand dealer shall also deny, suspend, or revoke the registration of such secondhand dealer's business associates.

538.23 Violations and penalties.—

(2) A secondary metals recycler is presumed to know upon receipt of stolen regulated metals property in a purchase transaction that the regulated metals property has been stolen from another if the secondary metals recycler knowingly and intentionally fails to maintain the information required in s. 538.19 and shall, upon conviction of a violation of s. 812.015, be punished as provided in s. 812.014(2).

Section 4. For the purpose of incorporating the amendment to section 812.014, Florida Statutes, in references thereto, the sections or subdivisions of Florida Statutes set forth below are reenacted and, where indicated, amended to read:

39.044 Detention.—

(2) Subject to the provisions of subsection (1), a child taken into custody and placed into nonsecure or home detention care or detained in secure detention care prior to a detention hearing may continue to be detained by the court if:

(d) The child is charged with a serious property crime as described in s. 810.02(2) or (3) or s. 812.014(2)(c)4., any offense involving the use of a firearm, or any second-degree or third-degree felony involving a violation of chapter 893, and:

1. He has a record of failure to appear at court hearings after being properly notified in accordance with the Rules of Juvenile Procedure;

2. He has a record of law violations prior to court hearings;

3. He has already been detained or has been released and is awaiting final disposition of his case; or

4. He has a record of violent conduct resulting in physical injury to others.

A child who meets these criteria and who is ordered to be detained pursuant to this subsection shall be given a hearing within 24 hours after being taken into custody. The purpose of the detention hearing is to determine the existence of probable cause that the child has committed the delinquent act or violation of law with which he is charged and the need for continued detention. The court shall utilize the results of the risk assessment performed by the intake counselor or case manager and, based on the criteria in this subsection, shall determine the need for continued detention. A child placed into secure, nonsecure, or home detention care may continue to be so detained by the court pursuant to this subsection. If the court orders a placement more restrictive than indicated by the results of the risk assessment instrument, the court shall state, in writing, clear and convincing reasons for such placement.

409.910 Responsibility for payments on behalf of Medicaid eligible persons when other parties are liable.—

(17) A recipient or his legal representative or any person representing, or acting as agent for, a recipient or his legal representative, who has notice, excluding notice charged solely by reason of the recording of the lien pursuant to paragraph (6)(c), or who has actual knowledge of the department's rights to third-party benefits under this section, who receives any third-party benefit or proceeds therefrom for a covered illness or injury, is required either to pay the department the full amount of the third-party benefits, but not in excess of the total medical assistance provided by Medicaid, or to place the full amount of the third-party benefits in a trust account for the benefit of the department pending judicial or administrative determination of the department's right thereto. Proof that any such person had notice or knowledge that the recipient had received medical assistance from Medicaid, and that third-party benefits or proceeds therefrom were in any way related to a covered illness or injury for which Medicaid had provided medical assistance, and that any such person knowingly obtained possession or control of, or used, third-party benefits or proceeds and failed either to pay the department the full amount required by this section or to hold the full amount of third-party benefits or proceeds in trust pending judicial or administrative determination, unless adequately explained, gives rise to an inference that such person knowingly failed to credit the state or its agent for payments received from social security, insurance, or other sources, pursuant to s. 409.325(4)(b), and acted with the intent set forth in s. 812.014(1).

(a) In cases of suspected criminal violations or fraudulent activity, the department is authorized to take any civil action permitted at law or equity to recover the greatest possible amount, including, without limitation, treble damages under ss. 772.11 and 812.035(7).

(b) The department is authorized to investigate and to request appropriate officers or agencies of the state to investigate suspected criminal violations or fraudulent activity related to third-party benefits, including, without limitation, ss. 409.325 and 812.014. Such requests may be directed, without limitation, to the Medicaid Fraud Control Unit of the Office of the Auditor General, to the Attorney General, or to any state attorney. Pursuant to s. 409.913, the Auditor General has primary responsibility to investigate and control Medicaid fraud.

(c) In carrying out duties and responsibilities related to Medicaid fraud control, the department may subpoena witnesses or materials within or outside the state and, through any duly designated employee, administer oaths and affirmations and collect evidence for possible use in either civil or criminal judicial proceedings.

(d) All information obtained and documents prepared pursuant to an investigation of a Medicaid recipient, the recipient's legal representative, or any other person relating to an allegation of recipient fraud or theft is confidential and exempt from the provisions of s. 119.07(1):

1. Until such time as the department takes final agency action;

2. Until such time as the Auditor General refers the case for criminal prosecution;

3. Until such time as an indictment or criminal information is filed by a state attorney in a criminal case; or

4. At all times if otherwise protected by law.

This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

538.23 Violations and penalties.—

(2) A secondary metals recycler is presumed to know upon receipt of stolen regulated metals property in a purchase transaction that the regulated metals property has been stolen from another if the secondary metals recycler knowingly and intentionally fails to maintain the information required in s. 538.19 and shall, upon conviction of a violation of s. 812.015, be punished as provided in s. 812.014(2).

550.63 Intertrack wagering; guest track payments; accounting rules.—

(10) All races or games conducted at a permitholder's facility, all broadcasts of such races or games, and all broadcast rights relating thereto are owned by the permitholder at whose facility such races or games are conducted and shall constitute the permitholder's property as defined in s. 812.012(3). Transmission, reception of a transmission, exhibition, use, or other appropriation of such races or games, broadcasts of such races or games, or broadcast rights relating thereto without the writ-

ten consent of the permitholder shall constitute a theft of such property under s. 812.014; and in addition to the penal sanctions contained in s. 812.014, the permitholder shall have the right to avail itself of the civil remedies specified in ss. 772.104, 772.11, and 812.035 in addition to any other remedies available under applicable state or federal law.

634.319 Reporting and accounting for funds.—

(2) Any sales representative who, not being entitled thereto, diverts or appropriates such funds or any portion thereof to his own use is, upon conviction, guilty of theft, punishable as provided in s. 812.014.

634.421 Reporting and accounting for funds.—

(2) Any sales representative who, not being entitled thereto, diverts or appropriates funds or any portion thereof to his own use *commits* ~~is guilty of~~ theft as provided in s. 812.014.

642.038 Reporting and accounting for funds.—

(2) Any sales representative who, not being entitled thereto, diverts or appropriates such funds or any portion thereof to his own use *commits* ~~is guilty of~~ theft as provided in s. 812.014.

705.102 Reporting lost or abandoned property.—

(4) Any person who unlawfully appropriates such lost or abandoned property to his own use or refuses to deliver *such property* ~~the same~~ when required *commits* ~~is guilty of~~ theft as defined in s. 812.014, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 5. Subsection (10) of section 812.035, Florida Statutes, is amended to read:

812.035 Civil remedies; limitation on civil and criminal actions.—

(10) Notwithstanding any other provision of law, a criminal or civil action or proceeding under ss. 812.012-812.037 or s. 812.081 may be commenced at any time within 5 years after the cause of action accrues*; however, in a criminal proceeding under ss. 812.012-812.037 or s. 812.081, the period of limitation does not run during any time when the defendant is continuously absent from the state or is without a reasonably ascertainable place of abode or work within the state, but in no case shall this extend the period of limitation otherwise applicable by more than 1 year*. If a criminal prosecution or civil action or other proceeding is brought, or intervened in, to punish, prevent, or restrain any violation of the provisions of ss. 812.012-812.037 or s. 812.081, the running of the period of limitations prescribed by this section with respect to any cause of action arising under subsection (6) or subsection (7) which is based in whole or in part upon any matter complained of in any such prosecution, action, or proceeding shall be suspended during the pendency of such prosecution, action, or proceeding and for 2 years following its termination.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, line 2, after the semicolon insert: amending s. 812.014, F.S.; authorizing inclusion of any prior theft conviction in accumulating offenses for second and subsequent petit theft penalties; reenacting ss. 39.044(2)(d), 409.910(17), 538.23(2), 550.63(10), 634.319(2), 634.421(2), 642.038(2), and 705.102(4), F.S., relating to juvenile detention, Medicaid fraud, receipt of stolen regulated metals property, intertrack wagering, reporting and accounting for funds received by sales representatives in certain fiduciary transactions, and unlawful appropriation of lost or abandoned property, to incorporate said amendments in references thereto; amending s. 812.015, F.S.; deleting a requirement of a conviction for theft as a requirement for the offense of resisting recovery and clarifying that the resistance must occur during or after committing the theft, and reenacting ss. 538 09(5)(f) and 538.23(2), F.S., relating to secondhand dealers and secondary metals recyclers, to incorporate said amendment in references thereto; providing technical amendments; amending s. 812.035, F.S.; extending the period of limitations in criminal theft proceedings if the defendant has absconded;

House Amendment 2 (with Title Amendment)—On page 2, line 27, through page 3, line 7, strike all of said lines and insert:

(4) EVIDENCE OF FRAUDULENT INTENT.—

(a) In prosecutions under this section, fraudulent intent may be inferred from proof that the property or equipment was obtained by false pretenses; by absconding without payment or offering to pay any outstanding balance; or by surreptitiously removing or attempting to remove the property or equipment from the county, without the express written consent of the lessor.

(b) Fraudulent intent may be inferred from proof of the failure to make payment or redeliver upon demand made either in person or by certified mail. This inference may be made only when there is no dispute as to the amount owed.

And the title is amended as follows:

On page 1, line 8, strike "prima facie"

On motions by Senator Grant, the Senate concurred in the House amendments.

CS for SB 316 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—32 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 548 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 548—A bill to be entitled An act relating to unemployment compensation; amending s. 443.101, F.S.; providing that a person is not disqualified from receiving benefits when his unemployment results from a lockout by his employer; defining "lockout" for purposes of the act; providing an effective date.

House Amendment 1—On page 2, lines 18-27, strike all of said lines and insert: *instigated or perpetrated by employees.*

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

SB 548 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—37 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 658 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 658—A bill to be entitled An act relating to children; amending s. 39.01, F.S.; defining the term "protective supervision case plan"; amending s. 39.402, F.S.; requiring an order for placement of a child in a shelter to contain written findings by the court that certain prerequisites have been met; amending s. 39.41, F.S.; providing an additional disposition option to the court in dependency proceedings; requiring disposition orders to contain written findings by the court in support of a determination as to whether reasonable efforts to prevent the removal of a child from the home or reunify the family have been made; amending s. 39.453, F.S.; providing deadlines for certain judicial reviews; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 1, line 21, strike everything after the enacting clause and insert:

Section 1. Subsection (68) is added to section 39.01, Florida Statutes, to read:

39.01 Definitions.—When used in this chapter:

(68) "Protective supervision case plan" means a document that is prepared by the department's protective supervision counselor, is based upon the voluntary protective supervision of a case pursuant to s. 39.403(2)(b), or a disposition order entered pursuant to s. 39.41(1)(a)1., and that:

(a) Is developed in conference with the parent, guardian, or custodian of the child and, if appropriate, the child and any court-appointed guardian ad litem.

(b) Is written simply and clearly in the principal language, to the extent possible, of the parent, guardian, or custodian of the child and in English.

(c) Is subject to modification based on changing circumstances and negotiations among the parties to the plan and includes, at a minimum:

1. All services and activities ordered by the court.

2. Goals and specific activities to be achieved by all parties to the plan.

3. Anticipated dates for achieving each goal and activity.

4. Signatures of all parties to the plan.

(d) Is submitted to the court in cases where a dispositional order has been entered pursuant to s. 39.41(1)(a)1.

Section 2. Subsection (5) is added to section 39.40, Florida Statutes, to read:

39.40 Procedures and jurisdiction.—

(5) It is the intent of the Legislature that children removed from their home be provided equal treatment with respect to goals, objectives, services, and case plans, without regard to the location of their placement.

Section 3. Subsections (8) and (9) of section 39.402, Florida Statutes, are amended to read:

39.402 Placement in a shelter.—

(8)*(a) A child may not be held in a shelter longer than 24 hours unless an order so directing is entered by the court after a detention hearing. At the detention hearing the court shall appoint a guardian ad litem to represent the child unless the court finds that such representation is unnecessary. The parents or legal custodians of the child shall be given an opportunity to be heard and to present evidence at the detention hearing.*

(b) The order for placement of a child in shelter care must contain written findings:

1. That placement in shelter care is necessary based on the criteria in subsections (1) and (2).

2. That placement in shelter care is in the best interest of the child.

3. That continuation of the child in the family home is contrary to the welfare of the child because the home situation presents a substantial and immediate danger to the child which cannot be mitigated by the provision of preventive services.

4. That based upon the allegations of the petition for placement in shelter care, there is probable cause to believe that the child is dependent.

5. That the department has made reasonable efforts to prevent or eliminate the need for removal of the child from the home. A finding of reasonable effort by the department to prevent or eliminate the need for removal may be made and the department is deemed to have made reasonable efforts to prevent or eliminate the need for removal if:

a. The first contact of the department with the family occurs during an emergency.

b. The appraisal of the home situation by the department indicates that the home situation presents a substantial and immediate danger to the child which cannot be mitigated by the provision of preventive services.

c. The child cannot safely remain at home, either because there are no preventive services that can ensure the safety of the child or because, even with appropriate and available services being provided, the safety of the child cannot be ensured.

~~(a) No child shall be held in a shelter longer than 24 hours unless an order so directing is made by the court after a detention hearing finding that placement in a shelter is necessary based on the criteria in subsections (1) and (2), that placement in a shelter is in the best interest of the child, that there is probable cause that the child is dependent, and that the department has made reasonable efforts to prevent or eliminate the need for removal of the child from his home. At the detention hearing the court shall appoint a guardian ad litem to represent the child unless the court finds that such representation is unnecessary. The parents or legal custodians of the child shall be given an opportunity to be heard and to present evidence at the detention hearing. The order for placement in shelter care shall also state that the child cannot be protected in the home even if appropriate and available preventive services are provided. When the first contact of the department with the family occurred during an emergency in which the child could not safely remain at home, either because there were no preventive services which could ensure the safety of the child or because, even with appropriate and available services being provided, the safety of the child could not be ensured, the department shall be deemed to have made reasonable efforts to prevent or eliminate the need for removal.~~

(c)~~(b)~~ In the interval until the detention hearing is held pursuant to paragraph (a), the decision ~~as~~ to *place the child* ~~placement~~ in a shelter or release ~~of~~ the child from a shelter *lies* ~~shall lie~~ with the protective investigator in accordance with subsection (3).

(9) *A* ~~No~~ child *may not* ~~shall~~ be held in a shelter under an order so directing for more than 21 days unless an order of adjudication for the case has been entered by the court. The parent, guardian, or custodian of the child *must* ~~shall~~ be notified of any order directing placement of the child in a shelter and, upon request, *must* ~~shall~~ be afforded a hearing within 48 hours, excluding Sundays and legal holidays, to review the necessity for continued placement in the shelter for any time periods as provided *in this section* ~~herein~~. At any arraignment hearing or determination of detention, the court shall determine visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child, and the court shall make a *written* determination as to whether the department has made a reasonable effort to prevent or eliminate the need for removal or continued removal of the child from his home. If the department has not made such an effort, the court shall order the department to provide appropriate and available services to assure the protection of the child in the home, when such services are necessary for the child's safety. Within 7 days *after* ~~of~~ the *child is* ~~child's being~~ taken into custody, a petition alleging dependency *must* ~~shall~~ be filed and, within 14 days *after* ~~of~~ the *child is* ~~child's being~~ taken into custody, an arraignment hearing *must* ~~shall~~ be held for the child's parent, guardian, or custodian to admit, deny, or consent to the findings of dependency alleged in the petition.

Section 4. For the purpose of incorporating the amendment to section 39.402, Florida Statutes, in a reference thereto, section 415.506, Florida Statutes, is reenacted to read:

415.506 Taking child into protective custody.—A law enforcement officer or authorized agent of the department may take a child into custody as provided in chapter 39. Any person in charge of a hospital or similar institution or any physician treating a child may keep that child in his custody without the consent of the parents, legal guardian, or legal custodian, whether or not additional medical treatment is required, if the circumstances are such, or if the condition of the child is such, that continuing the child in the child's place of residence or in the care or custody of the parents, legal guardian, or legal custodian presents an imminent danger to the child's life or physical or mental health. Any person taking a child into protective custody shall immediately notify the department, whereupon the department shall immediately begin a child protective investigation in accordance with the provisions of s. 415.505(1) and shall make every reasonable effort to immediately notify the parents, legal guardian, or legal custodian that such child has been taken into protective custody. If the department determines, according to the criteria set forth in s. 39.402, that the child should remain in protective custody longer than 24 hours, it shall petition the court for an order authorizing such custody in the same manner as if the child were placed in a shelter. The department shall attempt to avoid the placement of a child in an institution whenever possible.

Section 5. Subsections (1) and (4) of section 39.41, Florida Statutes, are amended to read:

39.41 Powers of disposition.—

(1)(a) When any child is adjudicated by a court to be dependent, the court having jurisdiction of the child *has* ~~shall have~~ the power, by order, to:

1. Place the child under the protective supervision of an authorized agent of the department, either in the child's own home or, the prospec-

tive custodian being willing, in the home of a relative of the child or in some other suitable place under such reasonable conditions as the court may direct. *Whenever the child is placed under protective supervision pursuant to this section, the department shall prepare a protective supervision case plan and shall file it with the court.* Protective supervision *continues* ~~shall continue~~ until the court terminates it or until the child reaches the age of 18, whichever date is first.

2. Place the child in the temporary legal custody of an adult relative willing to care for the child.

3.a. When the parents have failed to comply with a performance agreement, *a* ~~or~~ permanent placement plan, *or a written protective supervision case plan,* and the court determines at a judicial review hearing, held pursuant to s. 39.453, *or at a hearing held pursuant to subparagraph (1)(a)7. of this section, to review compliance with a protective supervision case plan,* that neither reunification, termination of parental rights, nor adoption is in the best interest of the child, the court may place the child in the long-term custody of an adult relative willing to care for the child, if the following conditions are met:

(I) A plan describing the responsibilities of the relative, the department, and any other party must have been signed by all the parties, including the guardian ad litem if one has been appointed by the court, and must have been submitted to the court.

(II) The plan for the child does not include reunification with the parents or adoption by the relative.

(III) The child and the relative custodian are determined not to need protective supervision or preventive services to ensure the stability of the long-term custodial relationship, or the department assures the court that protective supervision or preventive services will be provided in order to ensure the stability of the long-term custodial relationship.

(IV) The parents, if available, and the relative custodian agree that long-term custody is the best available placement option.

(V) Each party to the proceeding agrees that a long-term custodial relationship does not preclude the possibility of the child returning to the custody of the parent at a later date.

(VI) The court has considered the reasonable preference and wishes of the child if the court has found the child to be of sufficient intelligence, understanding, and experience to express a preference.

b. The court shall retain jurisdiction over the case, and the child shall remain in the long-term custody of the relative until the order creating the long-term custodial relationship is modified by the court. At least annually, a representative of the department shall visit jointly with the child and long-term relative custodian and file a report with the court. The court may modify a long-term relative custody order if it finds that a party to the proceeding has shown a material change in circumstances which causes the continued long-term custodial relationship no longer to be in the best interest of the child.

4. Approve placement of the child in long-term foster care, when the following conditions are met:

a. The foster child is 16 years of age or older, unless the court determines that the history or condition of a younger child makes long-term foster care the most appropriate placement.

b. The child demonstrates no interest or desire to be placed in an independent living arrangement pursuant to this subsection.

c. The department's social services study pursuant to s. 39.453(6)(a) recommends long-term foster care.

5. Commit the child to a licensed child-caring agency willing to receive the child. Continued commitment to the licensed child-caring agency, as well as all other proceedings under this section pertaining to the child, *are also* ~~shall additionally be~~ governed by part V of this chapter.

6. Commit the child to the temporary legal custody of the department. Such commitment *invests* ~~shall invest~~ in the department all rights and responsibilities of a legal custodian. The department shall not return any child to the physical care and custody of the person from whom the child was removed, except for short visitation periods, without the approval of the court. The term of such commitment *continues* ~~shall continue~~ until terminated by the court or until the child reaches the age of 18. After the child is committed to the temporary custody of the department, all further proceedings under this section *are also* ~~shall additionally be~~ governed by part V of this chapter.

7.*a.* Change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing subsequent to the initial detention hearing, without the necessity of another adjudicatory hearing. A child who has been placed in his own home under the protective supervision of an authorized agent of the department, in the home of a relative, or in some other place may be brought before the court by the agent of the department who is supervising the placement or by any other interested person, upon the filing of a petition which alleges a need for a change in the conditions of protective supervision or the placement. If the parents or other custodians deny the need for a change, the court shall hear all parties in person or by counsel, or both. Upon the admission of a need for a change or after such hearing, the court shall enter an order changing the placement, modifying the conditions of protective supervision, or continuing the conditions of protective supervision as ordered.

b. In cases where the issue before the court is whether a child should be reunited with a parent, the court shall determine whether the parent has substantially complied with the terms of the protective supervision case plan to the extent that the well-being and safety of the child is not endangered by the return of the child to the home.

8. Approve placement of the child in an independent living arrangement pursuant to s. 409.165 for any foster child 16 years of age or older, if the following requirements are met:

a. The child has demonstrated independent living skills.

b. The child is capable of functioning without the daily care and supervision of a responsible adult.

c. Pursuant to s. 39.451, a performance agreement or permanent placement plan stating the goal of independent living and specifying the responsibilities, tasks, and expectations of all parties has been prepared, signed by all appropriate parties, and submitted to the court along with a petition for review and a social study report.

d The child on independent living status is willing and able to maintain regular periodic contact with the department staff assigned to his case for the purpose of counseling, monitoring progress toward independence, referral to community resources for assistance, and other functions as specified in the written agreement described in sub-subparagraph c.

e. The court has heard evidence presented on the merits of placing the child on independent living status at a periodic judicial review for which all parties were noticed and the hearing held pursuant to the requirements of s. 39.451.

f. It can be clearly established that this type of alternate care arrangement is the most appropriate plan and that the safety and welfare of the child will not be jeopardized by such an arrangement.

While in independent living situations, children whose legal custody has been awarded to the department or a licensed child-caring or child-placing agency, or who have been voluntarily placed with such an agency by a parent, guardian, or relative within the second degree of consanguinity, ~~shall~~ continue to be subject to the court review provisions of s. 39.453. The court shall review the plan developed by the department or agency pursuant to s. 409.165(4)(b)1. and include findings regarding the plan.

(b) The court shall, in its written order of disposition, include all of the following:

1. The placement or custody of the child as provided in subparagraphs (a)1., 2., 5., or 6.

2. Special conditions of placement and visitation.

3. Evaluation, counseling, treatment activities, and other actions to be taken by the parties, if ordered.

4. The persons or entities responsible for supervising or monitoring services to the child and family.

5. Continuation or discharge of the guardian ad litem, as appropriate.

6. The period of time or date for any subsequent case review required by law.

7. ~~Such~~ Other requirements ~~as deemed~~ necessary to protect the health, safety, and well-being of the child and to promote family preservation or reunification whenever possible.

(c) If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home or be safely returned to the home, the court shall allow the child to remain in or return to the home after making a specific finding of fact that the reasons for removal have been remedied to the extent that the child's safety and well-being will not be endangered.

(4)(a) If the court commits the child to the temporary legal custody of the department, the disposition order *must* ~~shall~~ include a *written* determination as to whether the department has made a reasonable effort to prevent or eliminate the need for removal of the child from his home. If the child has been removed *before* ~~prior to~~ the disposition hearing, the order *must* ~~shall~~ also include a *written* determination as to whether, after removal, the department has made a reasonable effort to reunify the family. The department *has* ~~shall have~~ the burden of demonstrating that it has made reasonable efforts *under* ~~pursuant to~~ this subsection.

(b) For the purposes of this subsection, the term "reasonable effort" means the exercise of reasonable diligence and care by the department and assumes the availability of appropriate services to meet the needs of the child and family.

(c) In support of its determination as to whether reasonable efforts have been made, the court shall:

1. Enter *written* findings as to whether or not prevention or reunification efforts were indicated;

2. If prevention or reunification efforts were indicated, include a brief *written* description of what appropriate and available prevention and reunification efforts were made; and

3. Indicate *in writing* why further efforts could or could not have prevented or shortened the separation of the family.

(d) *A court may find that the department has made a reasonable effort to prevent or eliminate the need for removal if:*

1. ~~When~~ The first contact of the department with the family *occurs* ~~occurred~~ during an emergency. ~~in which~~

2. The appraisal by the department of the home situation indicates that it presents a substantial and immediate danger to the child which cannot be mitigated by the provision of preventive services.

3. The child *cannot* ~~could not~~ safely remain at home, either because there *are* ~~were~~ no preventive services *that can* ~~which could~~ ensure the safety of the child or ~~because~~, even with appropriate and available services being provided, the safety of the child *cannot* ~~could not~~ be ensured~~; the department shall be deemed to have made a reasonable effort to prevent or eliminate the need for removal~~.

(e) *A reasonable effort by the department for reunification of the family has been made if the appraisal of the home situation by the department indicates that* ~~when~~ the severity of the conditions of dependency is such that reunification efforts are inappropriate~~, the department shall be deemed to have made a reasonable effort for reunification of the family~~. The department *has* ~~shall have~~ the burden of demonstrating to the court that reunification efforts were inappropriate.

(f) If the court finds that the prevention or reunification effort of the department would not have permitted the child to remain safely at home, the court may commit the child to the temporary legal custody of the department or take any other action authorized by this part.

Section 6. Subsection (3) of section 39.453, Florida Statutes, is amended to read:

39.453 Judicial review.—

(3)(a) *For children under the age of 4,* the initial judicial review *must* ~~shall~~ be held no later than *3* ~~6~~ months after the date the child was *removed from the home* ~~initially placed in a shelter~~. ~~An additional hearing must be held 3 months after court-ordered placement in a shelter if the child is under 4 years of age.~~ If the child remains in shelter or foster care, the *second* ~~subsequent~~ judicial review *must* ~~shall~~ be held no later than *6* ~~12~~ months *after the date the child was removed from the home,* and *subsequent* ~~another~~ judicial *reviews must* ~~review shall~~ be held *at least every 6* ~~no later than 18~~ months *after*~~, from~~ the date *of the most recent judicial review* ~~the child was initially placed in shelter, if involuntarily placed, or from the date the child was voluntarily placed~~.

(b) For children age 4 and older, the initial judicial review must be held no later than 6 months after the date the child was removed from the home. If the child remains in shelter or foster care, subsequent judicial reviews must be held at least every 6 months after the date of the most recent judicial review until the child is 13 years old and has been in foster care at least 18 months.

(c) If the court extends the performance agreement or permanent placement plan beyond 18 months, judicial reviews must be held at least every 6 months for children under the age of 13 and at least annually for children age 13 and older. ~~If the court extends the performance agreement or permanent placement plan after the 18-month review, a judicial review shall be held every 6 months for a child under the age of 13, and every 12 months for a child 13 years of age or older, to reassess the child's status.~~

(d) If the child is placed in the custody of *the department or a licensed child-placing* ~~a social service~~ agency for *the purpose* ~~purposes~~ of adoptive placement, *judicial reviews must be held at least* ~~the court shall judicially review the status of the child~~ every 6 months *until adoptive placement* to determine the progress ~~being~~ made toward adoptive placement.

(e)~~(b)~~ The clerk of the circuit court shall schedule judicial review hearings in order to comply with the mandated times cited in *paragraphs (a)-(d)* ~~paragraph (a)~~.

(f)~~(c)~~ In each case in which a child has been voluntarily placed with the *licensed child-placing* ~~social service~~ agency, the ~~social service~~ agency shall notify the clerk of the court in the circuit where the child resides of such placement within 5 working days. Notification of the court is not required for any child who will be in foster care no longer than 30 days unless that child is placed in foster care a second time within a 12-month period. If the child is returned to the custody of his parents or guardian before the scheduled review hearing or if the child is placed for adoption, the *child-placing* ~~social service~~ agency shall notify the court of his return or placement within 5 working days, and the clerk of the court shall cancel the review hearing.

Section 7. Subsection (5) of section 39.464, Florida Statutes, is amended to read:

39.464 Grounds for termination of parental rights.—The department, the guardian ad litem, or a licensed child-placing agency may petition for the termination of parental rights under any of the following circumstances:

(5) ABUSE, NEGLECT, OR ABANDONMENT.—After a performance agreement, ~~or~~ permanent placement plan, *or offer of service in the nature of a case plan from a child welfare agency* has been accepted by the parent or parents, the child is abused, neglected, or abandoned for 6 months or more. The failure of the parent or parents to substantially comply with the performance agreement, ~~or~~ permanent placement plan, *or offer of services in the nature of a case plan from a child welfare agency* constitutes evidence of abuse, neglect, or abandonment under this subsection unless the failure was due to the lack of financial resources of the parent or parents or the failure of the department to make reasonable efforts to reunify the family.

Section 8. For the purpose of incorporating the amendment to section 39.464, Florida Statutes, in references thereto, section 39.467(3), Florida Statutes, is reenacted to read:

39 467 Adjudicatory hearing.—

(3) The determination of the court regarding termination of parental rights shall be based upon its finding that the following is proven by clear and convincing evidence:

(a) The child was adjudicated dependent pursuant to s. 39.409; and

(b)1. A disposition order was entered pursuant to s. 39.41;

2. Any of the elements of s. 39.464 is met; or

3. The persons served with notice under s. 39.462 fail to respond to the notice as provided in s. 39.462(1)(d); and

(c)1. The parent was informed of his right to counsel in the dependency proceeding pursuant to the Florida Rules of Juvenile Procedure;

2. The parent was informed of his right to counsel after the filing of the petition to terminate parental rights including the right of an indigent person to be represented by court appointed counsel; and

3. The parent made a knowing, intelligent, and voluntary waiver of the right to counsel if the parent is not represented subsequent to the filing of a petition to terminate parental rights; and

(d)1. A performance agreement or permanent placement plan as defined in s. 39.01 has been offered to a parent; or

2. Any of the elements of s. 39.464 is met; and

(e) The parent who is offered a performance agreement, permanent placement plan, *or offer of services in the nature of a case plan from a child welfare agency* has failed to substantially comply with the agreement or plan. This failure to substantially comply is evidence of abuse, abandonment, or neglect, unless the court finds that the failure to comply with the performance agreement is due to the lack of financial resources of the parent or parents or due to the failure of the department to make reasonable efforts to reunify the family.

Section 9. Payment of medical examination involving victims of child sexual abuse.—

(1) When an allegation of sexual abuse of a child as defined in section 415.503(16), Florida Statutes, has been made and there is a need for a medical examination of the child pursuant to section 415.507, Florida Statutes, the cost of the initial medical examination of the child shall be paid by the Crime Victim's Services Office of the Department of Legal Affairs, pursuant to section 960.28, Florida Statutes.

(2) This section is repealed June 30, 1993, and shall be reviewed by the Legislature prior to that date.

Section 10. This act shall take effect July 1, 1992.

And the title is amended as follows:

On page 1, lines 1-17, strike the entire title and insert: A bill to be entitled an act relating to children; amending s. 39.01, F.S.; defining "protective supervision case plan"; amending s. 39.40, F.S.; providing legislative intent; amending s. 39.402, F.S.; requiring an order for placement of a child in a shelter to contain written findings by the court that certain prerequisites have been met, and reenacting s. 415.506, F.S., relating to taking a child into protective custody, to incorporate said amendment in a reference thereto; amending s. 39.41, F.S.; providing an additional disposition option to the court in dependency proceedings; requiring a written protective supervision case plan for children placed under protective supervision; requiring disposition orders to contain written findings by the court in support of a determination as to whether reasonable efforts to prevent the removal of a child from the home or reunify the family have been made; providing additional criteria for post-disposition judicial hearings; amending s. 39.453, F.S.; providing deadlines for certain judicial reviews; amending s. 39.464, F.S.; providing for termination of parental rights after failure of substantial compliance with a case plan from a child welfare agency, and reenacting s. 39.467(3), F.S., relating to adjudicatory hearings, to incorporate said amendment in references thereto; allowing payment of an initial medical examination involving victims of child sexual abuse; providing an effective date.

House Amendment 1 (with Title Amendment) to House Amendment 1 (with Title Amendment)—On page 18, between lines 10 and 11, insert:

Section 10. Subsection (5) of section 39.467, Florida Statutes, is amended to read:

39.467 Adjudicatory hearing.—

(5) The adjudicatory hearing shall be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the case from time to time as necessary. *For purposes of the adjudicatory hearing, to avoid unnecessary duplication of expense, the judge may consider in-court testimony previously given at any properly noticed hearing, without regard to the availability or unavailability of the witness at the time of the actual adjudicatory hearing, so long as the recorded testimoney itself is made available to the judge. Consideration of such testimony shall not preclude the witness being subpoenaed to answer supplemental questions.*

(Renumber subsequent section.)

And the title is amended as follows:

On page 19, line 20, after the semicolon, insert: authorizing consideration of certain testimony at adjudicatory hearings under certain circumstances;

On motions by Senator Weinstock, the Senate concurred in the House amendments.

SB 658 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 670 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 670—A bill to be entitled An act relating to reckless or careless operation of a vessel; amending s. 327.33, F.S.; requiring persons who operate a vessel to maintain a distance of 100 feet from a divers-down flag; providing for a reasonable effort to maintain such a distance under certain circumstances; providing a penalty; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 1, lines 16-30, and on page 2, lines 1 and 2, strike all of said lines and insert:

(2) Any person operating a vessel upon the waters of this state shall operate the vessel in a reasonable and prudent manner, having regard for other waterborne traffic, posted speed and wake restrictions, *the presence of a divers-down flag as defined in s. 861.065,* and all other attendant circumstances so as not to endanger the life, limb, or property of any person. *Any person operating a vessel on a river, inlet, or navigation channel shall make a reasonable effort to maintain a distance of 100 feet from any divers-down flag.* The failure to operate a vessel in ~~such~~ a manner *described in this subsection* constitutes careless operation. However, vessel wake and shoreline wash resulting from the reasonable and prudent operation of a vessel shall, absent negligence, not constitute damage or endangerment to property. Any person who violates the provisions of this subsection is guilty of a noncriminal violation as defined in s. 775.08.

And the title is amended as follows:

On page 1, lines 4-8, strike all of said lines and insert: F.S.; requiring persons to operate vessels on the waters of the state with regard for the presence of divers-down flags; requiring reasonable efforts to maintain certain distance from such flags on rivers, inlets, and navigation channels; providing a penalty; providing

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

SB 670 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—40 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for CS for SB 756 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 756—A bill to be entitled An act relating to adoption; amending s. 39.462, F.S.; revising provisions with respect to process and services required before parental rights may be terminated; amending ss 63.022, 63 042, 63.162, 63.165, 63.172, 63.207, F.S.; eliminating references to natural parents and substituting the term "birth parents"; amending s. 63.032, F.S.; providing a definition of the term "abandoned"; amending s. 63.052, F.S.; providing for an intermediary to have responsibility of a minor under certain circumstances; providing for reports to the court under certain circumstances; amending s. 63.062, F.S.; requiring

notice to and consent from persons required to give consent to an adoption; establishing requirements for good faith and diligent efforts in giving notice; providing a procedure for challenging a waiver of consent to adoption; amending s. 63.082, F.S.; revising requirements with respect to certain forms provided by the Department of Health and Rehabilitative Services to an intermediary who intends to place a child for adoption; amending s. 63.085, F.S.; revising provisions with respect to disclosure by an intermediary; amending s. 63.092, F.S.; providing for a report to the court of intended placement by an intermediary; requiring a preliminary home study to be performed by an agency, professional, or person designated by the court; deleting provisions with respect to injunction against an intermediary; amending s. 63.097, F.S.; providing for paying fees to intermediaries; providing for paying fees to agencies or to the department; amending s. 63.102, F.S.; providing for the consolidation of the petition for declaratory statement and the petition for adoption under certain circumstances; amending s. 63.112, F.S.; revising provisions that specify documents required to be filed at the time the petition for adoption is filed; amending s. 63.122, F.S.; deleting provisions with respect to an investigation of the prospective adoptive home; creating s. 63.125, F.S.; providing for the final home investigation; amending s. 63.132, F.S.; requiring the living expenses of the birth mother to be documented in detail; amending s. 63.162, F.S.; providing that adoption records of an intermediary are confidential; providing that papers and records of the department, a court, or any other governmental agency which relate to adoptions are exempt from the public records law; amending s. 63.165, F.S.; revising the duty to inform certain persons about the state registry of adoption information; directing the department to review licensing standards for child-placing agencies; amending s. 63.185, F.S.; providing an exception to the residency requirement for adoption of a special needs child; amending s. 63.207, F.S.; requiring an intermediary in an out-of-state placement to petition for approval of fees and costs; providing penalties for violating a court order issued in response to such a petition; limiting out-of-state placements to special needs children; amending s. 63.212, F.S.; prohibiting certain acts by an intermediary; providing penalties; creating s. 63.219, F.S.; providing for sanctions against violators; amending s. 409.166, F.S.; revising provisions respecting waiver of adoption fees; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 3, line 16, strike everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (1) of section 39.462, Florida Statutes, is amended to read:

39.462 Process and services.—

(1) Before the court may terminate parental rights, in addition to the other requirements set forth in this part, the following requirements shall be met:

(a) Notice and copy of the petition shall be personally served upon the following persons, specifically notifying them that a petition has been filed:

1. The mother of the child.

2. The father of the child, if:

a. The child was conceived or born while the father was married to the mother;

b. The child is his by adoption;

c. The child has been established by a court proceeding to be his child;

d. He has acknowledged in writing, signed in the presence of a competent witness, that he is the father of the child and has filed such acknowledgment with the Office of Vital Statistics of the Department of Health and Rehabilitative Services; or

e. He has provided the child with support in a repetitive, customary manner.

3. The legal custodians or guardian of the child.

4. If the natural parents who would be entitled to notice are dead or unknown, a living relative of such child, unless upon diligent search and inquiry no such relative can be found.

5. Any person who has physical custody of the child.

6. Any grandparent entitled to priority for adoption under s. 63.0425.

Section 2. Subsection (1) and paragraphs (g) and (k) of subsection (2) of section 63.022, Florida Statutes, are amended to read:

63.022 Legislative intent.—

(1) It is the intent of the Legislature to protect and promote the well-being of persons being adopted and their *birth* ~~natural~~ and adoptive parents and to provide to all children who can benefit by it a permanent family life, and, whenever possible, to maintain sibling groups.

(2) The basic safeguards intended to be provided by this act are that:

(g) Social and medical information concerning the child and the *birth* ~~natural~~ parents is furnished by the *birth* ~~natural~~ parent when available and filed with the consent to the adoption when a minor is placed by an intermediary.

(k) The *birth* ~~natural~~ parent ~~or parents~~, the adoptive parent ~~or parents~~, and the child ~~shall~~ receive the same or similar safeguards, guidance, counseling, and supervision in an intermediary adoption as they receive in an agency or department adoption.

Section 3. Paragraphs (b) and (c) of subsection (2) of section 63.042, Florida Statutes, are amended to read:

63.042 Who may be adopted; who may adopt.—

(2) The following persons may adopt:

(b) An unmarried adult, including the *birth* ~~natural~~ parent of the person to be adopted;

(c) The unmarried minor *birth* ~~natural~~ parent of the person to be adopted; or

Section 4. Section 63.052, Florida Statutes, is amended to read:

63.052 Guardians designated; proof of commitment.—

(1) For minors who have been placed for adoption with and permanently committed to an agency, the agency shall be the guardian of the person of the child; for those who have been placed for adoption with and permanently committed to the department, the department shall be the guardian of the person of the child. *For minors who have been voluntarily surrendered to an intermediary through an execution of consent to adoption, the intermediary shall be responsible for the child until the time a court orders preliminary approval of placement of the child in the prospective adoptive home at which time the prospective adoptive parents become guardians pending finalization of adoption.*

(2) For minors who have been placed for adoption with or voluntarily surrendered to an agency, but have not been permanently committed to the agency, the agency shall have the responsibility and authority to provide for the needs and welfare for such minors. For those minors placed for adoption with or voluntarily surrendered to the department, but not permanently committed to the department, the department shall have the responsibility and authority to provide for the needs and welfare for such minors. The department, *an intermediary,* or *a licensed child-placing* agency *has* ~~shall have~~ the authority to authorize all appropriate medical care for the children who have been placed for adoption with or voluntarily surrendered to them. *The provisions of s. 627.6578 shall remain in effect notwithstanding the guardianship provisions in this section.*

(3) If a minor is surrendered to an intermediary for subsequent adoption and a suitable prospective adoptive home is not available, the intermediary shall be responsible for the child until a suitable prospective adoptive home is available.

(4) If a child is voluntarily surrendered to an intermediary for subsequent adoption and the adoption does not become final within 180 days, the intermediary must report to the court on the status of the child and the court may at that time proceed under s 39 453 or take action reasonably necessary to protect the best interest of the child.

(5) ~~(3)~~ The recital in the written consent given by the department that the child sought to be adopted has been permanently committed to the department shall be prima facie proof of such commitment. The recital in the written consent given by a licensed child-placing agency or the declaration in an answer or recommendation filed by a licensed child-placing

agency that the child has been permanently committed and the *child-placing* agency is duly licensed by the department shall be prima facie proof of such commitment and of such license.

(6)~~(4)~~ Unless otherwise authorized by law, the department *is* ~~shall~~ not ~~be~~ responsible for expenses incurred by licensed child-placing agencies or intermediaries participating in placement of a child for the purposes of adoption.

Section 5. Section 63.062, Florida Statutes, is amended to read:

63.062 Persons required to consent to adoption.—

(1) Unless consent is excused by the court, a petition to adopt a minor may be granted only if written consent has been executed after the birth of the minor by:

(a) The mother of the minor.

(b) The father of the minor, if:

1. The minor was conceived or born while the father was married to the mother.

2. The minor is his child by adoption.

3. The minor has been established by court proceeding to be his child.

4. He has acknowledged in writing, signed in the presence of a competent witness, that he is the father of the minor and has filed such acknowledgment with the vital statistics office of the Department of Health and Rehabilitative Services.

5. He has provided the child with support in a repetitive, customary manner.

(c) The minor, if more than 12 years of age, unless the court in the best interest of the minor dispenses with the minor's consent.

(2) The court may require that consent be executed by:

(a) Any person lawfully entitled to custody of the minor; or

(b) The court having jurisdiction to determine custody of the minor, if the person having physical custody of the minor has no authority to consent to the adoption.

(3) The petitioner must make good-faith and diligent efforts to notify, and obtain written consent from, the persons required to consent to adoption within 60 days after filing the petition. These efforts may include conducting interviews and record searches to locate those persons, including verifying information related to location of residence, employment, service in the Armed Forces, vehicle registration in this state, and corrections records.

(4)~~(3)~~ If *parental rights to* the minor *have* ~~has~~ previously been *terminated,* ~~permanently committed to~~ a licensed child-placing agency or the department *with which the child has been placed for subsequent adoption may provide consent to the adoption. In such case, no other consent is required,* ~~consent may be given by the licensed child-placing agency or the department, to which the minor has been so committed, and this consent is sufficient~~.

(5)~~(4)~~ A petition to adopt an adult may be granted if:

(a) Written consent to adoption has been executed by the adult and the adult's spouse, if any.

(b) Written consent to adoption has been executed by the *birth* ~~natural parent or~~ parents, if any, or proof of service of process has been filed, showing notice has been served on the ~~parent or~~ parents as provided *in this section* ~~herein~~.

Section 6. Subsections (3) and (4) of section 63.082, Florida Statutes, are amended to read:

63.082 Execution of consent; family medical history; withdrawal of consent.—

(3)(a) The department *must* ~~of Health and Rehabilitative Services~~ ~~shall~~ provide a consent form and a family medical history form to an intermediary who intends to place a child for adoption. *The* ~~Said~~ forms completed by the *birth* ~~natural parent or~~ parents *must* ~~shall~~ be attached to the petition and *must* ~~shall~~ contain such biological and sociological information, or such information as to the family medical history, regarding the child and the *birth* ~~natural~~ parents as is required by the department. The ~~department shall incorporate the~~ information *must be incorporated* into the *final home* ~~preliminary study and the social~~ investigation *report specified in s. 63.125.* The court may also require that the *birth* ~~natural~~ mother be interviewed by a representative of the department, *a licensed child-placing agency, or a professional pursuant to s. 63.092.*

(b) Consent executed by the department, by a licensed child-placing agency, or by *an* appropriate order or certificate of the court *must* ~~shall~~ be attached to the petition and *must* ~~shall~~ be accompanied by a family medical history *that includes* ~~which shall contain~~ such information concerning the medical history of the child and the *birth* ~~natural~~ parents as is available or readily obtainable.

(4) The consent *for voluntary surrender must* ~~shall~~ be executed only after the birth of the child, in the presence of two witnesses, and be acknowledged before a notary public. The witnesses' names *must* ~~shall~~ be typed or printed underneath their signatures, and their home *or* ~~and~~ business addresses and social security numbers *must* ~~shall~~ be included. The absence of a social security number shall not be deemed to invalidate the consent.

Section 7. Section 63.085, Florida Statutes, is amended to read:

63.085 Disclosure by intermediary.—

(1) An intermediary *must* ~~shall~~ disclose the following circumstances to ~~a person or~~ persons ~~who are~~ seeking to adopt a child being placed for adoption by the intermediary:

(a) That the payment of the medical or hospital care *and counseling* received by the *birth* ~~natural~~ mother or by the minor during the mother's prenatal care and confinement or of the living expenses of the *birth* ~~natural~~ mother does not guarantee that the *birth* ~~natural~~ mother will give the required consent for adoption of the child.

(b) *That a favorable preliminary home study and a home investigation must be completed as required by this chapter.*

(c) That a consent for adoption which is executed pursuant to s. 63.082 is binding from the time of valid execution of consent, unless it is shown that the consent was obtained by fraud or duress.

(d)~~(c)~~ That the termination of parental rights will occur simultaneously with the finalization of the adoption, which will *occur no sooner than* ~~be~~ 90 days after placement.

(e)~~(d)~~ That, pursuant to s. 63.182, for a period of 1 year from the entry of a judgment of adoption, any irregularity or procedural defect in the adoption proceeding may be the subject of an appeal contesting the validity of the judgment.

(f)~~(e)~~ Written acknowledgment *must* ~~shall~~ be provided by the intermediary, signed by the persons required to consent to adoption pursuant to s. 63.062, that the intermediary has informed them that he represents the adoptive parents and that regarding the *birth* ~~natural parent or~~ parents, he acts only as intermediary for placement of the child.

(2) The intermediary *must* ~~shall~~ obtain a statement signed by the ~~person or~~ persons seeking to adopt a child that *they* ~~such person or persons~~ have been informed of the circumstances enumerated in subsection (1). A copy of the statement *must* ~~shall~~ be maintained in the files of the intermediary, and a copy *must be included in the preliminary home study* ~~shall accompany the report to the department of intended placement as~~ required *in* ~~by~~ s. 63.092*(2)*.

Section 8. Effective upon becoming a law, section 63.092, Florida Statutes, is amended to read:

63.092 Report to the *court* ~~department~~ of intended placement by an intermediary; preliminary study~~; injunction against intermediary~~.—

(1) *REPORT TO THE COURT.*—The intermediary *must* ~~shall~~ report any intended placement of a minor for adoption with any person not related within the third degree or a stepparent if the intermediary has knowledge of, or participates in, such *intended placement* ~~intention to place~~. The report *must* ~~shall~~ be made to the *court before* ~~department of Health and Rehabilitative Services at least 30 days prior to~~ the ~~placement of a~~ minor *is placed* in the home.

(2) PRELIMINARY HOME STUDY.—Before placing the minor in the intended adoptive home, a preliminary home study must be performed by a licensed child-placing agency, a licensed professional or agency described in s. 61.20(2), unless the petitioner is a stepparent, a spouse of the birth parent, or a relative. The preliminary study shall be completed within 30 days after the receipt by the court of the intermediary's report, but in no event may the child be placed in the prospective adoptive home prior to the completion of the preliminary study unless ordered by the court. If the petitioner is a stepparent, a spouse of the birth parent, or a relative, the preliminary home study may be required by the court for good cause shown. The department is required to perform the preliminary home study only if there is no licensed child-placing agency, licensed professional or agency described in s. 61.20(2), in the county where the prospective adoptive parents reside. The preliminary home study must be made to determine the suitability of the intended adoptive parents and may be completed prior to identification of a prospective adoptive child. A favorable preliminary home study is valid for 1 year after the date of its completion. A child must not be placed in an intended adoptive home before a favorable preliminary home study is completed unless the adoptive home is also a licensed foster home under s. 409.175. The preliminary home study must include, at a minimum:

(a) An interview with the intended adoptive parents;

(b) Records checks of the department's central abuse registry under chapter 415 and statewide criminal records correspondence checks through the Department of Law Enforcement on the intended adoptive parents;

(c) An assessment of the physical environment of the home;

(d) A determination of the financial security of the intended adoptive parents;

(e) Documentation of counseling and education of the intended adoptive parents on adoptive parenting;

(f) Documentation that information on adoption and the adoption process has been provided to the intended adoptive parents;

(g) Documentation that information on support services available in the community has been provided to the intended adoptive parents;

(h) A copy of the signed statement required by s. 63.085, and

(i) A copy of the written acknowledgment required by s. 63.085(1).

If the preliminary home study is favorable, a minor may be placed in the home pending entry of the judgment of adoption. A minor may not be placed in the home if the preliminary home study is unfavorable. If the preliminary home study is unfavorable, the intermediary or petitioner may, within 20 days after receipt of a copy of the written recommendation, petition the court to determine the suitability of the intended adoptive home. A determination as to suitability under this subsection does not act as a presumption of suitability at the final hearing. In determining the suitability of the intended adoptive home, the court must consider the totality of the circumstances in the home. ~~In exceptional cases when placement is immediately possible, the 30-day requirement may be waived by the Department of Health and Rehabilitative Services if it is determined to be in the best interest of the child; however, prior to the placement, the report of the intermediary must be submitted to the department, and the preliminary study must have been completed by the department. The report shall contain:~~

~~(a) The name and address of the person with whom the minor is intended to be placed.~~

~~(b) The identification of the child proposed for placement.~~

~~(c) The intended placement date.~~

~~(d) A copy of the signed statement required by s. 63.085.~~

~~(e) Additional information requested by the department.~~

~~The court may waive the 30-day requirement, but the court may not enter an order waiving the requirement unless the court is satisfied that it is in the best interest of the child; that the department has been notified by the intermediary of the intended placement and the intermediary has submitted the required report; and that the department has completed the preliminary study and recommends the placement.~~

~~(2) A preliminary study shall be made by the department, or agency designated by the department, for the purpose of determining the suitability of the intended placement and whether the consent of the natural parent or parents has been given on an informed and voluntary basis. The preliminary study shall be completed within 30 days of the receipt by the department of the intermediary's report, but in no event shall the child be placed in the prospective adoptive home prior to the completion of the preliminary study unless ordered by the court. When the petitioner is a stepparent, spouse of the natural parent, or relative, the preliminary study may be required by the court when good cause is shown.~~

~~(3)(a) In the preliminary study, the department or agency shall include interviews with the:~~

~~1. Natural mother;~~

~~2. Natural father, if his consent would be required under s. 63.062(1)(b);~~

~~3. Person or persons seeking to adopt the child; and~~

~~4. Child, if more than 12 years of age, unless the court in the best interests of the child dispenses with the child's consent under s. 63.062(1)(c).~~

~~(b) The court may permit the department or agency to omit from its study an interview with the natural mother or natural father if good cause is shown.~~

~~(c) The department or agency shall include in its preliminary study all information available to it demonstrating that the consent of the natural parent or parents has been given on an informed and voluntary basis. "An informed basis" means that the natural parent or parents have been given information concerning, and have knowledge of, available alternative procedures should the intended placement by the intermediary not be completed.~~

~~(d) A written recommendation based on the preliminary study shall be mailed to the intermediary and to the petitioner, upon the completion of the preliminary study.~~

~~(4) If the preliminary study is favorable, the minor may be placed in the home pending entry of the judgment of adoption. Under no circumstances may the minor be placed in the home if the preliminary study is unfavorable, unless the court, finding the preliminary study not to be supported by the substantial weight of the evidence, orders that the minor be placed in the home pending final action.~~

~~(5) In the event of an unfavorable preliminary study, the intermediary or petitioner may within 20 days of receipt of a copy of the written recommendation petition the court for a determination as to the suitability of the intended placement. A determination as to suitability under this section shall not act as a presumption of suitability at the final hearing. In the event that the parties do not contest an unfavorable recommendation by the department or agency, the intermediary shall file a written report with the department or agency concerning what plan has been made for the child. Regardless of the nature of the preliminary study, the department or agency shall be required to determine the status of the child and take any action needed for the child's protection in any case in which 6 months elapses from the initial filing of the petition for adoption without any final action.~~

~~(6) In the event that an unfavorable preliminary study prevents the immediate placement of the child with the intended adoptive parents, the child shall be placed in the care of the department or a licensed child-caring agency, or shall remain in the custody of the parent.~~

~~(7) If the child is ultimately placed with the parent or parents seeking to adopt the child, the department or agency preparing the preliminary study shall, within 90 days after the placement, conduct two scheduled visits with the child and the child's adoptive parent or parents, one of which visits shall be in their home, to determine the suitability of the placement. In the event that the department or agency finds the placement unsuitable, it shall so inform the court and the intermediary, in writing; and the court, after notice to all affected parties and after a hearing, shall take such action as it deems necessary, including removal of the child from the home. If at any time prior to the discharge of the responsibilities of the department or agency the family moves to another state, the department or agency shall notify the agency most similar to the department in the state in which the family is at that time residing for the purpose of protecting the child's interests.~~

~~(8) The person or persons seeking the adoption shall pay the department or agency an amount equal to the value or cost of all services performed, including, but not limited to, conducting the preliminary study, counseling, and postplacement services, unless the court, finding that the person or persons seeking to adopt the child are financially unable to pay all or any part of such amount, orders that they pay a lesser amount or nothing.~~

~~(9) Upon a finding by the department that an intermediary has violated the provisions of this section, the department is authorized to obtain an injunction to prohibit the intermediary from placing a minor for adoption in the future.~~

Section 9. Section 63.097, Florida Statutes, is amended to read:

63.097 ~~Approval of~~ Fees ~~to intermediaries.~~—

(1) APPROVAL OF FEES TO INTERMEDIARIES.—Any fee~~, including intermediary or attorney fees~~ over $1,000 and those costs as set out in s. 63.212(1)(d) over $2,500, paid to an intermediary other than actual, documented medical costs, court costs, and hospital costs must be approved by the court prior to assessment of the fee by the intermediary and upon a showing of justification for the larger fee.

(2) FEES FOR AGENCIES OR THE DEPARTMENT.—When an intermediary uses the services of a licensed child-placing agency, a professional, any other person or agency pursuant to s. 63.092, or, if necessary, the department, the person seeking to adopt the child must pay the licensed child-placing agency, professional, other person or agency, or the department an amount equal to the cost of all services performed, including, but not limited to, the cost of conducting the preliminary home study, counseling, and the final home investigation. The court, upon a finding that the person seeking to adopt the child is financially unable to pay that amount, may order that such person pay a lesser amount.

Section 10. Subsection (5) of section 63.102, Florida Statutes, is amended to read:

63.102 Filing of petition; venue; proceeding for approval of fees and costs.—

(5) A proceeding for prior approval of fees and costs may be commenced any time after an agreement is reached between the *birth* ~~natural~~ mother and the adoptive parents by filing a petition for declaratory statement on the agreement entitled "In the Matter of the Proposed Adoption of a Minor Child" in the circuit court. *If a petition for adoption is subsequently filed, the petition for declaratory statement and the petition for adoption must be consolidated into one case.*

Section 11. Paragraph (b) of subsection (2) of section 63.112, Florida Statutes, is amended, and paragraph (c) is added to that subsection, to read:

63.112 Petition for adoption; description; report or recommendation, exceptions; mailing.—

(2) The following documents are required to be filed with the clerk of the court at the time the petition is filed:

(b) The favorable *preliminary home study* ~~recommendation~~ of the department, *licensed child-placing* ~~of Health and Rehabilitative Services or~~ agency, *or professional pursuant to s. 63.092,* as to the suitability of the home in which the minor has been placed.

(c) The surrender document must include documentation that interviews were held with:

1. The birth mother, if parental rights have not been terminated;

2. The birth father, if his consent to the adoption is required and parental rights have not been terminated; and

3. The child, if older than 12 years of age, unless the court, in the best interest of the child, dispenses with the child's consent under s. 63.062(1)(c).

The court may waive the requirement for an interview with the birth mother or birth father in the investigation for good cause shown.

Section 12. Section 63.122, Florida Statutes, is amended to read:

63.122 Notice of hearing on petition~~; investigation.~~—

(1) After the petition to adopt a minor is filed, the court *must establish* ~~shall fix~~ a time and place for hearing the petition. The hearing *must* ~~shall~~ not be *held sooner than* ~~set until at least~~ 90 days after the placing of the minor in the physical custody of the petitioner. *The minor must remain* under the supervision of the department ~~of Health and Rehabilitative Services~~, *an intermediary,* or *a licensed child-placing* ~~an~~ agency *until the adoption becomes final.* When the petitioner is a spouse of the *birth* ~~natural~~ parent, the hearing may be held immediately after the filing of the petition.

(2) Notice of hearing *must* ~~shall~~ be given as prescribed by the rules of civil procedure, and service of process *must* ~~shall~~ be made as specified by law for civil actions.

(3) Upon a showing by the petitioner that the privacy of the petitioner or child may be endangered, the court may order the names of the petitioner or child, or both, to be deleted from the notice of hearing and from the copy of the petition attached thereto, provided the substantive rights of any person will not thereby be affected.

(4) Notice of the hearing *must* ~~shall~~ be given by the petitioner to:

(a) The department or any *licensed child-placing* agency placing the minor.

(b) The intermediary.

(c) Any person whose consent to the adoption is required by this act who has not consented, unless such person's consent is excused by the court.

(d) Any person who is seeking to withdraw consent.

~~(5) An investigation shall be made by the agency or by the department to ascertain whether the adoptive home is a suitable home for the minor and the proposed adoption is in the best interest of the minor. Unless directed by the court, an investigation and recommendation are not required when the petitioner is a stepparent or when the child is related to one of the adoptive parents within the third degree.~~

~~(6) A written report of the investigation shall be filed with the court and with the petitioner by the investigator within 90 days from the date of the filing of the petition.~~

~~(7) The report of the investigation shall contain an evaluation of the placement with a recommendation on the granting of the petition for adoption and any other information the court requires regarding the petitioner or the minor. When the placement has been made through the department or an agency, the report may be limited to a recommendation on the desirability of the adoption.~~

~~(8) The department or the agency making the required investigation may request other departments or agencies within or without this state to make investigations of designated parts of the inquiry and to make a written report to the department or agency.~~

(5)~~(9)~~ After filing the petition to adopt an adult, a notice of the time and place of the hearing *must* ~~shall~~ be given to any person whose consent to the adoption is required but who has not consented. The court may order an appropriate investigation to assist in determining whether the adoption is in the best interest of the persons involved.

Section 13. Effective upon becoming a law, section 63.125, Florida Statutes, is created to read:

63.125 Final home investigation.—

(1) The final home investigation must be conducted before the adoption becomes final. The investigation may be conducted by a licensed child-placing agency, or a professional in the same manner as provided in s. 63.092 to ascertain whether the adoptive home is a suitable home for the minor and whether the proposed adoption is in the best interest of the minor. Unless directed by the court, an investigation and recommendation are not required if the petitioner is a stepparent or if the child is related to one of the adoptive parents within the third degree of consanguinity. The department is required to perform the home investigation only if there is no licensed child-placing agency, or professional pursuant to s. 63.092 in the county in which the prospective adoptive parent resides.

(2) The department, the licensed child-placing agency, or the professional that performs the investigation must file a written report of the investigation with the court and the petitioner within 90 days after the date the petition is filed.

(3) The report of the investigation must contain an evaluation of the placement with a recommendation on the granting of the petition for adoption and any other information the court requires regarding the petitioner or the minor.

(4) The department, the licensed child-placing agency, or the professional making the required investigation may request other state agencies or child-placing agencies within or outside this state to make investigations of designated parts of the inquiry and to make a written report to the department, the professional, or other person or agency.

(5) The final home investigation must include:

(a) The information from the preliminary home study.

(b) After the child is placed in the intended adoptive home, two scheduled visits with the child and the child's adoptive parent or parents, one of which visits must be in the home, to determine the suitability of the placement.

(c) The family medical history as provided in s. 63.082.

(d) Any other information relevant to the suitability of the intended adoptive home.

(e) Any other relevant information, as provided in rules that the department may adopt.

Section 14. Subsection (1) of section 63.132, Florida Statutes, is amended to read:

63.132 Report of expenditures and receipts.—

(1) *At least 10 days* before ~~the time set for~~ the hearing, the petitioner and any intermediary *must* ~~shall each~~ file two copies of an affidavit containing a full accounting of all disbursements and receipts of anything of value, including professional fees, made or agreed to be made by or on behalf of the petitioner and any intermediary in connection with the adoption. The clerk of the court shall forward a copy of the affidavit to the department ~~of Health and Rehabilitative Services~~. The report *must* ~~shall~~ show any expenses or receipts incurred in connection with:

(a) The birth of the minor.

(b) The placement of the minor with the petitioner.

(c) The medical or hospital care received by the mother or

(d) The living expenses of the *birth* ~~natural~~ mother. *The living expenses must be documented in detail to apprise the court of the exact expenses incurred.*

(e) The services relating to the adoption or to the placement of the minor for adoption that were received by or on behalf of the petitioner, the intermediary, either natural parent, the minor, or any other person.

Section 15. Paragraphs (b), (d), and (f) of subsection (1) of section 63.162, Florida Statutes, are amended to read:

63.162 Hearings and records in adoption proceedings; confidential nature.—

(1)

(b) All papers and records pertaining to the adoption, including the original birth certificate, whether part of the permanent record of the court or ~~of~~ a file in the department, ~~of Health and Rehabilitative Services or~~ in *a licensed child-placing* ~~an~~ agency, *or in the office of an intermediary* are confidential ~~and exempt from the provisions of s. 119.07(1)~~ and subject to inspection only upon order of the court; however, the petitioner in any proceeding for adoption under this chapter may, at the option of the petitioner, make public the reasons for a denial of the petition for adoption. *The* ~~Such~~ order *must* ~~shall~~ specify which portion of the records are subject to inspection, and it may exclude the name and identifying information concerning the *birth* ~~natural~~ parent or adoptee. *Papers and records of the department, a court, or any other governmental agency, which papers and records relate to adoptions, are exempt from s. 119.07(1).* In the case of a nonagency adoption, the department *must* ~~shall~~ be given notice of hearing and be permitted to present to the court a report on the advisability of disclosing or not disclosing information pertaining to the adoption. In the case of an agency adoption, the *licensed child-placing* agency *must* ~~shall~~ be given notice of hearing and be permitted to present to the court a report on the advisability of disclosing or not disclosing information pertaining to the adoption. ~~Nothing in~~ This paragraph *does not prohibit* ~~shall be construed to mean that~~ the department *from inspecting and copying* ~~shall not have the right to inspect and copy~~ any official record pertaining to the adoption that is maintained by the department *and does not prohibit an* ~~and that any licensed child-placing~~ agency *from inspecting and copying* ~~shall not have the right to inspect and copy~~ any official record pertaining to the adoption that is maintained by *that* ~~the~~ agency.

(d) *A* ~~No~~ person *may not* ~~shall~~ disclose from the records the name and identity of a *birth* ~~natural~~ parent, an adoptive parent, or an adoptee unless:

1. The *birth* ~~natural~~ parent authorizes in writing the release of his name;

2. The adoptee, if 18 or more years of age, authorizes in writing the release of his name; or, if the adoptee is less than 18 years of age, written consent to disclose his name is obtained from an adoptive parent;

3. The adoptive parent authorizes in writing the release of his name; or

4. Upon order of the court for good cause shown. In determining whether good cause exists, the court shall give primary consideration to the best interests of the adoptee, but *must* ~~shall~~ also give due consideration to the interests of the adoptive and *birth* ~~natural~~ parents. Factors to be considered in determining whether good cause exists include, but are not limited to:

a. The reason the information is sought;

b. The existence of means available to obtain the *desired* ~~sought after~~ information without disclosing the identity of the *birth* ~~natural~~ parents, such as by having the court, a person appointed by the court, the department, or the *licensed child-placing* agency contact the *birth* ~~natural~~ parents and request specific information;

c. The desires, to the extent known, of the adoptee, the adoptive parents, and the *birth* ~~natural~~ parents;

d. The age, maturity, judgment, and expressed needs of the adoptee; and

e. The recommendation of the department, *licensed child-placing* ~~or~~ ~~the~~ agency, *or professional* which prepared the preliminary study *and home investigation*, or the department if no such study was prepared, concerning the advisability of disclosure.

(f) Subject to the provisions of paragraph (d), ~~no~~ identifying information regarding the *birth* ~~natural~~ parents, adoptive parents, and adoptee *may not* ~~shall~~ be disclosed unless a *birth* ~~natural~~ parent, adoptive parent, or adoptee has authorized in writing the release of such information concerning himself. ~~No~~ Specific names or identifying information *must not* ~~shall~~ be given in a family medical history. All nonidentifying information, including the family medical history and social history of the adoptee and the *birth* ~~natural~~ parents, when available, *must* ~~shall~~ be furnished to the *adoptive* ~~adopting~~ parents *before* ~~prior to finalization of~~ the adoption *becomes final* and to the adoptee, upon his request, after he reaches majority. Upon the request of the adoptive *parents* ~~parent~~, all nonidentifying information obtained *before* ~~prior to~~ or *after* ~~subsequent to~~ the adoption *has become final must* ~~shall~~ be furnished to the adoptive *parents* ~~parent~~.

Section 16. Section 63.165, Florida Statutes, is amended to read:

63.165 State registry of adoption information; duty to inform and explain.—The department, *intermediary,* or *licensed child-placing* agency *must* ~~shall~~ inform the *birth* ~~natural~~ parents *before* ~~prior to the termination of~~ parental rights *are terminated*, and the adoptive parents *before* ~~prior to~~ placement, in writing, of the existence and purpose of the registry established under s. 382.027, but failure to do so *does* ~~shall~~ not affect the validity of any proceeding under this chapter.

Section 17. Paragraphs (a) and (b) of subsection (1) of section 63.172, Florida Statutes, are amended to read:

63.172 Effect of judgment of adoption.—

(1) A judgment of adoption, whether entered by a court of this state, another state, or of any other place, has the following effect:

(a) It relieves the *birth* ~~natural~~ parents of the adopted person, except a *birth* ~~natural~~ parent who is a petitioner or who is married to a petitioner, of all parental rights and responsibilities.

(b) It terminates all legal relationships between the adopted person and his relatives, including his *birth* ~~natural~~ parents, except a *birth* ~~natural~~ parent who is a petitioner or who is married to a petitioner, so that the adopted person thereafter is a stranger to his former relatives for all purposes, including inheritance and the interpretation or construction of documents, statutes, and instruments, whether executed before or after entry of the adoption judgment, that do not expressly include the adopted person by name or by some designation not based on a parent and child or blood relationship.

Section 18. The Department of Health and Rehabilitative Services must review and evaluate the merits and feasibility of incorporating national accreditation standards, in whole or in part, into the process of licensing child-placing agencies under chapter 63, Florida Statutes. The department must also review and evaluate standards and procedures for an adoption specialist credential system to provide preparation and training in conducting home studies. In addition to the critical practice and procedural issues for analysis, this review must consider the fiscal impact of a change in administrative rules on adoptive families and child-placing agencies. This review must be completed by October 1, 1992, and proposed legislation, if required, must be submitted to the President of the Senate and the Speaker of the House of Representatives on or before November 15, 1992.

Section 19. Section 63.185, Florida Statutes, is amended to read:

63.185 Residency requirement.—For any person to adopt in this state, his primary residence and place of employment in Florida is required, *except for adoption of a special needs child, as defined in s. 409.166.*

Section 20. Subsections (1) and (2) of section 63.207, Florida Statutes, are amended to read:

63.207 Out-of-state placement.—

(1) Unless the child is to be placed with a relative within the third degree or with a stepparent, no person except *an intermediary,* an agency, or the department ~~of Health and Rehabilitative Services~~ shall:

(a) Take or send a child out of the state for the purpose of placement for adoption; or

(b) Place or attempt to place a child for the purpose of adoption with a family who primarily lives and works outside Florida in another state. *An intermediary may place or attempt to place a child for adoption in another state only if the child is a special needs child as that term is defined in s. 409.166. If an intermediary is acting under this subsection, the intermediary shall file a petition for declaratory statement pursuant to s. 63.102 for prior approval of fees and costs. The court shall review the costs pursuant to s. 63.097. The petition for declaratory statement must be converted to a petition for an adoption upon placement of the child in the home. The circuit court in this state must retain jurisdiction over the matter until the adoption becomes final. The adoptive parents must come to this state to have the adoption finalized. Violation of the order subjects the intermediary to contempt of court and to the penalties provided in s. 63.212.*

(2) *An* ~~No~~ intermediary *may not* ~~shall~~ counsel a *birth* ~~natural~~ mother to leave the state for the purpose of giving birth to a child outside the state in order to secure a fee in excess of that permitted under s. 63.097 when it is the intention that the child is to be placed for adoption outside the state.

Section 21. Paragraphs (a) and (b) of subsection (1) and subsections (3), (4), and (5) of section 63.212, Florida Statutes, are amended, subsection (6) of that section is renumbered as subsection (7) and a new subsection (6) is added to that section, to read:

63.212 Prohibited acts; penalties for violation.—

(1) It is unlawful for any person:

(a) Except the department, *an intermediary,* ~~of Health and Rehabilitative Services~~ or an agency, to place or attempt to place a child for adoption with a person who primarily lives and works outside this state unless the child is placed with a relative within the third degree or with a stepparent. *An intermediary may place or attempt to place a special needs child for adoption with a person who primarily lives and works outside this state only if the intermediary has a declaratory statement from the court establishing the fees to be paid. This requirement does not apply if the child is placed with a relative within the third degree or with a stepparent.*

(b) Except the department, *an intermediary,* ~~of Health and Rehabilitative Services~~ or an agency, to place or attempt to place a child for adoption with a family whose primary residence and place of employment is in another state unless the child is placed with a relative within the third degree or with a stepparent. *An intermediary may place or attempt to place a special needs child for adoption with a family whose primary residence and place of employment is in another state only if the intermediary has a declaratory statement from the court establishing the fees to be paid. This requirement does not apply if the child is placed with a relative within the third degree or with a stepparent.*

(3) It is unlawful for any intermediary to fail to report to the *court* ~~department, at least 30 days~~ prior to placement~~, unless waived by the department as provided for in s. 63.092(1)~~, the intended placement of a child for purposes of adoption with any person not a stepparent or a relative within the third degree, if the intermediary participates in such intended placement.

(4) It is unlawful for any intermediary to charge any fee~~, including intermediary or attorney fees~~ over $1,000 and those costs as set out in paragraph (1)(d) over $2,500, other than for actual documented medical costs, court costs, and hospital costs unless such fee is approved by the court prior to the assessment of the fee by the intermediary and upon a showing of justification for the larger fee.

(5) It is unlawful for any intermediary to counsel a *birth* ~~natural~~ mother to leave the state for the purpose of giving birth to a child outside the state in order to secure a fee in excess of that permitted under s. 63.097 when it is the intention that the child be placed for adoption outside the state.

(6) It is unlawful for any intermediary to obtain a preliminary home study or final home investigation and fail to disclose the existence of the study to the court.

(7)~~(6)~~ A person who violates any provision of this section, excluding paragraph (1)(h), is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person who violates paragraph (1)(h) is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083; and each day of continuing violation shall be considered a separate offense.

Section 22. Section 63.219, Florida Statutes, is created to read:

63.219 Sanctions.—Upon a finding by the court that an intermediary or agency has violated any provision of this chapter, the court is authorized to prohibit the intermediary or agency from placing a minor for adoption in the future.

Section 23. Subsection (5) of section 409.166, Florida Statutes, is amended to read:

409.166 Special needs children; subsidized adoption program.—

(5) WAIVER OF ADOPTION FEES.—The adoption fees shall be waived for all adoptive parents who participate in the program *who adopt children in the custody of the department. Fees may be waived for families who adopt children in the custody of licensed child-placing agencies or who adopt children through independent adoptions, and who receive or may be eligible for subsidies through the department. Retroactive reimbursement of fees may not be required for families who adopt children in the custody of licensed child-placing agencies.*

Section 24. Except as otherwise provided herein this act shall take effect July 1, 1992.

And the title is amended as follows:

On page 1, line 2, through page 3, line 13, strike all of said lines and insert: An act relating to adoption; amending s. 39.462, F.S.; revising provisions with respect to process and services required before parental rights may be terminated; amending ss. 63.022, 63.042, 63.162, 63.165, 63.172, 63.207, F.S.; eliminating references to natural parents and substituting the term "birth parents"; amending s. 63.052, F.S.; providing for an intermediary to have responsibility of a minor under certain circumstances; providing for reports to the court under certain circumstances;

amending s. 63.062, F.S.; requiring notice to and consent from persons required to give consent to an adoption; establishing requirements for good faith and diligent efforts in giving notice; amending s. 63.082, F.S.; revising requirements with respect to certain forms provided by the Department of Health and Rehabilitative Services to an intermediary who intends to place a child for adoption; amending s. 63.085, F.S.; revising provisions with respect to disclosure by an intermediary; amending s. 63.092, F.S.; providing for a report to the court of intended placement by an intermediary; requiring a preliminary home study to be performed by an agency, or professional; deleting provisions with respect to injunction against an intermediary; amending s. 63.097, F.S.; providing for paying fees to intermediaries; providing for paying fees to agencies or to the department; amending s. 63.102, F.S.; providing for the consolidation of the petition for declaratory statement and the petition for adoption under certain circumstances; amending s. 63.112, F.S.; revising provisions that specify documents required to be filed at the time the petition for adoption is filed; amending s. 63.122, F.S.; deleting provisions with respect to an investigation of the prospective adoptive home; creating s. 63.125, F.S.; providing for the final home investigation; amending s. 63.132, F.S.; requiring the living expenses of the birth mother to be documented in detail; amending s. 63.162, F.S.; providing that adoption records of an intermediary are confidential; providing that papers and records of the department, a court, or any other governmental agency which relate to adoptions are exempt from the public records law; amending s. 63.165, F.S.; revising the duty to inform certain persons about the state registry of adoption information; directing the department to review licensing standards for child-placing agencies; amending s. 63.185, F.S.; providing an exception to the residency requirement for adoption of a special needs child; amending s. 63.207, F.S.; requiring an intermediary in an out-of-state placement to petition for approval of fees and costs; providing penalties for violating a court order issued in response to such a petition; limiting out-of-state placements to special needs children; amending s. 63.212, F.S.; prohibiting certain acts by an intermediary; providing penalties; creating s. 63.219, F.S.; providing for sanctions against violators; amending s. 409.166, F.S.; revising provisions respecting waiver of adoption fees; providing an effective date.

House Amendment 1 (with Title Amendment) to House Amendment 1—On page 3, line 3, insert:

Section 3. Subsection (14) is added to section 63.032, Florida Statutes, to read:

63.032 Definitions.—As used in this act, unless the context otherwise requires, the term:

(14) "Abandoned" means a situation in which the parent or legal custodian of a child, while being able, makes no provision for the child's support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligations. If, in the opinion of the court, the efforts of such parent or legal custodian to support and communicate with the child are only marginal efforts that do not evince a settled purpose to assume all parental duties, the court may declare the child to be abandoned. In making this decision, the court may consider the conduct of a father towards the child's mother during her pregnancy.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 30, line 14, after the semicolon insert: amending s. 63.032, F.S.; defining the term "abandoned";

House Amendment 2 to House Amendment 1—On page 24, line 13, after the period insert:

(g) The court may, upon petition of an adult adoptee, for good cause shown, appoint an intermediary or a licensed child placing agency to contact a birth parent who has not registered with the adoption registry pursuant to s. 63.165 and advise them of the availability of same.

House Amendment 3 to House Amendment 1—On page 21, line 20, after "amended" insert: and paragraph (g) is added to subsection (1) of said section

House Amendment 2 (with Title Amendment)—On page 3, line 17, insert:

Section 1. Subsection (12) of section 63.032, Florida Statutes, is amended to read:

63.032 Definitions.—As used in this act, unless the context otherwise requires, the term:

(12) "Primary residence and place of employment in Florida" means a person lives and works in this state at least 6 months of the year and intends to do so for the foreseeable future or military personnel who designate Florida as their place of residence in accordance with the Soldiers' and Sailors' Civil Relief Act of 1940 *or employees of the United States Department of State living in a foreign country who designate Florida as their place of residence.*

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, line 2, after the semicolon insert: amending s. 63.032, F.S.; providing a definition;

On motions by Senator Weinstock, the Senate concurred in the House amendments.

CS for CS for SB 756 passed as amended and was ordered engrossed and then enrolled The action of the Senate was certified to the House. The vote on passage was:

Yeas—33 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 760 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 760—A bill to be entitled An act relating to Brevard County; amending chapter 28924, Laws of Florida, 1953, as amended, relating to the North Brevard County Hospital District; providing for the appointment authority for members of the hospital board; providing for the distribution of assets of the district in event of its dissolution; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 1, line 13, through page 2, line 24, strike all of said lines and renumber subsequent sections.

And the title is amended as follows:

On page 1, lines 5-7, strike all of said lines and insert: Hospital District; providing for the distribution

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

SB 760 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 776 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 776—A bill to be entitled An act relating to ad valorem taxes and exemptions for historic properties; creating s. 196.1997, F.S.; providing that the board of county commissioners of any county or the governing authority of any municipality may adopt ordinances to grant ad valorem tax exemptions under s. 3, Art. VII of the State Constitution to owners of historic properties; providing that such tax exemptions may be granted for improvements to historic properties which are a result of the restoration, renovation, or rehabilitation of those properties; specifying requirements for ordinances granting exemptions; providing procedures for application for an exemption; establishing qualifications for applicants to be approved for an exemption; requiring property appraisers to provide certain information to the local governing authorities; providing duties of the Division of Historical Resources of the Department of State or local historic preservation offices; requiring the Department of State to adopt certain rules; creating s. 196.1998, F.S.; providing additional ad valorem tax exemptions for historic properties open to the public; providing for additional rules; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 2, line 1, strike everything after the enacting clause and insert:

Section 1. Section 196.1997, Florida Statutes, is created to read:

196.1997 Ad valorem tax exemptions for historic properties.—

(1) The board of county commissioners of any county or the governing authority of any municipality may adopt an ordinance to allow ad valorem tax exemptions under s. 3, Art. VII of the State Constitution to historic properties if the owners are engaging in the restoration, rehabilitation, or renovation of such properties in accordance with guidelines established in this section.

(2) The board of county commissioners or the governing authority of the municipality by ordinance may authorize the exemption from ad valorem taxation of up to 100 percent of the assessed value of all improvements to historic properties which result from the restoration, renovation, or rehabilitation of such properties. The exemption applies only to improvements to real property. In order for the property to qualify for the exemption, any such improvements must be made on or after the day the ordinance authorizing ad valorem tax exemption for historic properties is adopted.

(3) The ordinance shall designate the type and location of historic property for which exemptions may be granted, which may include any property meeting the provisions of subsection (11), which property may be further required to be located within a particular geographic area or areas of the county or municipality.

(4) The ordinance must specify that such exemptions shall apply only to taxes levied by the unit of government granting the exemption. The exemptions do not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution.

(5) The ordinance must specify that any exemption granted remains in effect for up to 10 years with respect to any particular property, regardless of any change in the authority of the county or municipality to grant such exemptions or any change in ownership of the property. In order to retain the exemption, however, the historic character of the property, and improvements which qualified the property for an exemption, must be maintained over the period for which the exemption is granted.

(6) The ordinance shall designate either a local historic preservation office or the Division of Historical Resources of the Department of State to review applications for exemptions. The local historic preservation office or the division, whichever is applicable, must recommend that the board of county commissioners or the governing authority of the municipality grant or deny the exemption. Such reviews must be conducted in accordance with rules adopted by the Department of State. The recommendation, and the reasons therefor, must be provided to the applicant and to the governing entity before consideration of the application at an official meeting of the governing entity. For the purposes of this section, local historic preservation offices must be approved and certified by the Department of State.

(7) To qualify for an exemption, the property owner must enter into a covenant or agreement with the governing body for the term for which the exemption is granted. The form of the covenant or agreement must be established by the Department of State and must require that the character of the property, and the qualifying improvements to the property, be maintained during the period that the exemption is granted. The covenant or agreement shall be binding on the current property owner, transferees, and their heirs, successors, or assigns. Violation of the covenant or agreement results in the property owner being subject to the payment of the differences between the total amount of taxes which would have been due in March in each of the previous years in which the covenant or agreement was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in s. 212.12(3).

(8) Any person, firm, or corporation that desires an ad valorem tax exemption for the improvement of a historic property must, in the year the exemption is desired to take effect, file with the board of county commissioners or the governing authority of the municipality a written application on a form prescribed by the Department of State. The application must include the following information:

(a) The name of the property owner and the location of the historic property.

(b) A description of the improvements to real property for which an exemption is requested and the date of commencement of construction of such improvements.

(c) Proof, to the satisfaction of the designated local historic preservation office or the Division of Historical Resources, whichever is applicable, that the property that is to be rehabilitated or renovated is a historic property under this section.

(d) Proof, to the satisfaction of the designated local historic preservation office or the Division of Historical Resources, whichever is applicable, that the improvements to the property will be consistent with the United States Secretary of Interior's Standards for Rehabilitation and will be made in accordance with guidelines developed by the Department of State.

(e) Other information deemed necessary by the Department of State.

(9) The board of county commissioners or the governing authority of the municipality shall deliver a copy of each application for a historic preservation ad valorem tax exemption to the property appraiser of the county. Upon certification of the assessment roll, or recertification, if applicable, pursuant to s. 193.122, for each fiscal year during which the ordinance is in effect, the property appraiser shall report the following information to the local governing body:

(a) The total taxable value of all property within the county or municipality for the current fiscal year.

(b) The total exempted value of all property in the county or municipality which has been approved to receive historic preservation ad valorem tax exemption for the current fiscal year.

(10) A majority vote of the board of county commissioners of the county or of the governing authority of the municipality shall be required to approve a written application for exemption. Such exemption shall take effect on the January 1 following substantial completion of the improvement. The board of county commissioners or the governing authority of a municipality shall include the following in the resolution or ordinance approving the written application for exemption:

(a) The name of the owner and the address of the historic property for which the exemption is granted.

(b) The period of time for which the exemption will remain in effect and the expiration date of the exemption.

(c) A finding that the historic property meets the requirements of this section.

(11) Property is qualified for an exemption under this section if:

(a) At the time the exemption is granted, the property:

1. Is individually listed in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended; or

2. Is a contributing property to a national-register-listed district; or

3. Is designated as a historic property, or as a contributing property to a historic district, under the terms of a local preservation ordinance; and

(b) The local historic preservation office or the Division of Historical Resources, whichever is applicable, has certified to the local governing authority that the property for which an exemption is requested satisfies paragraph (a).

(12) In order for an improvement to a historic property to qualify the property for an exemption, the improvement must:

(a) Be consistent with the United States Secretary of Interior's Standards for Rehabilitation.

(b) Be determined by the Division of Historical Resources or the local historic preservation office, whichever is applicable, to meet criteria established in rules adopted by the Department of State.

(13) The Department of State shall adopt rules as provided in chapter 120 for the implementation of this section. These rules must specify

the criteria for determining whether a property is eligible for exemption; guidelines to determine improvements to historic properties which qualify the property for an exemption; criteria for the review of applications for exemptions; procedures for the cancellation of exemptions for violations to the agreement required by subsection (7); the manner in which local historic preservation offices may be certified as qualified to review applications; and other requirements necessary to implement this section.

Section 2. This act shall take effect on the effective date of an amendment to the State Constitution approved by the electors at the general election to be held in November 1992 which authorizes the governing authority of any county or municipality to grant ad valorem tax exemptions for rehabilitation or renovation of historic properties.

And the title is amended as follows:

On page 1, lines 2-29, strike all of said lines and insert: An act relating to ad valorem tax exemptions; creating s. 196.1997, F.S.; providing that the board of county commissioners of any county or the governing authority of any municipality may adopt an ordinance to grant ad valorem tax exemptions under s. 3, Art. VII of the State Constitution for improvements to historic properties which are a result of the restoration, renovation, or rehabilitation of those properties; specifying requirements for ordinances granting exemptions; providing procedures for application for an exemption; requiring the property owner to covenant to maintain the character of the property during the exemption period and providing for assessment of previously exempted taxes upon violation of the covenant; establishing qualifications for applicants to be approved for an exemption; requiring property appraisers to provide certain information to the local governing authorities; providing duties of the Division of Historical Resources of the Department of State or local historic preservation offices; requiring the Department of State to adopt certain rules; providing a contingent effective date.

House Amendment 1 (with Title Amendment) to House Amendment 1 (with Title Amendment)—On page 6, between lines 25 and 26, insert:

Section 2. Section 196.1998, Florida Statutes, is created to read:

196.1998 Additional ad valorem tax exemptions for historic properties open to the public.—

(1) If an improvement qualifies a historic property for an exemption under s. 196.1997, and the property is used for non-profit or governmental purposes and is regularly and frequently open for the public's visitation, use, and benefit, the board of county commissioners or the governing authority of the municipality by ordinance may authorize the exemption from ad valorem taxation of up to 100 percent of the assessed value of the property, as improved, any provision of s. 196.1997(2) to the contrary notwithstanding, if all other provisions of that section are complied with; provided, however, that the assessed value of the improvement must be equal to at least 50% of the total assessed value of the property as improved. The exemption applies only to real property to which improvements are made by or for the use of the existing owner. In order for the property to qualify for the exemption provided in this section, any such improvements must be made on or after the day the ordinance granting the exemption is adopted.

(2) In addition to meeting the criteria established in rules adopted by the Department of State under s. 196.1997, a historic property is qualified for an exemption under this section if the Division of Historical Resources, or the local historic preservation office, whichever is applicable, determines that the property meets the criteria established in rules adopted by the Department of State under this section.

(3) In addition to the authority granted to the Department of State to adopt rules under s. 196.1997, the Department of State shall adopt rules as provided in chapter 120 for the implementation of this section, which shall include criteria for determining whether a property is qualified for the exemption authorized by this section, and other rules necessary to implement this section.

(Renumber subsequent section.)

And the title is amended as follows:

On page 8, line 3, after the semicolon insert: creating s. 196.1998, F.S.; providing additional ad valorem tax exemptions for historic properties open to the public; providing for additional rules;

On motions by Senator Malchon, the Senate concurred in the House amendments.

CS for SB 776 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—31 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for SB 868 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 868—A bill to be entitled An act relating to information resources; amending s. 282.003, F.S.; revising the title of the Information Resources Management Act to include paperwork reduction; amending s. 282.004, F.S.; providing legislative intent regarding minimizing the paperwork burden; amending s. 282.303, F.S.; providing definitions; amending s. 282.305, F.S.; providing duties of the Information Resource Commission regarding assistance for the review of required forms and reports and paperwork reduction; creating s. 282.3051, F.S.; providing legislative findings with respect to state government reporting requirements and required forms; directing state governmental entities to periodically identify, review, and evaluate reporting requirements and forms and to make recommendations with respect thereto; providing criteria for evaluation of reporting requirements and required forms; directing such entities to take specified paperwork reduction actions; directing the Information Resource Commission to develop a pilot project to eliminate or reduce forms and paperwork and to report thereon; amending ss. 282.3061, 282.3062, 282.307, F.S.; including paperwork reduction in the State Strategic Plan for Information Resources Management, the Annual Report on Information Resources Management, and the Strategic Plan for Information Resources Management submitted by each department; amending s. 282.311, F.S.; providing duties of information resource managers regarding paperwork reduction; amending s. 282.312, F.S.; requiring annual performance reports to include information relating to paperwork reduction and reporting requirements; amending s. 286.001, F.S.; providing that specified governmental agencies required to make regular or periodic reports may file an abstract thereof with the designated recipient and an abstract and copy with the Division of Library and Information Services; providing duties of the division and removing responsibilities of the Executive Office of the Governor; directing agency heads to ensure that reports are created, managed, and disseminated through electronic means; amending ss. 216.031 and 216.0445, F.S.; correcting references; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 18, between lines 20 and 21, insert:

Section 15. Subsections (12) through (18) of section 287.012, Florida Statutes, are renumbered as subsections (13) through (19), respectively, and a new subsection (12) is added to said section to read:

287.012 Definitions.—The following definitions shall apply in this part:

(12) "Local purchasing source" means any person who, or place of business which, provides or proposes to provide a commodity or contractual service to an agency, which person or business has a principal place of business located within the State of Florida.

Section 16. Paragraph (a) of subsection (2) of section 287.042, Florida Statutes, is amended to read:

287.042 Powers, duties, and functions.—The division shall have the following powers, duties, and functions:

(2)(a) To plan and coordinate purchases in volume and to negotiate and execute purchasing agreements and contracts for commodities and contractual services under which ~~the division shall require~~ state agencies *shall* ~~to~~ make purchases *pursuant to s. 287.056,* and under which a county, municipality, or other local public agency may make purchases. Purchases by any county, municipality, or other local public agency under the provisions in the state purchasing contracts, and purchases, from the corporation operating the correctional work programs, of products or services that are subject to paragraph (1)(f), are exempt from the competitive sealed bid requirements otherwise applying to their purchases.

Section 17. Section 287.056, Florida Statutes, is created to read:

287.056 Agency purchases from agreements and contracts executed by the division and from local purchasing sources; Auditor General review.—

(1) Agencies shall purchase commodities and contractual services from the purchasing agreements and contracts negotiated and executed by the division, as authorized in s. 287.042(2), when the cost of such purchase exceeds the threshold amount provided in s. 287.017 for CATEGORY TWO.

(2)(a) For purchases that do not exceed the threshold amount provided in s. 287.017 for CATEGORY TWO, agencies may purchase a commodity or contractual service from a local purchasing source if the cost of such commodity or contractual service is less than that provided by the agreements and contracts negotiated and executed by the division. In calculating the cost of a commodity or contractual service to be purchased from a local purchasing source, the agency shall include all delivery costs and any administrative costs associated with negotiating, preparing, and executing the contract for such commodity or contractual service.

(b) Before purchasing a commodity or contractual service from a local purchasing source, the agency shall consider whether the specifications, terms, and conditions for such commodity or contractual service meet or exceed the specifications, terms, and conditions negotiated and executed by the division.

(3)(a) For each purchase of a commodity or contractual service by an agency from a local purchasing source when such commodity or contractual service was available through the agreements and contracts negotiated and executed by the division, the agency shall document and justify how such purchase provided a cost savings to the state.

(b) Such documentation and justification shall be included on or attached to copies of purchase orders filed in the agency fiscal office and filed with the State Comptroller in support of a payment request. In addition, each agency which purchases commodities or contractual services pursuant to this section shall report any cost savings to the state realized during the previous fiscal year and a listing of the purchase order numbers for such purchases to the Auditor General by August 31 of each year.

(c) When authorized to audit the administrative services function of any state agency, the Auditor General shall include, as part of that review, a sample of the documentation and justification attached to purchase orders which are filed in the agency fiscal office as required by this subsection. If the Auditor General finds that the savings identified by the agency have not been adequately documented, that no actual savings were realized, or that the agency has not complied with the provisions of this section, he shall include a statement of fact in his audit report on the agency. The Auditor General shall also review the provisions of ss. 287.042(2) and 287.056 to determine the fiscal savings impact of these provisions on state purchasing, and report his findings and recommendations to the Legislature by January 1, 1994.

(4) This section shall not apply to purchases of information technology resources as defined in s. 287.073.

(5) This section expires October 1, 1997, and shall be reviewed by the Legislature in advance of that date. As part of its oversight function, the Legislature shall annually review the fiscal impact of s. 287.056 on the state contracting process to ensure that the provisions of this section support the intent of chapter 287 to provide equitable and economical state purchasing.

(Renumber subsequent section.)

And the title is amended as follows:

On page 2, line 19, insert after the semicolon: amending s. 287.012, F.S.; defining the term "local purchasing source"; amending s. 287.042, F.S.; authorizing the Division of Purchasing of the Department of General Services to negotiate and execute contracts for state purchases; creating s. 287.056, F.S.; allowing state agencies to make purchases from a local purchasing source for certain purchases if such purchases cost less; providing that administrative costs and the specifications, terms, and conditions developed by the division be considered in evaluating such purchases; providing for review by the Auditor General; providing an exception; providing for future review and expiration of s. 287.056, F.S.; providing for an annual review of the fiscal impact of s. 287.056, F.S.;

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

CS for SB 868 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—35 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 1006 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1006—A bill to be entitled An act relating to the Board of Juvenile Welfare, Pinellas County; amending section 2, chapter 23483, Laws of Florida, 1945, as amended; providing that the Board of Juvenile Welfare shall be exempt from the payment of fees, taxes, or increment revenue to community redevelopment agencies created pursuant to part III of chapter 163, Florida Statutes; providing for severability; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 2, between lines 12-13, insert:

Section 3. This act shall be repealed on July 1, 1993.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 10, after the semicolon (;) insert: providing for repeal on July 1, 1993;

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

SB 1006 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for CS for SB 1026 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 1026—A bill to be entitled An act relating to convenience business security; creating s. 812.1701, F.S.; providing a short title; amending s. 812.171, F.S.; providing for the definition of the term "convenience business"; amending s. 812.172, F.S.; providing for legislative intent; creating s. 812.1725, F.S.; providing for preemption; amending s. 812.173, F.S.; revising language with respect to convenience business security; amending s. 812.174, F.S.; revising language with respect to the training of employees; amending s. 812.175, F.S.; providing for enforcement; creating a Convenience Business Security Act Trust Fund; providing for fines and injunctive relief; providing for the authority of the Attorney General; authorizing the Department of Legal Affairs to adopt rules; providing an effective date.

House Amendment 1—On page 2, lines 13-15, strike all of said lines and insert: The term "convenience *business* ~~store~~" does not include any *business* ~~store~~ in which the owner *or* ~~and~~ members of his family work ~~in the store~~ between the hours of *11* ~~10~~ p.m. and 5 a.m.

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

CS for CS for SB 1026 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 1142 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1142—A bill to be entitled An act relating to the North Port Water Control District; amending chapter 90-421, Laws of Florida; providing for the dissolution of the water control district; providing for the transfer of the property, assets, rights, responsibilities, and obligations thereof to the North Port Road and Drainage District; providing that the road and drainage district is to replace the water control district as a party to contracts of the water control district; specifying conditions precedent for the dissolution of the water control district; specifying a date for the transfer of the powers and responsibilities of the water control district, subject to the satisfaction of the conditions precedent; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 1, line 21, through page 5, line 26, strike everything after the enacting clause and insert:

Section 1. Chapter 90-421, Laws of Florida is hereby repealed.

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

And the title is amended as follows:

On page 1, lines 2-18, strike all of said lines and insert: An act relating to the North Port Water Control District and North Port Road and Drainage District; repealing chapter 90-421, Laws of Florida, an act that provides for the dissolution of the water control district subject to specified conditions precedent and the transfer of the property, assets, rights, responsibilities, and obligations of the district to the North Port Road and Drainage District; providing an effective date.

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

SB 1142 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for SB 1354 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1354—A bill to be entitled An act relating to administrative procedures; amending s. 120.53, F.S.; authorizing electronic retrieval systems in lieu of subject-matter index for agency orders; requiring that final orders issued under s. 120.535, F.S., pertaining to rule challenge proceedings, be included in the subject-matter index that an agency must make available for public inspection and copying; amending s. 120.54, F.S.; conforming definition of small business to definition in Small and Minority Business Assistance Act of 1985; deleting limitation to agencies in the executive branch of state government regarding requirement for rulemaking within 180 days of enabling legislation; specifying legislative finding regarding official reporters of Public Employees Relations Commission; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 1, line 24, strike everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (2) of section 120.53, Florida Statutes, as amended by section 2 of chapter 91-30, Laws of Florida, as amended, is amended to read:

120.53 Adoption of rules of procedure and public inspection.—

(2)(a) Each agency shall make available for public inspection and copying, at no more than cost:

1. All rules formulated, adopted, or used by the agency in the discharge of its functions.

2. All agency orders.

3. A current subject-matter index, identifying for the public any rule or order as specified in this subparagraph. *In lieu of the requirement for making available for public inspection and copying a hierarchical subject-matter index of its orders, an agency may maintain, and make available for public use, an electronic data base of its orders that allows users to research and retrieve the full texts of agency orders by devising an ad hoc indexing system employing any logical search terms in common usage which are composed by the user and which are contained in the orders of the agency.* The agency orders that must be indexed, unless excluded under paragraph (c) or paragraph (d), include:

a. Each final agency order resulting from a proceeding under s. 120.57(1) or (2);

b. Each final agency order rendered pursuant to s. 120.57(3) which contains a statement of agency policy that may be the basis of future agency decisions or that may otherwise contain a statement of precedential value;

c. Each declaratory statement issued by an agency; and

d. Each final order resulting from a proceeding under *s. 120.535,* s. 120.54(4), or s. 120.56.

4. A list of all final orders rendered pursuant to s. 120.57(3) which have been excluded from the indexing requirement of this section, with the approval of the Department of State, because they do not contain statements of agency policy or statements of precedential value. The list must include the name of the parties to the proceeding and the number assigned to the final order.

5. All orders listed pursuant to subparagraph 4.

Section 2. Paragraph (a) of subsection (2) of section 120.54, Florida Statutes, is amended to read:

120.54 Rulemaking; adoption procedures.—

(2)(a) Each agency, prior to the adoption, amendment, or repeal of any rule, shall consider the impact of such proposed action on small business as defined in *s. 288.703* ~~the Florida Small and Minority Business Assistance Act of 1985~~ and, whenever possible, shall tier such rule to reduce disproportionate impacts on small business and to avoid regulating businesses which do not contribute significantly to the problem the rule is designed to regulate. An agency may define "small business" to include more than *50* ~~25~~ persons if it finds that such a definition is necessary to adapt any rule to the needs and problems of small business. The agency shall consider each of the following methods for reducing the impact of the proposed rule on small business:

1. Establishing less stringent compliance or reporting requirements in the rule for small business.

2. Establishing less stringent schedules or deadlines in the rule for compliance or reporting requirements for small business.

3. Consolidating or simplifying the rule's compliance or reporting requirements for small business.

4. Establishing performance standards to replace design or operational standards in the rule for small business.

5. Exempting small business from any or all requirements of the rule.

(b) Each agency shall provide information on its proposed action by preparing a detailed economic impact statement. The economic impact statement shall include:

1. An estimate of the cost to the agency of the implementation of the proposed action, including the estimated amount of paperwork;

2. An estimate of the cost or the economic benefit to all persons directly affected by the proposed action;

3. An estimate of the impact of the proposed action on competition and the open market for employment, if applicable;

4. A detailed statement of the data and method used in making each of the above estimates; and

5. An analysis of the impact on small business as defined in the Florida Small and Minority Business Assistance Act of 1985.

(c) If an economic impact statement is required before an agency takes action on an application or petition by any person, the statement shall be prepared within a reasonable time after the application is made or the petition is filed.

(d) The failure to provide an adequate statement of economic impact is a ground for holding the rule invalid; however, beginning October 1,

1978, no rule shall be declared invalid for want of an adequate statement of economic impact unless the issue is raised in an administrative or judicial proceeding within 1 year of the effective date of the rule to which the statement applies.

Section 3. The Legislature finds that the official reporters used by the Public Employees Relations Commission on May 28, 1991, are in compliance with the requirements for indexing and availability of orders in section 120.53(2)(a), Florida Statutes, as amended by section 2 of chapter 91-30, Laws of Florida.

Section 4. Subsections (1), (2), and (12) of section 120.54, Florida Statutes, are amended to read:

120.54 Rulemaking; adoption procedures.—

(1) Prior to the adoption, amendment, or repeal of any rule not described in subsection (9), an agency shall give notice of its intended action, setting forth a short and plain explanation of the purpose and effect of the proposed rule, *and* the specific legal authority under which its adoption is authorized~~, and a summary of the estimate of the economic impact of the proposed rule on all persons affected by it~~.

(a) Except as otherwise provided in this paragraph, the notice shall be mailed to the committee, to all persons named in the proposed rule, and to all persons who have made requests of the agency for advance notice of its proceedings at least 14 days prior to such mailing. The agency shall also give such notice as is prescribed by rule to those particular classes of persons to whom the intended action is directed. Notice of intent by an educational unit to adopt, amend, or repeal any rule not described in subsection (9) shall be made:

1. By publication in a newspaper of general circulation in the affected area;

2. By mail to all persons who have made requests of the educational unit for advance notice of its proceedings and to organizations representing persons affected by the proposed rule; and

3. By posting in appropriate places so that those particular classes of persons to whom the intended action is directed may be duly notified.

Such publication, mailing, and posting of notice shall occur at least 21 days prior to the intended action.

(b) The notice shall be published in the Florida Administrative Weekly not less than 28 days prior to the intended action, except that notice of actions proposed by educational units or units of government with jurisdiction in only one county or a part thereof need not be published in the Florida Administrative Weekly or transmitted to the committee. The proposed rule shall be available for inspection and copying by the public at the time of the publication of notice.

(c) Prior to providing notice of a proposed rule as required by paragraphs l(a) and (b), an agency may provide notice of the development of proposed rules by publication of a notice of rule development in the Florida Administrative Weekly. Notice of rule development shall indicate the subject area which will be addressed by rule development, provide a short plain explanation of the purpose and effect of the rule development, the specific legal authority for rule development, and the preliminary text of proposed rules if available.

(d) An agency may hold a public workshop for purposes of rule development. If an agency provides notice of rule development under paragraph (1)(c), the agency shall hold a public workshop for purposes of rule development if requested by any affected person. Notwithstanding the provisions of s. 120.53(1)(d) or any other provision of law, notice of a rule development workshop shall be by publication in the Florida Administrative Weekly not less than 14 days prior to the date on which the workshop is scheduled to be held and shall indicate the subject area which will be addressed, the agency contact person, and the place, date, and time of the workshop.

(e) If an agency provides notice of rule development under paragraph (1)(c), and an economic impact statement is prepared pursuant to paragraph (2)(b), prior to notice of proposed rules under paragraphs (1)(a) and (b), the agency shall make a draft copy of the economic impact statement available to any person who requests a copy of the statement.

(2)(a) Each agency, prior to the adoption, amendment, or repeal of any rule, shall consider the impact of such proposed action on small business as defined in the Florida Small and Minority Business Assistance Act of 1985 and, whenever possible, shall tier such rule to reduce disproportionate impacts on small business and to avoid regulating businesses which do not contribute significantly to the problem the rule is designed to regulate. An agency may define "small business" to include more than 25 persons if it finds that such a definition is necessary to adapt any rule to the needs and problems of small business. The agency shall consider each of the following methods for reducing the impact of the proposed rule on small business:

1. Establishing less stringent compliance or reporting requirements in the rule for small business.

2. Establishing less stringent schedules or deadlines in the rule for compliance or reporting requirements for small business.

3. Consolidating or simplifying the rule's compliance or reporting requirements for small business.

4. Establishing performance standards to replace design or operational standards in the rule for small business.

5. Exempting small business from any or all requirements of the rule.

(b) *Prior to the adoption, amendment, or repeal of any rule not described in subsection (9), an* ~~Each~~ agency *may* ~~shall~~ provide information on its proposed action by preparing *an* ~~a detailed~~ economic impact statement, *and must prepare an economic impact statement if:*~~.~~

1. The agency determines that the proposed action would result in a substantial increase in costs or prices paid by consumers, individual industries, or state or local government agencies, or would result in significant adverse effects on competition, employment, investment, productivity, or innovation, and alternative approaches to the regulatory objective exist and are not precluded by law; or

2. Within 14 days after the date of publication of the notice provided pursuant to paragraph (1) (c) or, if no notice of rule development is provided, within 21 days after the notice required by paragraphs (1) (a) and (b), a written request for preparation of an economic impact statement is filed with the appropriate agency by the Governor, a body corporate and politic, at least 100 people signing a request, or an organization representing at least 100 persons, or any domestic nonprofit corporation or association.

An agency's determination regarding preparation of an economic impact statement pursuant to subparagraph (2)(b)1. shall not be subject to challenge. If an economic impact statement is prepared pursuant to paragraph (2)(b), at least 14 days prior to any public hearing on a proposed rule held pursuant to subsection (3), the agency shall make a draft copy of the economic impact statement available to any person who requests a copy of the statement.

(c) The economic impact statement *must* ~~shall~~ include:

1. An estimate of the cost to the agency, *and to any other state or local government entities, of implementing and enforcing* ~~of the implementation of~~ the proposed action, including the estimated amount of paperwork, *and any anticipated effect on state or local revenues*;

2. An estimate of the cost or the economic benefit to all persons directly affected by the proposed action;

3. An estimate of the impact of the proposed action on competition and the open market for employment, if applicable;

~~4. A detailed statement of the data and method used in making each of the above estimates; and~~

4.~~5.~~ An analysis of the impact on small business as defined in the Florida Small and Minority Business Assistance Act of 1985.

5. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of not adopting the rule;

6. A determination of whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rule where reasonable alternative methods exist which are not precluded by law;

7. A description of any reasonable alternative methods, where applicable, for achieving the purpose of the proposed rule which were considered by the agency, and a statement of the reasons for rejecting those alternatives in favor of the proposed rule; and

8. A detailed statement of the data and methodology used in making the estimates required by this paragraph.

~~(c) If an economic impact statement is required before an agency takes action on an application or petition by any person, the statement shall be prepared within a reasonable time after the application is made or the petition is filed.~~

(d) ~~The failure to provide an adequate statement of economic impact is a ground for holding the rule invalid; however, beginning October 1, 1978,~~ No rule shall be declared invalid *based on a challenge to* ~~for want of an adequate statement of~~ *the* economic impact *statement for the rule* unless the issue is raised in an administrative ~~or judicial~~ proceeding within 1 year of the effective date of the rule to which the statement applies. *No person shall have standing to challenge an agency rule, based upon an economic impact statement or lack thereof, unless that person requested preparation of an economic impact statement under subparagraph (2)(b)2. and provided the agency with information sufficient to make the agency aware of specific concerns regarding the economic impact of the proposed rule, by either participation in a public workshop, public hearing, or by submission of written comments, regarding the rule. The grounds for invalidation of a rule based upon a challenge to the economic impact statement for the rule, are limited to an agency's failure to adhere to the procedure for preparation of an economic impact statement provided by this section, or an agency's failure to consider information submitted to the agency regarding specific concerns about the economic impact of a proposed rule when such failure substantially impairs the fairness of the rulemaking proceeding.*

(12)*(a)* Whenever an act of the Legislature is enacted which requires implementation of the act by rules of an agency within the executive branch of state government, such rules shall be drafted and formally proposed as provided *in this section* ~~herein~~ within 180 days *after* ~~of~~ the effective date of the act, unless ~~the provisions of~~ the act *provides* ~~provide~~ otherwise.

(b) In adopting rules, all agencies must, among the alternative approaches to any regulatory objective and, to the extent allowed by law, choose the alternative that imposes the lowest net cost to society based upon the factors listed in paragraph (2)(c), or provide a statement of the reasons for rejecting that alternative in favor of the proposed rule. This paragraph shall not provide a basis for challenging a rule.

Section 5. Subsection (10) is added to section 120.535, Florida Statutes, to read:

120.535 Rulemaking required.—

(10) Agency statements that relate to cost-recovery clauses, factors, or mechanisms implemented pursuant to chapter 366 are exempt from the requirements of this section.

Section 6. Effective November 17, 1992, subsection (1) and paragraph (k) of subsection (2) of section 11.60, Florida Statutes, as amended by chapter 91-429, Laws of Florida, are amended to read:

11.60 Administrative Procedures Committee; creation; membership; powers; duties.—

(1) There is created a joint standing committee of the Legislature designated as the "Administrative Procedures Committee." *The committee shall be composed of eight members and include the chairman of the House of Representatives Committee on Governmental Operations, the chairman of the Senate Committee on Governmental Operations, the vice chairman of the House of Representatives Committee on Appropriations, the vice chairman of the Senate Committee on Appropriations, two members of the House of Representatives designated by the Speaker of the House of Representatives, one of whom shall be a member of the minority party, and two members of the Senate designated by the President of the Senate, one of whom shall be a member of the minority party. The chairman of the House of Representatives Committee on Governmental Operations shall serve as chairman of the committee in even years and vice chairman of the committee in odd years and the chairman of the Senate Committee on Governmental Operations shall serve as chairman of the committee in odd years and vice chairman in even years* ~~composed of six members appointed as follows: three members of the House of Representatives appointed by the Speaker of the House of Representatives, one of whom shall be a member of the minority party; and three members of the Senate appointed by the President of the Senate, one of whom shall be a member of the minority party. The president shall appoint the chairman in even years and the vice chairman in odd years, and the speaker shall appoint the chairman in odd years and the vice chairman in even 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:

(k) Have standing to seek *administrative and judicial* review ~~in the courts of the state~~, on behalf of the Legislature or the citizens of this state, of the validity or invalidity of any administrative rule to which the committee has voted an objection and which has not been withdrawn, modified, repealed, or amended to meet the objection. Judicial review under this paragraph shall not be initiated until the Governor and the agency head of the agency making the rule to which the committee has objected have been notified of the committee's proposed action and have been given a reasonable opportunity for consultation with the committee. The committee is authorized to expend public funds from its appropriation for the purpose of seeking judicial review.

Section 7. Effective upon becoming a law, paragraph (a) of subsection (9) of section 120.54, Florida Statutes, is amended to read:

120.54 Rulemaking; adoption procedures.—

(9)(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 by any procedure which is fair under the circumstances and necessary to protect the public interest, provided that:

1. The procedure provides at least the procedural protection given by other statutes, the Florida 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 county or a part thereof, 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.

Section 8. Effective upon becoming a law, subsection (1) of section 120.545, Florida Statutes, is amended to read:

120.545 Committee review of agency rules.—

(1) As a legislative check on legislatively created authority, the committee shall examine each proposed rule, except for those proposed rules exempted by s. 120.54(11)(a), and its accompanying material, *each emergency rule,* and may examine any existing rule, for the purpose of determining whether:

(a) The rule is an invalid exercise of delegated legislative authority;

(b) The statutory authority for the rule has been repealed;

(c) The rule reiterates or paraphrases statutory material;

(d) The rule is in proper form;

(e) The notice given prior to its adoption was sufficient to give adequate notice of the purpose and effect of the rule; and

(f) *An* ~~The~~ economic impact statement *was prepared that informs* ~~accompanying the rule is adequate to accurately inform~~ the public of the economic effect of the rule, *if such statement is required pursuant to paragraph (2)(b) or is requested by the committee.*

(g) The rule is consistent with the legislative intent of the specific provision of law which the rule implements.

(h) The rule conflicts with any other rule adopted by the same or a different agency.

(i) The rule is necessary to fully accomplish the objectives of the specific provision of law which the rule implements.

(j) The rule is reasonable especially as it affects the convenience of the general public or persons particularly affected by the rule.

(k) The rule could be made less complex or more easily understandable to the general public.

(l) The rule reflects the approach to the regulatory objective involving the lowest net cost to society.

(m) The rule will require additional appropriations.

(n) If the rule is an emergency rule, there exists an emergency justifying the promulgation of such rule, whether the agency has exceeded the scope of its statutory authority, and whether the rule was promulgated in compliance with the requirements and limitations of s. 120.54(9).

The committee is provided authority to request information from an agency that is reasonably necessary for examination of a rule as required by this subsection. The committee shall consult with legislative standing committees, which have jurisdiction over the subject areas addressed in any rule under examination by the committee, regarding legislative authority for the rule. If the committee objects to *an emergency,* a proposed or existing rule, it shall, within 5 days of the objection, certify that fact to the agency whose rule has been examined and include with the certification a statement detailing its objections with particularity. *The committee shall notify the Speaker of the House of Representatives and the President of the Senate of any objection to an agency rule concurrent with certification of that fact to the agency. Such notice shall include a copy of the rule and the statement detailing the committee's objections to the rule.*

Section 9. Subsection (12) of section 120.52, Florida Statutes, is amended to read:

120.52 Definitions.—As used in this act:

(12) "Party" means:

(a) Specifically named persons whose substantial interests are being determined in the proceeding.

(b) Any other person who, as a matter of constitutional right, provision of statute, or provision of agency regulation, is entitled to participate in whole or in part in the proceeding, or whose substantial interests will be affected by proposed agency action, and who makes an appearance as a party.

(c) Any other person, including an agency staff member, allowed by the agency to intervene or participate in the proceeding as a party. An agency may by rule authorize limited forms of participation in agency proceedings for persons who are not eligible to become parties.

(d) Any county representative, agency, department, or unit funded and authorized by state statute or county ordinance to represent the interests of the consumers of a county, when the proceeding involves the substantial interests of a significant number of residents of the county and the board of county commissioners has, by resolution, authorized the representative, agency, department, or unit to represent the class of interested persons. The authorizing resolution shall apply to a specific proceeding and to appeals and ancillary proceedings thereto, and it shall not be required to state the names of the persons whose interests are to be represented.

Prisoners as defined in s. 944.02(5) may obtain or participate in proceedings under s. 120.54(3) *or*~~, (4),~~ (5) ~~or (9) or s. 120.56 and may be parties under s. 120.68 to seek judicial review of those proceedings~~. Prisoners shall not be considered parties in any other proceedings and may not seek judicial review under s. 120.68 of any other agency action. Parolees shall not be considered parties for purposes of agency action or judicial review when the proceedings relate to the rescission or revocation of parole.

Section 10. Subsection (15) is added to section 120.68, Florida Statutes, to read:

120.68 Judicial Review.—

(15) No petition challenging an agency rule as an invalid exercise of delegated legislative authority shall be instituted pursuant to this section, except to review an order entered pursuant to a proceeding under s. 120.54(4) or s. 120.56, unless the sole issue presented by the petition is the constitutionality of a rule and there are no disputed issues of fact.

Section 11. Section 120.543, Florida Statutes, is created to read:

120.543 Adoption of federal standards.—Notwithstanding any contrary provision of s. 120.54, in the pursuance of state implementation, operation, or enforcement of federal programs, the agency head is empowered to adopt rules substantively identical to regulations adopted pursuant to federal law, in accordance with the following procedures:

(1) The agency head shall publish notice of intent to adopt a rule pursuant to this section in the Florida Administrative Weekly at least 21 days prior to filing the rule with the Department of State. The agency head shall provide a copy of the notice of intent to adopt a rule to the Administrative Procedures Committee at least 21 days prior to the date of filing with the Department of State. Prior to filing the rule with the Department of State, the agency head shall consider any written comments received within 14 days after the date of publication of the notice of intent to adopt a rule. The rule shall be adopted upon filing with the Department of State. Substantive changes from the rules as noticed shall require republishing of notice as required in this section.

(2) Any rule adopted pursuant to this section shall become effective upon the date designated in the rule by the agency head; however, no such rule shall become effective earlier than the effective date of the substantively identical federal regulation.

(3) Any substantially affected person may, within 14 days after the date of publication of the notice of intent to adopt a rule, file an objection to rulemaking with the agency head. The objection shall specify the portions of the proposed rule to which the person objects and the specific reasons for the objection. The agency shall not proceed pursuant to this section, to adopt those portions of the proposed rule specified in an objection, unless the agency deems the objection to be frivolous, but may proceed pursuant to s. 120.54. An objection to a proposed rule, which rule in no material respect differs from the requirements of the federal regulation upon which it is based, is deemed to be frivolous.

(4) Whenever any federal regulation adopted as an agency rule pursuant to this section is declared invalid, or withdrawn, revoked, repealed, remanded, or suspended, the agency head shall, within 60 days thereafter, publish a notice of repeal of the substantively identical agency rule in the Florida Administrative Weekly. Such repeal is effective upon publication of the notice. Whenever any federal regulation adopted as an agency rule pursuant to this section is substantially amended, the agency may adopt the amended regulation as a rule. If the amended regulation is not adopted as a rule within 180 days of the effective date of the amended regulation, the original rule is deemed repealed and the agency shall publish a notice of repeal of the original agency rule in the next available Florida Administrative Weekly.

(5) Whenever all or part of any rule proposed for adoption by the agency is substantively identical to a regulation adopted pursuant to federal law, such rule shall be written in a manner so that the rule specifically references such regulation whenever possible.

Section 12. Except as otherwise provided herein, this act shall take effect July 1, 1992.

And the title is amended as follows:

On page 1, line 1, strike the entire title and insert: A bill to be entitled An act relating to administrative procedures; amending s. 120.53, F.S.; authorizing electronic retrieval systems in lieu of subject-matter index for agency orders; requiring that final orders issued under s. 120.535, F.S., pertaining to rule challenge proceedings, be included in the subject-matter index that an agency must make available for public inspection and copying; amending s. 120.54, F.S.; conforming definition of small business to definition in Small and Minority Business Assistance Act of 1985; specifying legislative finding regarding official reporters of Public Employees Relations Commission; amending s. 120.54, F.S.; providing for additional notice; providing for public workshops for the development of proposed rules under certain circumstances; providing conditions in which economic impact statements must be prepared; providing additional requirements for economic impact statements; providing additional requirements for petitions seeking determinations of invalidity of rules; providing for additional agency considerations in rulemaking; amending s. 120.535, F.S.; providing exceptions to requirement that agency statements be adopted as rules; amending s. 11.60, F.S.; providing for the composition of the Administrative Procedures Committee; providing the committee with standing to seek administrative or judicial review of the validity of rules; amending s. 120.54, F.S.; providing for review of

emergency rules by the committee; amending s. 120.545, F.S.; providing additional criteria for committee review of agency rules; requiring the committee to consult with substantive committees when reviewing rules; providing for notice to the Speaker of the House of Representatives and the President of the Senate when the committee objects to a rule; amending s. 120.52, F.S.; amending the definition of a party under the Administrative Procedure Act; amending s. 120.68, F.S; providing for judicial review of certain petitions challenging the validity of rules; creating s. 120.543, F.S.; providing an alternate procedure for adoption of agency rules substantively identical to previously adopted federal regulations; providing effective dates.

Senators Kiser and Jenne offered the following amendments which were moved by Senator Kiser and adopted:

Senate Amendment 1 (with Title Amendment) to House Amendment 1—On page 11, line 7, through page 12, line 12, strike all of said lines and insert:

Section 6. Paragraph (k) of subsection (2) of section 11.60, Florida Statutes, is amended to read:

11.60 Administrative Procedures Committee; creation; membership; powers; duties.—

And the title is amended as follows:

In title, on page 20, strike all of lines 18-20 and insert: 11.60, F.S.; providing the Administrative Procedures Committee with standing to seek

Senate Amendment 2 to House Amendment 1—On page 14, lines 18-31, through page 15, lines 1-13, strike all of said lines and insert:

(g) The rule is consistent with expressed legislative intent pertaining to the specific provisions of law which the rule implements.

(h) The rule is necessary to accomplish the apparent or expressed objectives of the specific provision of law which the rule implements.

(i) The rule is a reasonable implementation of the law as it affects the convenience of the general public or persons particularly affected by the rule.

(j) The rule could be made less complex or more easily comprehensible to the general public.

(k) The rule reflects the approach to the regulatory objective involving the lowest net cost to society to the degree consistent with the provisions of law which the rule implements.

(l) The rule will require additional appropriations.

(m) If the rule is an emergency rule, there exists an emergency justifying the promulgation of such rule, whether the agency has exceeded the scope of its statutory authority, and whether the rule was promulgated in compliance with the requirements and limitations of s. 120.54(9).

The committee may request from an agency such information as is reasonably necessary for examination of a rule as required by this subsection. The committee shall consult with legislative standing committees with jurisdiction over the subject areas pertinent to any rule examined regarding legislative

On motions by Senator Kiser, the Senate concurred in **House Amendment 1** as amended and the House was requested to concur in the Senate amendments to the House amendment.

CS for SB 1354 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 1362 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1362—A bill to be entitled An act relating to the Charter of the City of Jacksonville, amending Article 16 of Chapter 67-1320, Laws of Florida, as amended, being the Charter of the City of Jacksonville, to provide that law enforcement officers who suffer certain conditions or impairments of health shall be treated in a manner similar to firefighters with respect to special provisions relative to disability; increasing the retirement contribution rate for funding; declaring an important state interest; providing an effective date.

House Amendment 1—On page 2, line 31, through page 3, line 7, strike all of said lines and insert: *January 1, 1993 Any increased cost required to fund any additional pension benefit or any benefit arising from a worker's compensation claim relating to the presumption created in subsection (1) shall be paid solely from contributions of the affected law enforcement officers. Said increases shall be in addition to all other changes to such contribution rates which may be enacted into law to take effect on said date.*

Section 2. Effective October 1, 1992, this act shall be repealed; however, the provisions of this act continue in effect as an ordinance of the City of Jacksonville.

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

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

SB 1362 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 1398 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1398—A bill to be entitled An act relating to the Children's Board of Hillsborough County; providing that the Children's Board of Hillsborough County shall be exempt from the payment of fees, taxes, or increment revenue to community redevelopment agencies created pursuant to part III of chapter 163, Florida Statutes, except to the extent that such fees, taxes, or increment revenues have previously been pledged to bonds, notes, or other forms of indebtedness of a municipality or a community redevelopment agency authorized and issued before the effective date of this act; providing for severability; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 2, between lines 9 and 10, insert:

Section 3. This act shall be repealed on July 1, 1993.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 15, after the semicolon insert: providing for repeal on July 1, 1993;

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

SB 1398 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 1580 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1580—A bill to be entitled An act relating to medicinal drugs; creating s. 465.0255, F.S.; requiring the display of expiration dates on all medicinal drugs manufactured, repackaged, or distributed and all medicinal drugs dispensed; requiring certain use and storage instructions on all medicinal drugs dispensed; providing an effective date

House Amendment 1—On page 1, line 23, strike "that" and insert: if

House Amendment 2 (with Title Amendment)—On page 1, line 13, strike everything after the enacting clause and insert:

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

(a) "Physician" means a physician licensed under chapter 458, Florida Statutes, an osteopathic physician licensed under chapter 459, Florida Statutes, a chiropractor licensed under chapter 460, Florida Statutes, or a podiatrist licensed under chapter 461, Florida Statutes.

(b) "Beneficiary" means a beneficiary of health insurance under Title XVIII of the federal Social Security Act.

(c) "Consulting physician" means any physician to whom a primary physician refers a Medicare beneficiary for treatment.

(2) A physician may refuse to treat a beneficiary. However, nothing contained in this section shall be construed to limit a physician's obligation under state or federal law to treat a patient for an emergency medical condition, regardless of the patient's ability to pay.

(3) If treatment is provided to a beneficiary for an emergency medical condition as defined in section 395.0142(2)(c), Florida Statutes, the physician must accept Medicare assignment.

(4) If treatment provided to a beneficiary is not for such emergency medical condition, and the primary physician accepts assignment, all consulting physicians must accept assignment unless the patient agrees in writing, before receiving the treatment, that the physician need not accept assignment.

(5) Any attempt by a primary physician or a consulting physician to collect from a Medicare beneficiary any amount of charges for medical services in excess of those authorized under this section, other than the unmet deductible and the 20 percent of charges that Medicare does not pay, shall be deemed null, void, and of no merit.

Section 2. This act shall take effect January 1, 1993.

And the title is amended as follows:

On page 1, line 2, strike the entire title and insert: A bill to be entitled An act relating to Medicare beneficiaries; specifying that certain treatment providers may refuse to treat a Medicare beneficiary; requiring treatment providers to accept Medicare assignment for certain emergencies; requiring the acceptance of assignment for a beneficiary referred by a primary physician who accepts assignment for that beneficiary, unless the beneficiary otherwise consents in writing; restricting the amount of payment a physician who accepts such referral may attempt to collect from the beneficiary; providing an effective date.

On motions by Senator Wexler, the Senate concurred in the House amendments.

CS for SB 1580 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—35 Nays—1

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 1594 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1594—A bill to be entitled An act relating to legal services in the Department of Health and Rehabilitative Services; prescribing duties of the Attorney General with respect to monitoring compliance by the department with the judgment of the Supreme Court that required the department to cease using nonlawyers to provide legal services in cases relating to minors; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 1, line 13, strike everything after the enacting clause and insert:

Section 1. Subsection (57) of section 39.01, Florida Statutes, is amended to read:

39.01 Definitions.—When used in this chapter:

(57) "Protective investigator" means an authorized agent of the department who receives, investigates, and classifies reports of child abuse or neglect as defined in s. 415.503; who, as a result of the investigation, may *recommend that* ~~file~~ a dependency petition *be filed* for the child under the criteria of paragraph (10)(a); and who performs other duties necessary to carry out the required actions of the protective investigation function.

Section 2. Section 39.014, Florida Statutes, is created to read:

39.014 Legal representation for cases under this chapter.—For cases arising under part II of this chapter, the state attorney shall represent the state. For cases arising under parts III, IV, V, and VI of this chapter, an attorney for the department shall represent the state. The department may contract with outside counsel or the state attorney, pursuant to s. 287.059, for legal representation for cases arising under parts III, IV, V, and VI of this chapter. The Attorney General shall exercise general oversight of legal services provided to the Department of Health and Rehabilitative Services under chapter 39. This oversight responsibility shall require the Attorney General to assess, on a periodic basis, the extent to which the Department of Health and Rehabilitative Services is complying with the mandates of the Florida Supreme Court in cases arising under chapter 39, parts III, IV, V, and VI. If at any time the Attorney General determines that the Department of Health and Rehabilitative Services is not complying with the mandates of the Supreme Court, the Attorney General shall notify the Legislature. Notwithstanding the provisions of chapter 415 or chapter 39 to the contrary, the Attorney General shall have access to confidential information necessary to carry out his oversight responsibility; provided, however, that public disclosure of information by the Attorney General shall not contain any client-identifying information.

Section 3. Subsection (3) and paragraph (b) of subsection (11) of section 39.402, Florida Statutes, are amended to read:

39.402 Placement in a shelter.—

(3) If the protective investigator determines that placement in a shelter is necessary according to the provisions of subsections (1) and (2), the protective investigator shall authorize placement of the child in a shelter, shall immediately notify the parents or legal custodians that the child was taken into custody, and shall immediately provide the parents or legal custodians with a statement setting forth a summary of procedures involved in dependency cases and *notify them of their right to obtain their own attorney* ~~of their legal rights in such cases~~.

(11) The time limitations in subsections (8) and (9) do not include:

(b) Periods of delay resulting from a continuance granted at the request of the *attorney for the department* ~~state attorney, or the attorney designated by the state attorney~~, if the continuance is granted:

1. Because of an unavailability of evidence material to his case when the *attorney for the department* ~~state attorney, or the attorney designated by the state attorney,~~ has exercised due diligence to obtain such evidence and there are substantial grounds to believe that such evidence will be available within 30 days; or

2. To allow the *attorney for the department* ~~state attorney, or the attorney designated by the state attorney,~~ additional time to prepare his case and additional time is justified because of the exceptional circumstances of the case.

Section 4. Subsection (2) of section 39.403, Florida Statutes, is amended to read:

39.403 Protective investigation.—

(2) The protective investigator shall make a preliminary determination as to whether the report or complaint is complete, consulting with the *attorney for the department* ~~state attorney or assistant state attorney~~ when necessary. In any case in which the protective investigator ~~or the state attorney~~ finds that the report or complaint is incomplete, the protective investigator ~~or state attorney~~ shall return it without delay to the person or agency originating the report or complaint or having knowledge of the facts, or to the appropriate law enforcement agency having investigative jurisdiction, and request additional information in order to complete the report or complaint; however, the confidentiality of any report filed in accordance with ss. 415.502-415.514 shall not be violated.

(a) If the protective investigator determines that the report or complaint is complete, he may, after determining that such action would be in the best interests of the child, *request the attorney for the department to* file a petition for dependency.

(b) If the protective investigator determines that the report or complaint is complete, but that in his judgment the interest of the child and the public will be best served by providing the child care or other treatment voluntarily accepted by the child and his parents or legal custodians, the protective investigator may refer the child for such care or other treatment.

(c) If the protective investigator refuses to *request the attorney for the department to* file a petition for dependency, the complainant shall be advised of his right to file a petition pursuant to this part.

Section 5. Section 39.404, Florida Statutes, is amended to read:

39.404 Petition for dependency.—

(1) All proceedings seeking an adjudication that a child is dependent shall be initiated by the filing of a petition by ~~the state attorney,~~ an *attorney for* ~~authorized agent of~~ the department, or any other person who has knowledge of the facts alleged or is informed of them and believes that they are true. ~~In the case of child abuse where the petition is filed by a person who is not an attorney, the state attorney or his designate shall review the petition for legal sufficiency or shall otherwise be available to assist the petitioner in preparation of the technical aspects of the petition. Nothing in this section shall interfere with the right or decision of any person to file a petition alleging dependency.~~

(2)(a) The petition shall be in writing and shall be signed by the petitioner under oath stating his good faith in filing the petition. When the petition is filed by the *department* ~~state attorney~~, it *shall* ~~may~~ be signed by *an attorney for the department* ~~the state attorney or by an assistant state attorney~~.

(b) The form of the petition and its contents shall be determined by rules of procedure adopted by the Supreme Court.

(3) When the child has been taken into custody, a petition alleging dependency shall be filed within 7 days of the date the child is taken into custody. In all other cases, the petition shall be filed within a reasonable time after the date the child was referred to protective investigation pursuant to s. 39.403.

(4) A petition for termination of parental rights pursuant to s. 39.464 may be filed at any time before a performance agreement or permanent placement plan has been accepted by the court.

~~(5) The state attorney or the attorney designated by the state attorney shall represent the state in any proceeding in which the petition alleges dependency whenever a party denies the allegations of the petition and contests the adjudication.~~

(5)~~(6)~~ When a petition for dependency has been filed and the parents or custodians of the child have advised the protective investigation office that the truth of the allegations is acknowledged and that no contest is to be made of the adjudication, the *attorney for the department* ~~protective investigator~~ may set the case before the court for an adjudicatory hearing. ~~Neither the state attorney nor an assistant state attorney shall be required to be present at the adjudicatory hearing.~~ Should there be a change in the plea at this hearing, the court shall continue the hearing to permit the ~~state~~ attorney *for the department* to prepare and present the case ~~for the state~~.

Section 6. Subsections (6) and (8) of section 39.405, Florida Statutes, are amended to read:

39.405 Process and service.—

(6) It shall not be necessary to the validity of a proceeding covered by this part that the parents or legal custodians be present if their identity or residence is unknown after a diligent search and inquiry have been made, if they are residents of a state other than this state, or if they evade service or ignore a summons, but in this event the *attorney for the department shall file an affidavit prepared by the* person who made the search and inquiry ~~shall file in the case a certificate of those facts~~, and the court may appoint a guardian ad litem for the child. This subsection does not apply to a proceeding permanently to commit a child to a licensed child-placing agency or to the department for adoption placement or to a proceeding under the Uniform Child Custody Jurisdiction Act.

(8) Upon the application of a party~~, the state attorney,~~ or the petitioner, the clerk or deputy clerk shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, or other tangible objects at any hearing.

Section 7. Subsection (4) of section 39.408, Florida Statutes, is amended to read:

39.408 Hearings for dependency cases.—

(4) NOTICE OF HEARINGS.—The parent or legal custodian of the child, the *attorney for the* department, ~~the state attorney,~~ the guardian ad litem, and any other interested party shall be given reasonable notice of all hearings provided for under this section.

Section 8. Subsection (2) of section 39.413, Florida Statutes, is amended to read:

39.413 Appeal.—

(2) *An attorney for the department* ~~The Department of Legal Affairs or an attorney designated by the Department of Legal Affairs~~ shall represent the state and the court upon appeal and shall be notified of the appeal by the clerk when the notice of appeal is filed in the circuit court *by a party other than the department.*

Section 9. Subsection (3) of section 39.428, Florida Statutes, is amended to read:

39.428 Family mediation.—

(3) Each family mediator or member of a family mediation panel shall be selected by the district administrator in consultation with the ~~state attorney and with the~~ senior circuit court judge assigned to juvenile cases involving dependency. Whenever possible, qualified individuals who have volunteered their time to serve as mediators shall be appointed.

Section 10. Subsection (1) of section 39.431, Florida Statutes, is amended to read:

39.431 Family arbitrators.—

(1) Each family arbitrator or member of a family arbitration panel shall be selected by the chief judge of the circuit *and*~~,~~ the senior circuit court judge assigned to juvenile cases in the circuit~~, and the state attorney~~.

Section 11. Subsections (1) and (3) of section 39.436, Florida Statutes, are amended to read:

39.436 Petition for a child in need of services.—

(1) All proceedings seeking an adjudication that a child is a child in need of services shall be initiated by the filing of a petition by an *attorney for* ~~authorized agent of~~ the department. If a child in need of services has been placed in a shelter pursuant to s. 39.422, the petition shall be filed immediately and contain notice of arraignment pursuant to s. 39.44.

(3) The petition shall be in writing, shall state the specific grounds under s. 39.01(8) by which the child is designated a child in need of services, and shall certify that the conditions prescribed in subsection (2) have been met. The petition shall be signed by the petitioner under oath stating his good faith in filing the petition *and shall be signed by an attorney for the department.*

Section 12. Subsection (6) of section 39.437, Florida Statutes, is amended to read:

39.437 Process and service.—

(6) Upon the application of a party~~, the state attorney,~~ or the petitioner, the clerk or deputy clerk shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, or other tangible objects at any hearing.

Section 13. Subsections (1), (3), and (4) of section 39.438, Florida Statutes, are amended to read:

39.438 Response to petition and representation of parties.—

(1) At the time a petition is filed, *an attorney for* the department shall file a motion for the appointment of a guardian ad litem for the child.

(3) When a petition for a child in need of services has been filed and the parents, guardian, or legal custodian of the child and the child have advised the intake office that the truth of the allegations is acknowledged and that no contest is to be made of the adjudication, the *attorney for the department* ~~intake officer~~ may set the case before the court for an adjudicatory hearing. ~~Neither the state attorney nor an assistant state attorney is required to be present at the adjudicatory hearing.~~ If there is a change in the plea at this hearing, the court shall continue the hearing to permit the ~~state~~ attorney *for the department* to prepare and present the case ~~for the state~~.

(4) *An attorney for the department* ~~The state attorney or the attorney designated by the state attorney~~ shall represent the state in any proceeding in which the petition alleges that a child is a child in need of services and in which a party denies the allegations of the petition and contests the adjudication.

Section 14. Subsection (1) of section 39.461, Florida Statutes, is amended to read:

39.461 Petition for termination of parental rights.—

(1) All proceedings seeking an adjudication to terminate parental rights shall be initiated by the filing of an original petition by an *attorney for* ~~authorized agent of~~ the department, or by any other person who has knowledge of the facts alleged or is informed of them and believes that they are true, or shall be initiated pursuant to s. 39.464.

Section 15. Subsection (2) of section 39.473, Florida Statutes, is amended to read:

39.473 Appeal.—

(2) *An attorney for the department* ~~The Department of Legal Affairs or any attorney designated by the Department of Legal Affairs~~ shall represent the state ~~and the court~~ upon appeal and shall be notified of the appeal by the clerk when *a* ~~the~~ notice of appeal is filed in the circuit court *by a party other than the department.*

Section 16. Subsection (3) of section 287.059, Florida Statutes, is amended to read:

287.059 Private legal services.—

(3) This section does not apply to contracts for:

(a) Legal services entered into by the Department of Health and Rehabilitative Services for child support enforcement pursuant to s. 409.2557;

~~(b) Child dependency or termination of parental rights under chapter 39;~~

(a)~~(c)~~ Services to be provided by legal services organizations to indigent clients;

(b)~~(d)~~ Legal services necessary to represent the state in litigation involving the Florida Casualty Insurance Risk Management Trust Fund pursuant to part II of chapter 284; or

(c)~~(e)~~ Contracts for legal services entered into by the Board of Regents for defense of comprehensive general liability claims, including professional liability claims, which are covered by the self-insurance programs created pursuant to s. 240.213.

Section 17. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, lines 2-10, strike all of lines and insert: An act relating to legal services for the Department of Health and Rehabilitative Services; amending s. 39.01, F.S.; revising the definition of "protective investigator"; creating s. 39.014, F.S.; providing for legal representation for cases arising under chapter 39, F.S.; providing for oversight by the Attorney General of legal services provided to the department under chapter 39, F.S.; amending s. 39.402, F.S.; revising specified procedure with respect to placement of a child in a shelter; providing for attorneys for the department rather than the state attorney to take certain actions; amending ss. 39.403, 39.408, 39.428, 39.431, 39.436, 39.437, and 39.438, F.S.; deleting references to the state attorney and providing for attorneys for the department rather than the state attorney to take certain action, to conform; amending s. 39.404, F.S.; providing for attorneys for the department rather than the state attorney to initiate dependency proceedings; deleting requirements that the state attorney assist specified petitioners and that the state attorney represent the state in contested dependency actions; amending s. 39.405, F.S.; providing for certain affidavits to be filed by an attorney for the department; deleting references to the state attorney; amending s. 39.413, F.S.; providing for attorneys for the department rather than the Department of Legal Affairs to represent the state in certain appeals; amending s. 39.461, F.S.; providing for the attorney for the department to file petitions for termination of parental rights; amending s. 39.473, F.S.; providing for attorneys for the department rather than the Department of Legal Affairs to represent the state in certain appeals; amending s. 287.059, F.S.; providing for review of contracts for legal services for child dependency and termination of parental rights cases under chapter 39, F.S., by the Attorney General; providing an effective date.

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

SB 1594 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—32 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 1648 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1648—A bill to be entitled An act relating to energy efficiency contracting; creating s. 235.215, F.S.; providing definitions; authorizing public school districts to enter into guaranteed energy savings contracts and providing requirements therefor; providing for contract provisions, school district action, installation contracts, and contract continuance; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 1, line 13, insert:

Section 1. Subsection (1) of section 235.42, Florida Statutes, is amended to read:

235.42 Educational and ancillary plant construction funds; Public Education Capital Outlay and Debt Service Trust Fund; allocation of funds.—

(1) The commissioner, through the office, shall administer the Public Education Capital Outlay and Debt Service Trust Fund. The commissioner shall allocate or reallocate funds as authorized by the Legislature. Copies of each allocation or reallocation shall be provided to members of the State Board of Education and to the chairmen of the House of Representatives and Senate Appropriations Committees. The commissioner shall provide for timely encumbrances of funds for duly authorized projects. *Encumbrances may include proceeds to be received under a resolution approved by the State Board of Education authorizing the issuance of public education capital outlay bonds pursuant to s. 9(a)(2), Art. XII of the State Constitution, s. 215.61, and other applicable law.* The commissioner shall provide for the timely disbursement of moneys necessary to meet the encumbrance authorizations of the boards, including the Board of Regents. Records shall be maintained by the office to identify legislative appropriations, allocations, encumbrance authorizations, disbursements, transfers, investments, sinking funds, and revenue receipts by source. The Department of Education shall pay the administrative costs of the Public Education Capital Outlay and Debt Service Trust Fund from the funds which comprise the trust fund.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, lines 2-3, strike all of said lines and insert: An act relating to educational facilities; amending s. 235.42, F.S.; providing that encumbrances of funds for authorized public education capital outlay projects may include proceeds to be received under a resolution approved by the State Board of Education authorizing the issuance of public education capital outlay bonds; creating s. 235.215, F.S.;

House Amendment 2—On page 3, line 3, and on page 4, lines 1, 3 and 15, after "district" insert: , state community college, or state university

House Amendment 3 (with Title Amendment)—On page 5, between lines 2 and 3, insert:

Section 2. Section 553.903, Florida Statutes, is amended to read:

553.903 Applicability.—This part shall apply to all new and renovated buildings in the state, except exempted buildings, for which building permits are obtained after March 15, 1979, *and to the installation or replacement of building systems and components with new products for which thermal efficiency standards are set by the Florida Energy Efficiency Code for Building Construction.* The provisions of this part shall constitute a statewide uniform code. The criteria for compliance shall include the provision that the performance level of a building built to such thermal performance standards shall not vary more than 5 percent as a result of choice of energy source.

Section 3. Section 553.904, Florida Statutes, is amended to read:

553.904 Thermal efficiency standards for new nonresidential buildings.—Thermal designs and operations for new nonresidential buildings for which building permits are obtained after March 15, 1979, shall *at a minimum* take into account exterior envelope physical characteristics, including thermal mass; HVAC, service water heating, energy distribution, lighting, energy managing, and auxiliary systems design and selection; and HVAC, service water heating, energy distribution, lighting, energy managing, and auxiliary equipment performance and shall not be required to meet standards more stringent than the provisions of the Florida Energy Efficiency Code for Building Construction.

Section 4. Section 553.905, Florida Statutes, is amended to read:

553.905 Thermal efficiency standards for new residential buildings.—Thermal designs and operations for new residential buildings for which building permits are obtained after March 15, 1979, shall *at a minimum* take into account exterior envelope physical characteristics, HVAC system selection and configuration, HVAC equipment performance, and service water heating design and equipment selection and shall not be required to meet standards more stringent than the provisions of the Florida Energy Efficiency Code for Building Construction. All new residential buildings, except those herein exempted, shall have insulation in ceilings rated at R-19 or more, space permitting. Thermal efficiency standards do not apply to a building of less than 1,000 square feet which is not primarily used as a principal residence and which is constructed and owned by a natural person for hunting or similar recreational purposes; however, no such person may build more than one exempt building in any 12-month period.

Section 5. Section 553.9085, Florida Statutes, is amended to read:

553.9085 Energy performance disclosure for residential buildings.—The energy performance level resulting from compliance with the provisions of this part, for each new residential building, shall be *disclosed at the request of the prospective purchaser* ~~prominently displayed on the building until time of sale~~. In conjunction with the normal responsibilities and duties of this part, the local building official shall require that a complete and accurate energy performance level display card be *completed and certified by the builder as accurate and correct* ~~placed on the building by the building department~~ before final approval of the building for occupancy. *The energy performance level display card shall be included as an addendum to each sales contract executed after January 1, 1993.* The display card shall be uniform statewide and developed by the Department of Community Affairs. At a minimum, the display card shall list information indicating the energy performance level of the dwelling unit, including an EPI when appropriate, resulting from compliance with the code, shall be signed by the builder ~~and local enforcement agency~~, and shall list general information about the energy performance level and the code.

Section 6. Subsection (3) of section 553.909, Florida Statutes, is renumbered as subsection (4), and a new subsection (3) is added to said section to read:

553.909 Setting requirements for appliances; exceptions.—

(3) The Florida Energy Efficiency Code for Building Construction may include standards for other appliances and energy-using systems if they are determined by the department to have a significant impact on the energy use of the building and if they are cost-effective to the consumer.

Section 7. Subsection (8) of section 553.955, Florida Statutes, is amended to read:

553.955 Definitions.—For purposes of this part:

(8) "Energy conservation standard" means:

(a) A performance standard which prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a covered product, determined in accordance with applicable test procedures; or

(b) A design requirement for the products specified in s. 553.957; *or* ~~and~~

(c) A testing and rating requirement for the products specified in s. 553.957; and

includes any other requirements which the department may prescribe.

Section 8. Part XI of chapter 553, Florida Statutes, consisting of sections 553.990, 553.991, 553.992, 553.993, 553.994, 553.995, 553.996, 553.997, and 553.998, is created to read:

553.990 Short title.—This part may be cited as the "Florida Building Energy-Efficiency Rating Act."

553.991 Purpose.—The purpose of this part is to provide for a statewide uniform system for rating the energy efficiency of buildings and to ensure that those ratings are disclosed to prospective purchasers at their request. It is in the interest of the state to encourage the consideration of the energy-efficiency rating system in the market so as to provide market rewards for energy-efficient buildings and to those persons or companies designing, building, or selling energy-efficient buildings.

553.992 Adoption of rating system.—The Department of Community Affairs shall adopt, update, and maintain a statewide uniform building energy-efficiency rating system to implement the provisions of this part and amendments thereto in accordance with the procedures of chapter 120.

553.993 Definitions.—For purposes of this part:

(1) "Acquisition" means to gain the sole or partial use of a building through a purchase agreement.

(2) "Builder" means the primary contractor who possesses the requisite skill, knowledge, and experience, and has the responsibility, to supervise, direct, manage, and control the contracting activities of the business organization with which he is connected and who has the responsibility to supervise, direct, manage, and control the construction work on a job for which he has obtained the building permit. Construction work includes, but is not limited to, foundation, framing, wiring, plumbing, and finishing work.

(3) "Designer" means the architect, engineer, landscape architect, builder, interior designer, or other person who performs the actual design work or under whose direct supervision and responsible charge the construction documents are prepared.

(4) "New building" means commercial occupancy buildings permitted for construction after January 1, 1994, and residential occupancy buildings permitted for construction after January 1, 1993.

(5) "Public building" means a building comfort-conditioned for occupancy that is owned or leased by the state, a state agency, or a governmental subdivision, including, but not limited to, a city, county, or school district.

553.994 Applicability.—The rating system shall apply to all new and existing public, commercial, and residential buildings in the state, except as identified by the department by rule in accordance with the procedures of chapter 120, and shall be established according to the following schedule:

(1) For new residential buildings, by January 1, 1993.

(2) For existing residential buildings, by January 1, 1994.

(3) For new public buildings, by January 1, 1993

(4) For existing public buildings, by July 1, 1993.

(5) For new commercial buildings, by January 1, 1994.

(6) For existing commercial buildings, by January 1, 1995.

553.995 Energy-efficiency ratings for buildings.—

(1) The energy-efficiency rating system shall at a minimum:

(a) Provide a uniform rating scale of the efficiency of buildings based on annual energy usage.

(b) Take into account local climate conditions, construction practices, and building use.

(c) Be compatible with standard federal rating systems and state building codes and standards, where applicable, and shall satisfy the requirements of s. 553.9085 with respect to residential buildings and s. 255.256 with respect to state buildings.

(2) The energy-efficiency rating system adopted by the department shall provide a means of analyzing and comparing the relative energy efficiency of buildings upon the sale of new or existing residential, public, or commercial buildings. The system shall provide for rating each existing public building to assist public officials in decisionmaking with respect to capital improvements and public energy costs.

(3) The department shall establish a voluntary working group of persons interested in the energy-efficiency rating system or energy efficiency, including, but not limited to, such persons as electrical engineers, mechanical engineers, architects, public utilities, and builders. The interest group shall advise the department in the development of the energy-efficiency rating system and shall assist the department in the implementation of the rating system by coordinating educational programs for designers, builders, businesses, and other interested persons to assist compliance and to facilitate incorporation of the rating system into existing practices.

(4) The department shall develop a training and certification program to certify raters. In addition to the department, ratings may be conducted by any local government or private entity, provided that the appropriate persons have completed the necessary training and have been certified by the department. The Department of General Services shall rate state-owned or state-leased buildings, provided that the appropriate persons have completed the necessary training and have been certified by the Department of Community Affairs. The Department of Community Affairs may charge a fee not to exceed the costs for the training and certification of raters. The department shall by rule set the appropriate charges for raters to charge for energy ratings, not to exceed the actual costs.

553.996 Energy-efficiency rating disclosure; information brochure.—

(1)(a) In accordance with the schedules in s. 553.994, contracts for sale and purchase of real property with a building for occupancy located thereon shall contain a notice to the prospective purchaser that the purchaser, at the purchaser's expense, may have the building's energy-efficiency rating determined.

(b) The energy-efficiency rating of a new residential or commercial building shall be provided as a component of the sales contract.

(2) Concurrent with the provisions of subsection (1), the prospective purchaser shall be provided with a copy of an information brochure prepared by the department which includes information relevant to that class of building, including, but not limited to:

(a) How to analyze the building's energy-efficiency rating.

(b) Comparisons to statewide averages for new and existing construction of that class.

(c) Information concerning methods to improve the building's energy-efficiency rating.

(d) A notice to residential purchasers that the energy-efficiency rating may qualify the purchaser for an energy-efficient mortgage from lending institutions.

553.997 Public buildings.—

(1) Each public building proposed for construction, renovation, or acquisition shall be rated pursuant to the energy-efficiency rating system provided in s. 553.995 prior to contracting for construction, renovation, or acquisition. The public body proposing to contract for construction, renovation, or acquisition of a public building shall consider the energy-efficiency rating when comparing contract alternatives, notwithstanding the provisions of s. 255.254.

(2) The department, together with other state agencies having building construction and maintenance responsibilities, shall make available energy-efficiency practices information to be used by individuals involved in the design, construction, retrofitting, and maintenance of buildings for state and local governments.

553.998 Compliance.—All ratings shall be determined using tools and procedures adopted by the department by rule in accordance with chapter 120 and shall be certified by the rater as accurate and correct and in compliance with procedures adopted by the department by rule in accordance with chapter 120.

Section 9. Subsection (4) of section 553.963, Florida Statutes, is amended to read:

553.963 Energy conservation standards.—

(4) STANDARDS FOR OTHER COVERED PRODUCTS.—

(a) The department may prescribe an energy conservation standard for any type or class of covered products of a type specified in s. 553.957, except where precluded by federal law, if the department determines that:

1. The average per occupancy energy use within this state *resulting from performance of* ~~by~~ products of such type or class exceeded *80* ~~150~~ kilowatt-hours or its Btu equivalent for any 12 calendar-month period ending before such determination; and

2. Substantial improvement in the energy efficiency of products of such type or class is technologically feasible.

(b) The department may prescribe an energy conservation testing and rating standard for any type or class of covered products of a type specified in s. 553.957 if the department determines that the certifications to the state and uniform product labeling required by this part will improve the enforceability of the code.

(c) ~~(b)~~ Any new or amended standard for covered products of a type specified in s. 553.957(1)(d) shall not apply to products manufactured within 2 years after the publication of a final rule establishing such standard.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, strike lines 2-10, and insert: An act relating to energy efficiency; creating s. 235.215, F.S.; providing definitions; authorizing public school districts to enter into guaranteed energy savings contracts and providing requirements therefor; providing for contract provisions, school district action, installation contracts, and contract continuance; amending ss. 553.903, 553.904, and 553.905, F.S.; providing applicability of thermal efficiency standards to products covered by the Florida Energy Efficiency Code for Building Construction; amending s. 553.9085, F.S.; requiring energy performance levels for new residential buildings to be disclosed upon request by prospective purchasers; requiring the energy performance level display card to be signed, completed, and certified by the builder as accurate and correct and included as an addendum to each sales contract; amending ss. 553.909 and 553.963, F.S.; modifying certain energy conservation standards; authorizing inclusion of standards for certain additional appliances in the energy efficiency construction code; amending s. 553.955, F.S.; redefining the term "energy conservation standard"; creating part XI of chapter 553, F.S., the Florida Building Energy-Efficiency Rating Act; requiring the Department of Community Affairs to develop and maintain a statewide uniform energy-efficiency rating system for new and existing buildings to encourage the consideration of the energy-efficiency rating in the market and provide market rewards for energy-efficient buildings; providing definitions and applicability; providing rating system schedules for the different classes of buildings; providing minimum requirements of the system; providing for an interest group of volunteers to advise and assist the department; providing for training and certification of raters, including a fee therefor; providing for rating disclosure and supplemental information; providing for compliance; providing an effective date.

House Amendment 4—On page 3, line 8, after "*s. 287.055*" insert: ; except that in a case where a school district determines that fewer than three firms are qualified to perform the required services, the requirement for agency selection of three firms, as provided in s. 287.055(4)(b), shall not apply

House Amendment 5—On page 3, lines 10 and 27, and on page 4, lines 20 and 27, and on page 5, lines 1 and 2, after "board" insert: , state community college, or state university

House Amendment 6 (with Title Amendment)—On page 2, line 25, after "school" insert: , state community college, or state university

And the title is amended as follows:

On page 1, lines 5-8, strike all of said lines and insert: school districts, state community colleges, or state universities to enter into guaranteed energy savings contracts and providing requirements therefor; providing for contract provisions, school district, state community college, or state university action,

On motions by Senator Scott, the Senate concurred in **House Amendments 1, 2, 4, 5** and **6**; and refused to concur in **House Amendment 3** and the House was requested to recede.

CS for SB 1648 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 1700 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1700—A bill to be entitled An act relating to the Children's Services Council of Palm Beach County created pursuant to chapter 125, Florida Statutes; providing for the exemption of said council from the provisions of part III of chapter 163, Florida Statutes, relating to the payment of fees, taxes, or increment revenue to community redevelopment agencies created pursuant to part III of chapter 163, Florida Statutes; providing for severability; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 2, between lines 8-9, insert:

Section 3. This act shall be repealed on July 1, 1993.

(Renumber subsequent section)

And the title is amended as follows:

On page 1, line 11, after the semicolon insert: providing for repeal on July 1, 1993;

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

SB 1700 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 1720 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1720—A bill to be entitled An act relating to corrections; amending s. 20.315, F.S.; transferring legal services in the Department of Corrections from the Office of Management and Budget to the secretary; renaming the Community Services Program Office the Probation and Parole Program Office; transferring program evaluation responsibilities from the Office of Management and Budget to the Assistant Secretary for Programs; transferring staff development from the Office of Programs to the Office of Management and Budget; repealing an obsolete provision; amending s. 944.17, F.S.; requiring agencies to release records relating to inmate custody classification to the Department of Corrections under certain circumstances; amending s. 922.10, F.S.; providing for anonymity of the executioner; providing for open government sunset review; amending s. 944.702, F.S.; providing intent relating to the Transition Assistance Program Act; amending s. 944.703, F.S.; amending the time period within which the department must confirm certain information; amending s. 944.704, F.S.; deleting the title of transition assistance coordinator and specifying the duties of staff who provide such assistance; amending s. 944.705, F.S.; deleting requirements relating to the release orientation program; amending s. 944.706, F.S.; eliminating provisions of basic release assistance; amending s. 944.707, F.S.; eliminating certain postrelease services; amending s. 944.277, F.S.; expanding exceptions to eligibility for grants of provisional credits and authorizing use of certain information in determining eligibility for provisional credits; requiring the Department of Corrections to deliver a report to the Legislature; specifying what is to be considered in the report; authorizing the department to use sole-source contracted services; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 16, lines 21-31, strike all of said lines and insert:

(8) Any other corrections objectives contained in Senate Bill 1712 and House Bill 1989 as introduced in the 1992 regular session of the Legislature.

In view of the time limitations imposed by this section, the department, in its discretion, may use sole-source contracted services to assist in the development of the report required by this section.

Section 12. Effective October 1, 1992, subsection (6) of section 947.1405, Florida Statutes, is amended to read:

947.1405 Conditional release program.—

(6) Upon receipt of notice as required under s. 947.175, the commission shall conduct a review of the inmate's record for the purpose of establishing the terms and conditions of the conditional release. The commission may impose any special conditions it considers warranted from its review of the record. If the commission determines that the inmate is eligible for release under this section, the commission shall enter an order establishing the length of supervision and the conditions attendant thereto. *However, an inmate who has been convicted of a violation of chapter 794 is subject to the maximum level of supervision provided, and that supervision shall continue through the end of the releasee's original court-imposed sentence.* The length of supervision must not exceed the maximum penalty imposed by the court.

Section 13. Subsections (4), (7), and (12) of section 947.146, Florida Statutes, are amended to read:

947.146 Control Release Authority.—

(4) A panel of no fewer than two members of the authority shall establish a control release date for each parole ineligible inmate committed to the department *and incarcerated within the state,* within 90 days following notification by the department of receipt of the inmate, except an inmate who:

(a) Is serving a sentence which includes a mandatory minimum provision for a capital offense or drug trafficking offense and has not served the number of days equal to the mandatory minimum term less any jail-time credit awarded by the court;

(b) Is serving the mandatory minimum portion of *a* sentence enhanced under s. 775.087(2);

(c) Is convicted, or has been previously convicted, of committing or attempting to commit sexual battery, incest, or any of the following lewd or indecent assaults or acts: masturbating in public; exposing the sexual organs in a perverted manner; or nonconsensual handling or fondling of the sexual organs of another person;

(d) Is convicted, or has been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, or aggravated battery, and a sex act was attempted or completed during commission of such offense;

(e) Is convicted, or has been previously convicted, of committing or attempting to commit kidnapping, burglary, or murder, and the offense was committed with the intent to commit sexual battery;

(f) Is convicted, or has been previously convicted, of committing or attempting to commit false imprisonment upon a child under the age of 13 and, in the course of committing the offense, the inmate committed aggravated child abuse, sexual battery against the child, or a lewd, lascivious, or indecent assault or act upon or in the presence of the child;

(g) Is sentenced, or has previously been sentenced under s. 775.084, or has been sentenced at any time in another jurisdiction as a habitual offender;

(h) Is convicted, or has been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, aggravated battery, kidnapping, manslaughter, or murder against an officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9), against a state attorney or assistant state attorney; or against a justice or judge of a court described in Article V of the State Constitution; or against an officer, judge, or state attorney employed in a comparable position by any other jurisdiction; or

(i) Is convicted, or has been previously convicted, of committing or attempting to commit murder in the first, second, or third degree under s. 782.04(1), (2), (3), or (4), or has ever been convicted of any degree of murder in another jurisdiction.

(7) The authority *has* ~~shall have~~ the power and duty to:

(a) Extend or advance the control release date of any inmate for whom a date has been established, based upon:

1. Recently discovered information of:

a. Past criminal conduct;

b. Verified threats by inmates provided by victims, law enforcement, or the department;

c. History of abuse or addiction to a chemical substance verified by a presentence or postsentence investigation report;

d. The inmate's ties to organized crime;

e. A change in the inmate's sentence structure;

f. Cooperation with law enforcement;

g. Strong community support; and

h. A documented mental condition as a factor for future criminal behavior.

2. The recommendation of the department regarding:

a. A medical or mental health-related condition; or

b. Institutional adjustment of the inmate, which may include refusal by the inmate to sign the agreement to the conditions of the release plan; or

3. Lawful capacity of the state prison system.

(b) Determine the terms, conditions, and period of time of control release for persons released pursuant to this section.

(c) Determine violations of control release and what actions shall be taken with reference thereto.

(d) Provide for victim input into the decisionmaking process for placing persons on control release.

(e) Make such investigations as may be necessary for the purposes of establishing, modifying, or revoking a control release date.

(f) Contract with a public defender or private counsel for representation of indigent persons charged with violating the terms of control release.

(g) Create a periodic review process for inmates whose original control release dates are established at the maximum category.

(h)~~(g)~~ Adopt such rules as the authority deems necessary for implementation of the provisions of this section.

(12) If it is discovered that any control releasee was placed on control release *by error or* while statutorily ineligible for such release, his order of control release may be vacated and the Control Release Authority may cause a warrant to be issued for the arrest and return of the control releasee to the custody of the Department of Corrections for service of the unserved portion of his sentence or combined sentences.

Section 14. Section 947.149, Florida Statutes, is created to read:

947.149 Conditional medical release.—

(1) The commission shall, in conjunction with the department, establish the conditional medical release program. An inmate is eligible for consideration for release under the conditional medical release program when the inmate, because of an existing medical or physical condition, is determined by the department to be within one of the following designations:

(a) "Permanently incapacitated inmate," which means an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate permanently and irreversibly physically incapacitated to the extent that he does not constitute a danger to himself or others.

(b) "Terminally ill inmate," which means an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate terminally ill to the extent that there can be no recovery and death is imminent, so that the inmate does not constitute a danger to himself or others.

(2) Notwithstanding any provision to the contrary, any person determined eligible under this section and sentenced to the custody of the department may, upon referral by the department, be considered for conditional medical release by the commission, in addition to any parole consideration for which the inmate may be considered, except that conditional medical release is not authorized for an inmate who is awaiting execution. No inmate has a right to conditional medical release.

(3) The authority and whether or not to grant conditional medical release and establish additional conditions of conditional medical release rests solely within the discretion of the commission, in accordance with the provisions of this section, together with the authority to approve the release plan to include necessary medical care and attention. The department shall identify inmates who may be eligible for conditional medical release, based upon available medical information, and shall refer them to the commission for consideration. In considering an inmate for conditional medical release, the commission may require that additional medical evidence be produced or that additional medical examinations be conducted, and may require such other investigations to be made as may be warranted.

(4) The conditional medical release term of an inmate released on conditional medical release is for the remainder of the inmate's sentence, without diminution of sentence for good behavior. Supervision of the medical releasee must include periodic medical evaluations at intervals determined by the commission at the time of release.

(5)(a) If it is discovered during the conditional medical release that the medical or physical condition of the medical releasee has improved to the extent that he would no longer be eligible for conditional medical release under this section, the commission may order that the releasee be returned to the custody of the department for a conditional medical release revocation hearing, in accordance with s. 947.141. If conditional medical release is revoked due to improvement in the releasee's medical or physical condition, he shall serve the balance of his sentence with credit for the time served on conditional medical release and without forfeiture of any gain-time accrued prior to conditional medical release. If the person whose conditional medical release is revoked due to an improvement in medical or physical condition would otherwise be eligible for parole or any other release program, he may be considered for such release program pursuant to law.

(b) In addition to revocation of conditional medical release pursuant to paragraph (a), conditional medical release may also be revoked for violation of any condition of the release established by the commission, in accordance with s. 947.141, and the releasee's gain-time may be forfeited pursuant to s. 944.28(1).

(6) The department and the commission shall adopt rules as necessary to implement the conditional medical release program.

Section 15. *(1) It is the intent of the Legislature to find ways to limit the costs of inmate medical care and increase the efficiency and effectiveness of the correctional process with respect to the increasing older inmate population and adult inmates with chronic health care needs in order to reserve prison beds for violent and habitual offenders.*

(2) For purposes of effectuating the intent stated in subsection (1), the Department of Corrections shall undertake a planning process designed to achieve optimum management of the prison population with respect to older inmates and adult inmates with chronic health care needs. At a minimum, the planning process must include:

(a) An integrated review of the status of the existing adult prison population with regard to the factors of age, health, projected health care needs, and level of risk for violence or escape, and how these factors interact to impact each other.

(b) A review of the mechanisms used to manage the incarceration of adult prisoners with chronic health care needs.

(c) A review of alternatives to maintaining adult prisoners with chronic health care needs in traditional prison settings.

(d) A feasibility study regarding a proposed pilot project which uses an available state-owned facility as an alternative setting to house adult inmates with extensive chronic health care needs. The study shall address the following areas: facility conversion costs; staffing costs; location; eligibility criteria; program description; cost tracking system; anticipated cost savings; and other related areas.

(e) A summary and comparison of the anticipated short-term and long-term costs of continuing traditional prison maintenance of adult prisoners with extensive chronic health care needs versus the alternative presented by the proposed pilot project in paragraph (d).

(f) An analysis of the viability of the use of privatization for incarcerating adult prisoners with chronic health care needs.

(3) The Department of Corrections shall provide a report of its findings and recommendations to the President of the Senate and the Speaker of the House of Representatives no later than December 1, 1992.

Section 16. Section 946.520, Florida Statutes, is created to read:

946.520 Correctional Work Programs.—

(1) Notwithstanding any other provisions of the law, the department or the non-profit corporation established pursuant to s. 946.504(1) is authorized to contract with the private sector for substantial involvement in a prison industry program, which may include the operation of a direct private sector business within a prison and the hiring of inmate workers. Any contract authorized by this section shall be in compliance with federal law and as of the date of the establishment of the program shall not result in the significant displacement of employed workers in the community.

(2) Any prison industry program established under this section which involves the manufacturing of a finished product from raw materials shall not result in any displacement of employed workers in the state.

(3) The purposes and objectives of this program are to:

(a) Increase benefits to the public by reimbursement to the state for a portion of the costs of incarceration.

(b) Provide purposeful work for inmates as a means of reducing tensions caused by overcrowding.

(c) Increase job skills.

(d) Provide additional opportunities for rehabilitation of inmates who are otherwise ineligible to work outside the prisons, such as close custody inmates.

(e) Develop and establish new models for prison-based businesses which create jobs approximating conditions of private sector employment.

(f) Draw upon the economic base of operations for disposition to the Crimes Compensation Trust Fund.

(g) Substantially involve the private sector with its capital, management skills, and expertise in the design, development, and operation of business.

(h) Provide the financial basis for an inmate to contribute to the support of his family.

(i) Provide for payment of state and federal taxes on an inmate's wages, which are paid at the rate of the prevailing or minimum wage rate.

(j) Provide savings for the inmate to have available for his use upon his eventual release from prison.

(4) If the non-profit corporation established pursuant to s. 946.504(1) has not implemented this program within three years after the effective date of this section, the authority granted under this section is then granted to the Department of Corrections and the department shall implement this program at that time.

Section 17. Subsection (5) of Section 946.515, Florida Statutes, is amended to read:

946.515 Use of goods and services produced in correctional work programs.—

(5) In addition, the corporation may contract to provide inmate services or inmate goods to private enterprise *or joint venture with private business entities pursuant to s. 946.520* where such services or goods are under the direct supervision of the corporation and, further, where it is determined by the Governor that such services or goods do not unreasonably compete with other businesses in this state.

Section 18. Section 946.5027, Florida Statutes, is created to read:

946.5027 Recycling permitted; sale of recycled materials.—

(1) The corporation established pursuant to s. 946.504(1) is authorized to enter into contracts pursuant to s. 946.520 with any waste collection system in this state to obtain materials suitable for recycling.

(2) Pursuant to s. 946.520, the product resulting from such recycled materials, including but not limited to tree mulch, plastics, aluminum, glass and styrofoam may be sold to private entities or may be sold or disposed of as provided in s. 946.515(1) and (2).

(3) The provisions of ss. 946.21 and 946.518 do not apply to this section.

Section 19. Section 944.471, Florida Statutes, is created to read:

944.471 Short title.—This act may be cited as the "Drug-Free Corrections Act of 1992."

Section 20. Section 944.472, Florida Statutes, is created to read:

944.472 Drug-free corrections; legislative findings and purposes.—

(1) FINDINGS.—The Legislature finds that:

(a) Inmate substance abuse can cause a multitude of security and programmatic problems, including staff corruption, development of an unsafe and unproductive workplace, and the inability of inmate substance abusers to profit from vocational, educational, and substance abuse treatment programs.

(b) Maintaining a healthy and productive corrections work force with safe conditions free from the effects of substance abuse is important to correctional employers, employees, inmates, and the public.

(c) Certain substance abuse testing standards are necessary to ensure uniform and economical application of policy throughout the state's institutions and to protect both inmates and employers participating in random substance abuse testing programs.

(d) In balancing the interests of correctional employers, employees, inmates, and the public, it is in the best interest of all concerned to establish standards to ensure uniform, fair, economical, and accurate substance abuse testing in the state correctional system.

(2) PURPOSES.—The purposes of this act are to:

(a) Promote the goal of a drug-free correctional system through fair, economical, and reasonable methods of random substance abuse testing of inmates for the protection of inmates, employees, employers, and the public.

(b) Establish an aggressive, routine random substance abuse testing program to identify substance-abusing inmates, determine appropriate treatment, and provide a strong deterrent to future substance abuse.

Section 21. Section 944.473, Florida Statutes, is created to read:

944.473 Inmate substance abuse testing program.—

(1) RULES AND PROCEDURES.—The department shall establish a program for random drug and alcohol testing for inmates to effectively identify those inmates abusing drugs, alcohol, or both. The department shall also adopt rules relating to fair, economical, and accurate operations

and procedures of a random inmate substance abuse testing program which enumerate penalties for positive test results, including but not limited to the forfeiture of both basic and incentive gain-time, and which do not limit the number of times an inmate may be tested in any one fiscal or calendar year.

(2) SUBSTANCE ABUSE TREATMENT PROGRAMS.— If substance abuse treatment is requested by an inmate, the department shall place the inmate in a substance abuse treatment program, if available and appropriate.

(3) REPORTING REQUIREMENT.—The department shall, as part of its annual report, report the number of random substance abuse tests administered in the fiscal year, the number of positive results obtained, the number of negative results obtained, the number of inmates requesting and participating in substance abuse treatment programs as the result of a positive random substance abuse test, and the number of repeat substance abuse offenders.

Section 22. Subsections (7), (8), (9), (10), and (11) are added to section 242.68, Florida Statutes, to read:

242.68 Education for state prisoners; Correctional Education School Authority; Board of Correctional Education.—

(7)(a) The Board of Correctional Education may enter into contracts with private postsecondary educational institutions to provide educational services, funded from federal grants, within correctional facilities in the state correctional system. A private institution may not provide onsite educational services to inmates without a written contract with the board. The term of the contract may not exceed 1 year, but the contract may be renewed one or more times.

(b) Any private postsecondary educational institution that operates under a contract with the Board of Correctional Education shall be licensed by the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools. Each instructor shall meet minimum qualifications to be established by the Board of Correctional Education. Any other employee of the private educational institution who performs duties at the correctional facility shall receive, at a minimum, the same quality and amount of training as that required for an employee of an education program operated by the Board of Correctional Education. The private educational institution is responsible for the expenses incurred in complying with requirements for training its instructors and employees.

(8) Notwithstanding the purchasing requirements pursuant to s. 287.017(1), s. 287.057 applies to any contract between the Board of Correctional Education and a private postsecondary education institution and such contract shall be awarded by competitive sealed bidding. The board shall adopt rules under chapter 120 that specify criteria for contract agreements and standards for operating correctional education programs. Such rules and standards shall include:

(a) Requirements for course offerings and course lengths, taking into consideration the likelihood of an inmate to complete the course, the marketability of the skills taught in the course, and the likelihood of an inmate to return to society and benefit from the instruction received.

(b) Conditions under which a private educational institution may employ inmate labor.

(c) Security requirements.

(d) Testing procedures and requirements.

(e) Requirements for issuing certificates and diplomas.

(f) Requirements for documenting student attendance.

(g) Requirements for recruiting and screening students. The board and the Department of Corrections shall develop and implement a formal screening process to determine which inmates may be admitted to an education program. The screening process shall include assessment of the inmate's sentence length, probability of transfer or reassignment, and probability for early release. An inmate may not enroll in an education program administered by the board if the inmate is serving under sentence of death or any life sentence without eligibility for parole or release.

(h) Hours of instruction.

(i) Staff qualifications and staffing level requirements.

(j) Federal grant payment and refund requirements. The private educational institution shall return the federal aid refund due to the Federal Government within 30 days after the student's last date of attendance or the date the school discovers that the student has withdrawn. The private educational institution shall compile attendance daily and shall determine within 5 academic days after the student's last date of attendance that the student has withdrawn. A private educational institution may not submit a payment request for federal grant funding for any inmate who withdraws from a course within the first 10 academic days after enrollment.

(k) Requirements for setting tuition fees and using in-kind contributions. In establishing fees, a private educational institution shall use a tuition fee that is competitive with the tuition fees for similar programs and courses offered in the private sector and shall consider resources provided by the Correctional Education School Authority and the Department of Corrections.

(l) Requirements for purchasing supplies and equipment.

(m) Requirements for maintaining equipment.

(n) Requirements for compiling and reporting placement statistics for former inmates. Each private educational institution shall annually submit to the Department of Education a list of inmates who have completed a course or program conducted by the institution. The Department of Education shall determine which inmates have been released and shall calculate placement statistics.

(9) The State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools may investigate any complaint or suspected violation of its rules adopted under ss. 246.201-246.231 by a private postsecondary educational institution operating under a contract with the Board of Correctional Education.

(10) Each private postsecondary educational institution shall submit a report to the Board of Correctional Education by March 1 of each year that documents the institution's adherence to its contract, its compliance with rules, procedures, and performance standards established by the Board of Correctional Education, and its compliance with rules adopted under ss. 246.201-246.231. The report shall include an independently audited financial statement.

(11) If the Board of Correctional Education finds that a private postsecondary educational institution is not in compliance with any provision of this section, it shall submit a notice of noncompliance to the institution; shall submit a complaint to the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools under s. 246.226; shall provide notice to the institution to correct the deficiencies within 30 days; and may terminate the institution's contract if the institution has not come into compliance at the end of the 30-day period.

Section 23. Subsection (1) of section 246.203, Florida Statutes, is amended to read:

246.203 Definitions.—As used in ss. 246.201-246.231, unless the context otherwise requires:

(1) "School" means any nongovernmental, postsecondary, vocational, technical, trade, or business noncollegiate educational institution, organization program, home study course, or class maintained or conducted in residence or through correspondence by any person, partnership, association, organization, or corporation for the purpose of offering instruction of any kind leading to occupational objectives or of furnishing a diploma, as defined in subsection (6), in business, management, trade, technical, or other vocational education and professional schools ~~not otherwise regulated~~. Nonpublic colleges and universities which award a baccalaureate or higher degree, and nonpublic junior colleges which award an associate degree in liberal arts do not fall under the authority granted in ss. 246.201-246.231 unless the college, university, or junior college conducts, or seeks to conduct, a program for which a diploma, as defined in subsection (6), is to be awarded. Any nonpublic college, university, or junior college which conducts or seeks to conduct a diploma program shall, for the purposes of ss. 246.201-246.231, be included in the definition of "school." Schools offering only examination preparation courses for which they do not award a diploma as defined in subsection (6) do not fall under the authority granted in ss. 246.201-246.231; nor does a nonprofit class provided and operated entirely by an employer, a group of employers in related business or industry, or a labor union solely for its employees or prospective employees or members.

Section 24. Subsection (2) of section 246.213, Florida Statutes, is amended to read:

246.213 Power of State Board of Education.—

(2)(a) The minimum educational standards for the licensing of schools shall include, but not be limited to: name of school, purpose, administrative organization, educational program and curricula, finances, financial stability, faculty, library, student personnel services, physical plant and facilities, publications, and disclosure statements about the status of the institution in relation to professional certification and licensure.

(b) The minimum educational standards for licensing schools that operate within a facility of the state correctional system under s. 242.68 shall include requirements for student recruitment and enrollment.

(c)~~(b)~~ Rules of the State Board of Education shall require that nonpublic schools administer an entry-level test of basic skills to each student who enrolls in a nondegree program of at least 450 clock hours, or the credit hour equivalent, which purports to prepare such student for employment. The State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools shall designate examinations authorized for use for entry-level testing purposes. State Board of Education rules shall require that applicable schools provide students who are deemed to lack a minimal level of basic skills with a structured program of basic skills instruction. No student shall be granted a diploma, as defined in s. 246.203, until he has demonstrated mastery of basic skills. Exceptional students, as defined in s. 228.041, may be exempted from the provisions of this paragraph. The State Board of Education shall identify means through which students who are capable of demonstrating mastery of basic skills may be exempted from the provisions of this paragraph.

(d)~~(c)~~ The State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools may request that schools within its jurisdiction provide the board all documents associated with institutional accreditation. The board shall solicit from schools which provide such documents only such additional information undisclosed in the accreditation documents provided. The board may conduct a comprehensive study of a school that fails to provide all documents associated with its institutional accreditation. The cost of such study shall be borne by the institution. Standards imposed by the board shall not be constrained in quality or quantity to those imposed by the respective accrediting body.

(e)~~(d)~~ The State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools shall recommend to the State Board of Education *and the Board of Correctional Education* minimum placement standards for institutions that conduct programs that prepare students for employment.

Section 25. Subsection (6) is added to section 246.215, Florida Statutes, to read:

246.215 License required.—

(6) A nonpublic school may not begin delivery of educational services within a facility of the state correctional system until the school is licensed by the board. The school shall obtain a license from the board for each correctional facility in which the school operates and enter into a written contract with the Board of Correctional Education as provided under s. 242.68.

Section 26. Subsection (3) is added to section 246.228, Florida Statutes, to read:

246.228 Grounds for disciplinary action; action by the board.—

(3) The board may impose any disciplinary action specified in subsection (2) against a school that operates within a facility of the state correctional system and that violates any rule adopted by the Board of Correctional Education under s. 242.68, provided that the board has notified the institution of the deficiency and the deficiency has not been corrected within 30 days.

Section 27. Section 246.229, Florida Statutes, is amended to read:

246.229 Enforcement.—The Department of Legal Affairs or the state attorney shall have *the* authority to enforce ss. 246.201-246.231 *and rules adopted by the Board of Correctional Education under s. 242.68.*

Section 28. Section 246.231, Florida Statutes, is amended to read:

246.231 Penalties.—Any person who violates or fails to comply with ss. 246.201-246.231 or any of the rules *adopted* ~~promulgated~~ thereunder *or who violates a rule adopted by the Board of Correctional Education under s. 242.68*:

(1) For the first conviction, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) For a second or subsequent conviction, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) May have his license revoked.

Section 29. Subsection (12) is added to section 242.68, Florida Statutes, to read:

(12) School districts and community colleges who receive a federal Pell Grant contract and provide education services through the federal Pell Grant program to inmate students may charge the full cost of education. Notwithstanding s. 240.35(12) and s. 230.645(4), school districts and community colleges may use in-kind contributions of classroom space, security provisions, and equipment provided by the Correctional Education School Authority and the Department of Corrections as partial payment of an inmate's education.

Section 30. Section 775.16, Florida Statutes, is amended to read:

775.16 Drug offenses; additional penalties.—In addition to any other penalty provided by law, a person who has been convicted of sale of or trafficking in, or conspiracy to sell or traffic in, a controlled substance under chapter 893, if such offense is a felony, *or who has been convicted of an offense under the laws of any state or country which, if committed in this state, would constitute a felony under chapter 893,* is:

(1) Disqualified from applying for employment by any agency of the state, unless:

(a) The person has completed all sentences of imprisonment or supervisory sanctions imposed by the court, by the Parole Commission, or by law; or

(b) The person has complied with the conditions of subparagraphs 1. and 2. which shall be monitored by the Department of Corrections while the person is under any supervisory sanctions. The person under supervision may:

1. Seek evaluation and enrollment in, and once enrolled maintain enrollment in until completion, a drug treatment and rehabilitation program which is approved by the Department of Health and Rehabilitative Services, unless it is deemed by the program that the person does not have a substance abuse problem. The treatment and rehabilitation program may be specified by:

a. The court, in the case of court-ordered supervisory sanctions;

b. The Parole Commission, in the case of parole, control release, or conditional release; or

c. The Department of Corrections, in the case of imprisonment or any other supervision required by law.

2. Submit to periodic urine drug testing pursuant to procedures prescribed by the Department of Corrections. If the person is indigent, the costs shall be paid by the Department of Corrections.

(2) Disqualified from applying for a license, permit, or certificate required by any agency of the state to practice, pursue, or engage in any occupation, trade, vocation, profession, or business, unless:

(a) The person has completed all sentences of imprisonment or supervisory sanctions imposed by the court, by the Parole Commission, or by law; or

(b) The person has complied with the conditions of subparagraphs 1. and 2. which shall be monitored by the Department of Corrections while the person is under any supervisory sanction. If the person fails to comply with provisions of these subparagraphs by either failing to maintain treatment or by testing positive for drug use, the department shall notify the licensing, permitting, or certifying agency, which may refuse to reissue or reinstate such license, permit, or certification. The licensee, permittee, or certificateholder under supervision may:

1. Seek evaluation and enrollment in, and once enrolled maintain enrollment in until completion, a drug treatment and rehabilitation program which is approved or regulated by the Department of Health and Rehabilitative Services, unless it is deemed by the program that the person does not have a substance abuse problem. The treatment and rehabilitation program may be specified by:

a. The court, in the case of court-ordered supervisory sanctions;

b. The Parole Commission, in the case of parole, control release, or conditional release; or

c. The Department of Corrections, in the case of imprisonment or any other supervision required by law.

2. Submit to periodic urine drug testing pursuant to procedures prescribed by the Department of Corrections. If the person is indigent, the costs shall be paid by the Department of Corrections; or

(c) The person has completed a Correctional Education School Authority program.

The provisions of this section do not apply to any of the taxes, fees, or permits regulated, controlled, or administered by the Department of Revenue in accordance with the provisions of s. 213.05.

Section 31. Paragraph (b) of subsection (1) of section 921.187, Florida Statutes, is amended to read:

921.187 Disposition and sentencing; alternatives; restitution.—

(1) The alternatives provided in this section for the disposition of criminal cases shall be used in a manner which will best serve the needs of society, which will punish criminal offenders, and which will provide the opportunity for rehabilitation. A court may:

(b) If the offender is sentenced for a felony with respect to which the presumptive sentence pursuant to the sentencing guidelines allows incarceration in the state prison system for up to 22 months:

1. Place the offender on probation with or without an adjudication of guilt pursuant to s. 948.01.

2. Impose a fine and probation pursuant to s. 948.011 when the offense is punishable by both a fine and imprisonment and probation is authorized.

3. Place the offender into community control requiring intensive supervision and surveillance pursuant to chapter 948.

4. Impose, as a condition of probation or community control, a period of treatment which shall be restricted to a county facility, a Department of Corrections probation and restitution center, a probation program drug punishment treatment community, or a community residential or nonresidential facility, excluding a community correctional center as defined in s. 944.026, which is owned and operated by any qualified public or private entity providing such services. Before admission to such a facility, the court shall obtain an individual assessment and recommendations on the appropriate treatment needs pursuant to chapter 953 or to the Community Control Implementation Manual, which assessment and recommendations shall be considered by the court in ordering such placements. Placement in such a facility, except for a county residential probation facility, may not exceed 364 days; however, with respect to a probation program drug punishment treatment community, such 364-day restriction shall apply only to the phase I secure residential institutional facilities. Placement in a county residential probation facility may not exceed 3 years. Early termination of placement shall be recommended to the court, when appropriate, by the center supervisor, the supervising probation officer, or the probation program manager.

5. Sentence the offender pursuant to s. 922.051 to imprisonment in a county jail when a statute directs imprisonment in a state prison, if the offender's cumulative sentence, whether from the same circuit or from separate circuits, is not more than 364 days.

6. Sentence the offender who is to be punished by imprisonment in a county jail to a jail in another county if there is no jail within the county suitable for such prisoner pursuant to s. 950.01.

7. Require the offender to participate in a work-release or educational or vocational training program pursuant to s. 951.24 while serving a sentence in a county jail, if such a program is available.

8. Require the offender to perform a specified public service pursuant to s. 775.091.

9. Require the offender who violates chapter 893 or violates any law while under the influence of a controlled substance or alcohol to participate in a substance abuse program.

10.a. Require the offender who violates any criminal provision of chapter 893 to pay an additional assessment in an amount up to the amount of any fine imposed, pursuant to ss. 893.13(4)(a) and 893.16.

b. Require the offender who violates any provision of s. 893.13 to pay an additional assessment in an amount of $100, pursuant to ss. 893.13(4)(b) and 943.361.

11. Impose a split sentence whereby the offender is to be placed in a county jail or county work camp upon the completion of any specified term of community supervision.

12. Impose split probation whereby upon satisfactory completion of half the term of probation, the Department of Corrections may place the offender on administrative probation pursuant to s. 948.01 for the remainder of the term of supervision.

13. Require residence in a state probation and restitution center or private drug treatment program for offenders on community control or who have violated conditions of probation.

14. Impose any other sanction which is provided within the community and approved as an intermediate sanction by that community's county correctional planning committee as described in s. 951.26.

15. Impose as a condition of community control, probation, or probation following incarceration, a requirement that an offender who has not obtained a high school diploma or high school equivalency diploma or who lacks basic or functional literacy skills, upon acceptance by an adult education program, make a good faith effort toward completion of such basic or functional literacy skills or high school equivalency diploma, as defined in ss. 228.0713 and 229.814, in accordance with the assessed adult general education needs of the individual offender.

Section 32. Subsection (8) is added to section 948.03, Florida Statutes, to read:

948.03 Terms and conditions of probation or community control.—

(8) As a condition of community control, probation, or probation following incarceration, require an offender who has not obtained a high school diploma or high school equivalency diploma or who lacks basic or functional literacy skills, upon acceptance by an adult education program, to make a good faith effort toward completion of such basic or functional literacy skills or high school equivalency diploma, as defined in ss. 228.0713 and 229.814, in accordance with the assessed adult general education needs of the individual offender. The court shall not revoke community control, probation, or probation following incarceration because of the offender's inability to achieve such skills or diploma but may revoke community control, probation, or probation following incarceration if the offender fails to make a good faith effort to achieve such skills or diploma. The court may grant early termination of community control, probation, or probation following incarceration upon the offender's successful completion of the approved program. As used in this subsection, "good faith effort" means the offender is enrolled in a program of instruction and is attending and making satisfactory progress toward completion of the requirements.

Section 33. Except as otherwise provided herein, this act shall take effect upon becoming a law.

And the title is amended as follows:

On page 2, line 12, strike all of said line and insert: services; amending s. 947.1405, F.S.; requiring maximum level and length of supervision of offenders convicted of certain offenses; amending s. 947.146, F.S.; limiting control release to in-state inmates; requiring certain recommendations for advancement or extention; requiring a review process for certain inmates; creating s. 947.149, F.S.; requiring a conditional medical release program for inmates determined to be permanently incapacitated or terminally ill; providing rulemaking authority; requiring a study by the Department of Corrections concerning adult inmates with chronic health care needs; creating s. 946.520, F.S.; authorizing the Department of Corrections or the corporation established pursuant to s. 946.504(1) to contract with private industries to provide in-prison work programs; amend-

ing s. 946.515, F.S.; authorizing the corporation established pursuant to s. 946.504(1) to joint venture with private business entities pursuant to s. 946.520; creating s. 946.5027, F.S.; authorizing the corporation established pursuant to 946.504(1) to contract with waste collection systems for the purpose of recycling and to sell such recycled products to private entities; creating s. 944.471, F.S.; providing a short title; creating s. 944.472, F.S.; providing legislative findings and purposes; creating s. 944.473, F.S.; providing for the establishment of a program for random drug and alcohol testing for inmates in the correctional system; authorizing the department to adopt rules; providing for substance abuse treatment programs for inmates testing positive, if available; providing reporting requirements; amending s. 242.68, F.S.; authorizing the Board of Correctional Education to contract with state-licensed independent postsecondary schools for educational services; providing contract requirements; requiring the board to adopt rules governing the contracts; authorizing the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools to investigate violations of rules adopted by the Board of Correctional Education; requiring each independent postsecondary school operating under a contract with the Board of Correctional Education to document its compliance with rules; providing for termination of contracts by the Board of Correctional Education; amending s. 246.203, F.S., revising the definition of the term "school" for purposes of ss. 246.201-246.231, F.S.; amending s. 246.213, F.S.; requiring the State Board of Education to adopt certain licensing requirements for independent postsecondary schools that operate within state correctional facilities; requiring the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools to make certain recommendations to the Board of Correctional Education; amending s. 246.215, F.S.; providing licensing requirements for independent postsecondary schools that operate within state correctional facilities; amending s. 246.228, F.S.; authorizing the Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools to take certain disciplinary actions against schools that violate rules adopted by the Board of Correctional Education; amending s. 246.229, F.S.; authorizing the Department of Legal Affairs and the state attorney to enforce rules adopted by the Board of Correctional Education; amending s. 246.231, F.S.; providing penalties; amending s. 242.68, F.S.; authorizing school districts and community colleges who provide education services through a federal Pell Grant program to inmate students to charge the full educational cost; authorizes in-kind contributions as partial payment; amending s. 775.16, F.S.; disqualifying persons convicted of a drug offense under the laws of other states or countries, if such offense would be a felony under chapter 893, from applying for state employment, licenses, and other benefits unless specified conditions are met; amending s. 921.187, F.S.; authorizing the court to require an offender on community control, probation, or probation following incarceration to make a good faith effort toward completion of basic or functional literacy skills or a high school equivalency diploma; amending s. 948.03, F.S.; requiring an offender, as a condition of his probation or community control, to make a good faith effort toward completion of basic or functional literacy skills or a high school equivalency diploma; providing a definition; providing an effective date.

House Amendment 2 (with Title Amendment) to House Amendment 1 (with Title Amendment)—On page 28, between lines 17 and 18, insert:

Section 33. Section 946.5026, Florida Statutes, is created to read:

946.5026 Sovereign Immunity in tort action.—The provisions of s. 768.28 shall be applicable to the corporation established pursuant to s. 946.504(1) which is deemed to be a corporation primarily acting as an instrumentality of the state.

(Renumber subsequent section.)

And the title is amended as follows:

On page 31, line 9, after the word "definition;" insert: creating s. 946.5026, F.S.; extending sovereign immunity to the corporation established pursuant to s. 946.504(1);

House Amendment 3 (with Title Amendment) to House Amendment 1 (with Title Amendment)—On page 28, between lines 17 and 18, insert:

Section 33. Section 766.317, Florida Statutes, is created to read:

766.317 Inapplicability to prisoners.—The provisions of this chapter may not be used by an inmate or prisoner who is incarcerated within the state correctional system or within a county or municipal detention facility or who has previously been incarcerated within the state correctional system or county or municipal detention facility for purposes of filing a claim arising out of circumstances that occurred during the period of incarceration, except as provided under ss. 766.303-766.316.

(Renumber subsequent section.)

And the title is amended as follows:

On page 31, line 9, after the word "definition;" insert: creating s. 766.317, F.S., relating to medical malpractice; providing that the provisions of ch. 766, F.S., do not apply to prisoners in state, county or municipal detention facilities, except as provided in ss. 766.303-766.316, F.S.;

House Amendment 2 (with Title Amendment)—On page 7, lines 5-14, strike all of said lines and insert:

922.10 Execution of death sentence; *executioner.*—A death sentence shall be executed by electrocution. The warden of the state prison shall designate the executioner. *Information which, if released, would identify the executioner is exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act.* The warrant authorizing the execution shall be read to the convicted person immediately before execution.

Section 4. *Effective July 1, 1993, subsection (4) of section 945.25, Florida Statutes, is hereby repealed.*

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, line 20, after the word "review;" insert: amending s. 945.25, F.S.; relating to certain Department of Corrections records; repealing the department's authority to adopt rules regulating privacy or privilege of information contained in such records;

Senator Kirkpatrick moved the following amendment which was adopted:

Senate Amendment 1 to House Amendment 1—On page 11, line 10, after "946.520" insert: *After the regular session of the 1993 legislature has studied and specifically authorized such joint venture*

Senator Dantzler moved the following amendment which was adopted:

Senate Amendment 2 (with Title Amendment) to House Amendment 1—On page 28, between lines 17 and 18, insert:

Section 33. Section 39.0215, Florida Statutes, is created to read:

39.0215 Administering county and municipal delinquency programs and facilities.

(1) A county or municipal government may plan, develop, and coordinate services and programs for the control and rehabilitative treatment of delinquent behavior.

(2) A county or municipal government may develop or contract for innovative programs which provide rehabilitative treatment with particular emphasis on reintegration and aftercare for all children in the program, including halfway houses and community-based substance abuse treatment services, mental health treatment services, residential and nonresidential programs, environmental programs, and programs for serious or habitual juvenile offenders.

(3) A county or municipal government developing or contracting for a local program pursuant to this section is responsible for all costs associated with the establishment, operation, and maintenance of the program.

(4) In accordance with rules adopted by the department, a county or municipal government may transfer a child, when necessary to appropriately administer the child's commitment, from one facility or program operated, contracted, or subcontracted by the county or municipal government to another such facility or program.

(5) In view of the importance of the basic value of work, responsibility, and self-reliance to a child's rehabilitation within his community, a county or municipal government may provide work programs for delinquent children and may pay a child a reasonable sum of money for work performed while employed in any such work program. The work involved in such work programs must be designed to benefit the county or municipal government, the local community, or the state.

(6) A county or municipal government developing or contracting for a local program pursuant to this section is responsible for following state law and department rules relating to children's delinquency services and for the coordination of its efforts with those of the Federal Government, state agencies, private agencies, and child advocacy groups providing such services.

(7) The department is required to conduct quarterly inspections and evaluations of each county or municipal government juvenile delinquency program to determine whether the program complies with department rules for continued operation of the program. The department shall charge, and the county or municipal government must pay, a monitoring fee equal to 0.5 percent of the direct operating costs of the program. The operation of a program which fails to pass the department's quarterly inspection and evaluation, if the deficiency causing the failure is material, must be terminated if such deficiency is not corrected by the next quarterly inspection.

(8) A county or municipal government providing a local program pursuant to this section shall ensure that personnel responsible for the care, supervision, and treatment of children in the program are apprised of the requirements of this section and appropriately trained to comply with department rules.

(9) A county or municipal government may establish and operate a juvenile detention facility in compliance with this section, if such facility is certified by the department.

(a) The department shall evaluate the county or municipal government detention facility to determine whether the facility complies with the department's rules prescribing the standards and requirements for the operation of a juvenile detention facility. The rules for certification of secure juvenile detention facilities operated by county or municipal governments must be consistent with the rules for certification of secure juvenile detention facilities operated by the department.

(b) The department is required to conduct quarterly inspections and evaluations of each county or municipal government juvenile detention facility to determine whether the facility complies with the department's rules for continued operation. The operation of a facility which fails to pass the department's quarterly inspection and evaluation, if the deficiency causing the failure is material, must be terminated if such deficiency is not corrected by the next quarterly inspection.

(c) A county or municipal government operating a local juvenile detention facility pursuant to this section is responsible for all costs associated with the establishment, operation, and maintenance of the facility.

(d) Only children who reside within the jurisdictional boundaries of the county or municipal government operating the juvenile detention facility and children who are detained for committing an offense within the jurisdictional boundaries of the county or municipal government operating the facility may be held in the facility.

(e) A child may be placed in a county or municipal government juvenile detention facility only when:

1. The department's regional juvenile detention facility is filled to capacity;

2. The safety of the child dictates; or

3. Otherwise ordered by a court.

(f) A child who is placed in a county or municipal government juvenile detention facility must meet the detention criteria as established in this chapter.

(10)(a) The department may institute injunctive proceedings in a court of competent jurisdiction against a county or municipality to:

1. Enforce the provisions of this chapter or a minimum standard, rule, regulation, or order issued or entered pursuant thereto; or

2. Terminate the operation of a facility operated pursuant to this section.

(b) The department may institute proceedings against a county or municipality to terminate the operation of a facility when any of the following conditions exist:

1. The facility fails to take preventive or corrective measures in accordance with any order of the department.

2. The facility fails to abide by any final order of the department once it has become effective and binding.

3. The facility commits any violation of this section constituting an emergency requiring immediate action as provided in this chapter.

4. The facility has willfully and knowingly refused to comply with the screening requirement for personnel pursuant to s. 39.001 or has refused to dismiss personnel found to be in noncompliance with the requirements for good moral character.

(c) Injunctive relief may include temporary and permanent injunctions.

Section 34. Section 39.057, Florida Statutes, is amended to read:

39.057 Boot camp for children.—

(1) Contingent upon specific appropriation, the department shall implement and operate a boot camp program to provide an intensive educational and physical training and rehabilitative program for appropriate children.

(2) Contingent upon local funding, a county or municipal government may implement and operate a boot camp program to provide an intensive educational and physical training and rehabilitative program for appropriate children.

(3)~~(2)~~ A child may be placed in a boot camp program if he is at least 14 years of age but less than 18 years of age at the time of adjudication and has been committed to the department for:

(a) A capital, life, first degree, or second degree felony; or

(b) A third degree felony with at least two prior felony commitments.

(4)~~(3)~~ The department, *county, or municipality operating the boot camp program* shall screen children sent to the boot camp program, so that only those children who have medical and psychological profiles conducive to successfully completing an intensive work, educational, and disciplinary program may be admitted to the program. The department shall adopt rules for *use by the department, county, or municipality operating the boot camp program for* screening such admissions.

(5)~~(4)~~ The program shall include educational assignments, work assignments, and physical training exercises. Children shall be required to participate in educational, vocational, and substance abuse programs and to receive additional training in techniques of appropriate decision-making, as well as in life skills and job skills.

(6)~~(5)~~ The department shall provide an aftercare component for monitoring and assisting the release of *department, county, or municipal* program participants into the community.

(7)~~(6)~~ The department shall adopt rules for *use by the department, county, or municipality operating the boot camp program for* the program and aftercare which provide for at least 6 months of participation in the program and aftercare for successful completion and which also provide disciplinary sanctions and restrictions on the privileges of the general population of children in the program.

(8)~~(7)~~ The department shall keep records and monitor criminal activity, educational progress, and employment placement of *all boot camp* program participants *in department, county, and municipal boot camp programs* after their release from the program. *The department must publish* an outcome evaluation study *of each boot camp program within* ~~shall be published no later than~~ 18 months after the program becomes operational, which includes a comparison of criminal activity, educational progress, and employment placements of children completing the program with the criminal activity, educational progress, and employment records of children completing other types of programs.

(9)~~(8) If~~ A child in *any* ~~the~~ boot camp program *who* becomes unmanageable or medically or psychologically ineligible *must be removed*~~, the department shall remove him~~ from the program.

(10)(a)~~(9)~~ The department may contract with private organizations for the operation of *its* ~~the~~ boot camp program and aftercare.

(b) A county or municipality may contract with private organizations for the operation of its boot camp program and aftercare.

(11)~~(10)~~ The department shall either establish criteria for training *all* contract staff or provide a special training program for department, *county, and municipal* ~~staff selected for the~~ boot camp program *staff*, which shall include appropriate methods of dealing with children who have been placed in such a stringent program.

(12)(a) The department may institute injunctive proceedings in a court of competent jurisdiction against a county or a municipality to:

1. Enforce the provisions of this chapter or a minimum standard, rule, regulation, or order issued or entered pursuant thereto; or

2. Terminate the operation of a facility operated pursuant to this section.

(b) The department may institute proceedings against a county or a municipality to terminate the operation of a facility when any of the following conditions exist:

1. The facility fails to take preventive or corrective measures in accordance with any order of the department.

2. The facility fails to abide by any final order of the department once it has become effective and binding.

3. The facility commits any violation of this section constituting an emergency requiring immediate action as provided in this chapter.

4. The facility has willfully and knowingly refused to comply with the screening requirement for personnel pursuant to s. 39.001 or has refused to dismiss personnel found to be in noncompliance with the requirements for good moral character.

(c) Injunctive relief may include temporary and permanent injunctions.

Section 35. Paragraph (f) of subsection (1) of section 39.054, Florida Statutes, is amended to read:

39.054 Powers of disposition.—

(1) The court which has jurisdiction of an adjudicated delinquent child shall have the power, by an order stating the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing, to:

(f) As part of the community control program to be implemented by the department, or, in the case of a committed child, as part of the community-based sanctions ordered by the court at the disposition hearing or before the child's release from commitment, order the child or parent to make restitution in money or in kind for any damage or loss caused by the child's offense in a reasonable amount or manner to be determined by the court. The clerk of the circuit court shall be the receiving and dispensing agent. In such case, the court shall order the child or parent to pay to the office of the clerk of the circuit court an amount not to exceed the actual cost incurred by the clerk as a result of receiving and dispensing restitution payments. The liability of a parent under this paragraph shall not exceed $2,500 for any one criminal episode. A finding by the court, after a hearing, that the parent has made diligent good faith efforts to prevent the child from engaging in delinquent acts shall absolve the parent of liability for restitution under this paragraph. *When the child attains the age of 18, if the ordered restitution has not been paid in full, any unpaid balance may be converted by the court into a judgment lien and civil remedies shall be explained by the court to the victim who has become the judgment creditor.*

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 31, line 9, after the second semicolon (;) insert: creating s. 39.0215, F.S.; providing for administering county and municipal juvenile delinquency programs and facilities, including secure detention facilities; providing for transfers of children; providing for payment of children performing services in work programs; requiring that county and municipal programs comport with state law and department rules and coordinate with other services; requiring quarterly inspections and evaluations by the department; authorizing the department to charge a monitoring fee to be paid by the county or municipal government; ensuring the training of personnel; providing enforcement powers to the Department of Health and Rehabilitative Services; providing for injunctions and termination proceedings; amending s. 39.057, F.S.; authorizing county and municipal boot camps; providing for injunctions and termination proceedings; amending s. 39.054, F.S.; providing for the conversion of certain orders of restitution into judgment liens;

Senators Crotty, Gardner and Kurth offered the following amendment which was moved by Senator Crotty and adopted:

Senate Amendment 3 (with Title Amendment) to House Amendment 1—On page 4, line 18, insert:

Section 2. This act may be cited as the "Junny Rios Martinez, Jr., Act of 1992."

Section 3. Subsection (7) is added to section 794.011, Florida Statutes, to read:

794.011 Sexual battery.—

(7) A person who is convicted of committing a sexual battery on or after July 1, 1992, against a person who was at the time of the offense under 18 years of age is not eligible for basic gain-time under s. 944.275. The indictment or information issued in such case must stipulate that the person upon whom the sexual battery was committed was under 18 years of age at the time of the offense.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 14, after the semicolon (;) insert: creating the "Junny Rios Martinez, Jr., Act of 1992"; amending s. 794.011, F.S.; prohibiting the grant of basic gain-time for persons convicted of sexual battery against certain persons;

Senator Bankhead moved the following amendment which was adopted:

Senate Amendment 4 (with Title Amendment) to House Amendment 1—On page 28, between lines 17 and 18, insert:

Section 33. Section 39.0255, Florida Statutes, is amended to read:

39.0255 Civil citation.—

(1) There is hereby established a juvenile civil citation process for the purpose of providing an efficient and innovative alternative to custody by the Department of Health and Rehabilitative Services of children who commit nonserious delinquent acts and to ensure swift and appropriate consequences. The civil citation program may be established at the local level with the concurrence of the chief judge of the circuit, state attorney, public defender, and the head of each local law enforcement agency involved. Under such a juvenile civil citation program, any law enforcement officer upon making contact with a juvenile who admits having committed a misdemeanor, may issue a civil citation assessing not more than 50 community service hours.

(2) Upon issuing such citation, the law enforcement officer shall send a copy to the county sheriff, state attorney, the appropriate intake office of the department, the community service performance monitor designated by the department, the parent or guardian of the child, and the victim.

(3) The child shall report to the community service performance monitor within 7 *working* ~~calendar~~ days after the date of issuance of the citation ~~for a work assignment~~. The work assignment shall be accomplished at a rate of not less than 5 hours per week. The monitor shall advise the intake office immediately upon reporting by the child to the monitor, that the child has in fact reported and the expected date upon which completion of the work assignment will be accomplished.

(4) Failure of the juvenile to report timely for a work assignment or to complete his work assignment within the prescribed time or if the juvenile commits a third or subsequent misdemeanor, the law enforcement officer shall issue a report alleging the child has committed a delinquent act, at which point an intake counselor or case manager shall perform a preliminary determination as provided under s. 39.047(4).

(5) At the time of issuance of the citation by the law enforcement officer, such officer shall advise the child that the child has the option to refuse the citation and to be referred to the intake office of the department. That option may be exercised at any time prior to completion of the work assignment.

Section 34. Subsection (46) of section 39.01, Florida Statutes, is amended to read:

39.01 Definitions.—When used in this chapter:

(46) "Serious or habitual juvenile offender" means a child who has been *found to have committed a delinquent act or a violation of law* ~~adjudicated or convicted, or pursuant to s. 39.059 had adjudication withheld~~, in the case currently before the court, and who meets at least one of the following criteria:

(a) ~~Was no less than 14 years of age at the time of commission of the current offense and has been adjudicated or had adjudication withheld on~~ The current offense *is* ~~for~~ a capital, life, or first degree felony involving the infliction or threatened infliction of serious physical harm to another person.

(b) ~~Was no less than 14 years of age at the time of commission of the current offense and has been adjudicated or had adjudication withheld on~~ The current offense *is* ~~for~~ a capital, life, first, or second degree felony offense, and *the child* has *previously* been *found to have committed* ~~the subject of~~ at least three separate ~~prior adjudications or adjudications withheld for~~ capital, life, first, or second degree felony offenses, or third degree felony offenses involving the use of a weapon, within the preceding 24 months, with the third adjudication or adjudication withheld for an offense that occurred after the second adjudication or adjudication withheld, and the second adjudication or adjudication withheld for an offense that occurred after the first adjudication or adjudication withheld.

(c) ~~Was not less than 14 years of age at the time of the commission of~~ The current offense *is, which may include* any felony, and *the child* has *previously* been *found to have committed* ~~the subject of~~ at least four separate, nonrelated ~~prior adjudications or adjudications withheld for any~~ felony *offenses* ~~offense~~ within the preceding 36 months, with the fourth adjudication or adjudication withheld for an offense that occurred after the third adjudication or adjudication withheld, and the third adjudication or adjudication withheld for an offense that occurred after the second adjudication or adjudication withheld, and the second adjudication or adjudication withheld for an offense that occurred after the first adjudication or adjudication withheld; or

(d) *The child* was ~~a child~~ less than 18 years of age at the time of the current offense and has been convicted in a criminal court or has had adjudication withheld pursuant to s. 39.059, and otherwise meets the criteria.

Section 35. A child under the age of 14, who has been determined to be a serious or habitual juvenile offender as established in section 39.01(46), Florida Statutes, may not be committed to a serious or habitual juvenile offender program, unless a separate program has been established by the Department of Health and Rehabilitative Services, through existing resources or specific appropriation, for serious or habitual juvenile offenders under the age of 14.

Section 36. For the purpose of incorporating the amendment to section 39.01, Florida Statutes, in references thereto, subsection (5) of section 39.052, Florida Statutes, is reenacted to read:

39.052 Hearings.—

(5) SERIOUS OR HABITUAL DELINQUENT CHILD PLACEMENT.—Following a delinquency adjudicatory hearing pursuant to subsection (1) and a delinquency disposition hearing pursuant to subsection (3) which results in a commitment determination, the court shall, upon petition by the state, determine whether serious or habitual delinquent child placement is required for the protection of the public and whether the particular needs of the serious or habitual delinquent child would be best served by a serious or habitual delinquent children program as provided in s. 39.058. The determination shall be made pursuant to s. 39.01(46) and paragraph (3)(e).

Section 37. For the purpose of incorporating the amendment to section 39.01, Florida Statutes, in references thereto, paragraph (e) of subsection (3) and paragraph (a) of subsection (4) of section 39.058, Florida Statutes, are reenacted to read:

39.058 Serious or habitual juvenile offender.—

(3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND TREATMENT.—

(e) After a child has been adjudicated delinquent pursuant to s. 39.053(3), the court shall determine whether the child meets the criteria for a serious or habitual juvenile offender pursuant to s. 39.01(46). If the court determines that the child does not meet such criteria, the provisions of s. 39.054 shall apply.

(4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.—

(a) Pursuant to the provisions of this section, the department shall implement the comprehensive assessment instrument for the treatment needs of serious or habitual juvenile offenders and for the assessment, which assessment shall include the criteria under s. 39.01(46) and shall also include, but not be limited to, evaluation of the child's:

1. Amenability to treatment.

2. Proclivity toward violence.

3. Tendency toward gang involvement.

4. Substance abuse or addiction and the level thereof.

5. History of being a victim of child abuse or sexual abuse, or indication of sexual behavior dysfunction.

6. Number and type of previous adjudications, findings of guilt, and convictions.

7. Potential for rehabilitation.

Section 38. Subsection (2) of section 39.038, Florida Statutes, is amended, and subsection (4) of that section is reenacted to read:

39.038 Release or delivery from custody.—

(2) Unless otherwise ordered by the court pursuant to s. 39.044, and unless there is a need to hold the child, a person taking a child into custody shall attempt to release the child as follows:

(a) To the child's parent, guardian, or legal custodian or, if the child's parent, guardian, or legal custodian is unavailable, unwilling, or unable to provide supervision for the child, to any responsible adult. The person to whom the child is released shall agree to inform the department or the person releasing the child of the child's subsequent change of address and to produce the child in court at such time as the court may direct, *and the child shall join in the agreement.*

(b) Contingent upon specific appropriation, to a shelter approved by the department or to a protective investigator pursuant to s. 39.401(2)(b).

(c) If the child is believed to be suffering from a serious physical condition which requires either prompt diagnosis or prompt treatment, to a law enforcement officer who shall deliver the child to a hospital for necessary evaluation and treatment.

(d) If the child is believed to be mentally ill as defined in s. 394.463(1), to a law enforcement officer who shall take the child to a designated public receiving facility as defined in s. 394.455 for examination pursuant to the provisions of s. 394.463.

(e) If the child appears to be intoxicated and has threatened, attempted, or inflicted physical harm on himself or another, or is incapacitated by substance abuse, to a law enforcement officer who shall deliver the child to a hospital, addictions receiving facility, or treatment resource.

(4) A person taking a child into custody who determines, pursuant to s. 39.044, that the child should be detained or released to a shelter designated by the department, shall make a reasonable effort to immediately notify the parent, guardian, or legal custodian of the child and shall, without unreasonable delay, deliver the child to the appropriate intake counselor or case manager or, if the court has so ordered pursuant to s. 39.044, to a detention center or facility. Upon delivery of the child, the person taking the child into custody shall make a written report or probable cause affidavit to the appropriate intake counselor or case manager. Such written report or probable cause affidavit shall:

(a) Identify the child and, if known, his parents, guardian, or legal custodian.

(b) Establish that the child was legally taken into custody, with sufficient information to establish the jurisdiction of the court and to make a prima facie showing that the child has committed a violation of law.

Section 39. Paragraph (a) of subsection (1) of section 39.047, Florida Statutes, is amended to read:

39.047 Intake and case management.—

(1)(a) The intake process shall include the intake counselor screening each child to determine appropriateness for release, referral to a diversionary program, referral for community arbitration, or referral to some other program or agency for the purpose of nonofficial or nonjudicial handling. The department shall develop a case management system whereby a child brought into intake is assigned a case manager if the child was not released, referred to a diversionary program, referred for community arbitration, or referred to some other program or agency for the purpose of nonofficial or nonjudicial handling, and shall make every reasonable effort to provide continuity of case management for the child; provided, however, that case management for children committed to residential programs may be transferred as provided in s. 39.067. In addition to duties specified in other sections and through departmental rules, the assigned case manager shall be responsible for the following:

1. Ensuring that a risk assessment instrument establishing the child's eligibility for detention has been accurately completed and that the appropriate recommendation was made to the court.

2. Inquiring as to whether the child understands his rights to counsel and against self-incrimination.

3. Performing the preliminary screening and making referrals for comprehensive assessment regarding the child's need for substance abuse treatment services, mental health services, retardation services, literacy services, or other educational or treatment services.

4. Coordinating the multidisciplinary assessment when required, which includes the classification and placement process which determines the child's priority needs, risk classification, and treatment plan. This assessment, classification, and placement process shall develop into the predisposition report.

5. Making recommendations for services and facilitating the delivery of those services from the department to the child, including any mental health services, educational services, family counseling services, family assistance services, and substance abuse services. The delinquency case manager shall serve as the primary case manager for the purpose of managing, coordinating, and monitoring the services offered to the child through the department. Each program administrator within the department must provide any assistance necessary to facilitate the execution of the responsibilities of the primary case manager described in this section.

The department shall annually advise the Legislature and the Executive Office of the Governor of the resources needed in order for the case management system to maintain a staff-to-client ratio that is consistent with accepted standards and allows the necessary supervision and services for each child. The intake process and case management system shall provide a comprehensive approach to assessing the child's needs, relative risks, and most appropriate handling, and shall be based on an individualized treatment plan.

Section 40. (1) A circuit court has jurisdiction to remove the disabilities of nonage of a minor age 16 or older residing in this state upon a petition filed by his natural or legal guardian or, if there is none, by a guardian ad litem.

(2) The petition must state the name and age of the minor and his character, habits, education, and mental capacity for business, and state the reasons why the disabilities should be removed.

(3) The court shall consider the petition and, if satisfied that the removal of the disabilities is in the minor's best interest, shall remove the disabilities of nonage and authorize him to perform all acts that he could do if he were 18 years of age.

(4) The judgment shall be recorded in the county in which the minor resides, and a certified copy shall be received as evidence of the removal of disabilities of nonage for all matters in all courts.

Section 41. Section 39.0585, Florida Statutes, is amended to read:

39.0585 Information systems.—

(1)(a) For the purpose of assisting in law enforcement administration and decisionmaking, such as juvenile diversion from continued involvement with the law enforcement and judicial systems, the sheriff of the county in which juveniles are taken into custody is encouraged to maintain a central identification file on *chronic delinquent* ~~serious habitual juvenile~~ offenders and on juveniles who are at risk of becoming *chronic delinquent* ~~serious habitual juvenile~~ offenders by virtue of having an arrest record.

(b) The central identification file shall contain, but not be limited to, pertinent dependency and delinquency record information maintained by the department; pertinent school records, including, information on behavior, attendance, and achievement; and pertinent information on delinquency or dependency maintained by law enforcement and the state attorney. The information obtained shall be used to develop a multiagency information sheet on each of the juveniles *who is a chronic delinquent offender or at risk of becoming a chronic delinquent offender.* The agencies and persons specified in this paragraph shall cooperate with the sheriff in the provision of needed information and in the development of the multiagency information sheet to the greatest extent possible.

(c) As used in this section, the term "chronic delinquent offender" means a juvenile offender who has been adjudicated delinquent and who:

1. Is arrested for a capital, life, or first-degree felony offense or sexual battery.

2. Has five or more arrests, at least three of which are for felony offenses and at least three of which must have occurred within the preceding 12-month period.

3. Has ten or more arrests, at least two of which are for felony offenses, and at least three of which must have occurred within the preceding 12-month period.

4. Has four or more arrests, at least one of which is for a felony offense and occurred within the preceding 12-month period.

5. Has ten or more arrests, at least eight of which are for any of the following offenses and four of which must have occurred within the preceding 12-month period:

a. Petit theft;

b. Misdemeanor assault;

c. Possession of a controlled substance;

d. Weapon or firearm violation; or

e. Substance abuse.

(2) Notwithstanding any provision of law to the contrary, confidentiality of records information does not apply to juveniles who have been arrested four or more times regarding the sharing of the information on the juvenile with the sheriff and any agency or person providing information for the development of the multiagency information sheet as well as the courts, the child, the parents or legal custodians of the child, their attorneys, or any other person authorized by the court to have access. However, such information may not be provided by the department or the sheriff to any public or private educational agency. Neither these records provided to the sheriff nor the records developed from these records for *chronic delinquent* ~~serious habitual juvenile~~ offenders nor the records provided or developed from records provided to the sheriff on ~~at-risk~~ juveniles *at risk of becoming chronic delinquent offenders* shall be available for public disclosure and inspection under s. 119.07.

(3) In order to assist in the integration of the information to be shared, the sharing of information obtained, the joint planning on diversion and early intervention strategies for juveniles at risk of becoming *chronic delinquent* ~~serious habitual juvenile~~ offenders, and the intervention strategies for *chronic delinquent* ~~serious habitual juvenile~~ offenders, a multiagency task force should be organized and utilized by the sheriff in conjunction with the initiation of the information system described in subsections (1) and (2). The multiagency task force shall be composed of representatives of those agencies and persons providing information for the central identification file and the multiagency information sheet.

Section 42. Subsections (2) and (5) of section 39.044, Florida Statutes, are amended to read:

39.044 Detention.—

(2) Subject to the provisions of subsection (1), a child taken into custody and placed into nonsecure or home detention care or detained in secure detention care prior to a detention hearing may continue to be detained by the court if:

(a) The child is alleged to be an escapee or an absconder from a commitment program, a community control program, furlough, or aftercare supervision, or the child is wanted in another jurisdiction for an offense which, if committed by an adult, would be a felony;

(b) The child has been charged with a delinquent act or violation of law and requests in writing through legal counsel to be detained for protection from an imminent physical threat to his personal safety;

(c) The child is charged with a capital felony, life felony, felony of the first degree, felony of the second degree, or a felony that is also a crime of violence; or

(d) The child is charged with a serious property crime as described in s. 810.02(2) or (3) or s. 812.014(2)(c)4., any offense involving the use of a firearm, or any second-degree or third-degree felony involving a violation of chapter 893, and:

1. He has a record of failure to appear at court hearings after being properly notified in accordance with the Rules of Juvenile Procedure;

2. He has a record of law violations prior to court hearings;

3. He has already been detained or has been released and is awaiting final disposition of his case; ~~or~~

4. He has a record of violent conduct resulting in physical injury to others; *or*.

5. He is found to have been in possession of a firearm.

A child who meets these criteria and who is ordered to be detained pursuant to this subsection shall be given a hearing within 24 hours after being taken into custody. The purpose of the detention hearing is to determine the existence of probable cause that the child has committed the delinquent act or violation of law with which he is charged and the need for continued detention. The court shall utilize the results of the risk assessment performed by the intake counselor or case manager and, based on the criteria in this subsection, shall determine the need for continued detention. A child placed into secure, nonsecure, or home detention care may continue to be so detained by the court pursuant to this subsection. If the court orders a placement more restrictive than indicated by the results of the risk assessment instrument, the court shall state, in writing, clear and convincing reasons for such placement.

(5)(a) No child shall be placed into or held in secure, nonsecure, or home detention care for longer than 24 hours unless the court orders such detention care in accordance with the provisions of subsection (2). The decision as to the release of the child from detention care shall be made by order of the court. The order shall be a final order, reviewable by appeal pursuant to s. 39.069 and the Florida Rules of Appellate Procedure.

(b) *A* ~~No~~ child *may not* ~~shall~~ be held in secure, nonsecure, or home detention care under a special detention order for more than 21 days unless an adjudicatory hearing for the case has been commenced by the court.

(c) *A* ~~No~~ child *may not* ~~shall~~ be held in secure, nonsecure, or home detention care for more than 15 days following the entry of an order of adjudication unless an order of disposition pursuant to s. 39.054 has been entered by the court or unless a continuance, which *may* ~~shall~~ not exceed 15 days, has been granted for cause. The detention center or facility superintendent shall request that the court order the release of any child held beyond 15 days without a grant of continuance.

(d) The time limits *specified* in paragraphs (b) and (c) do not include periods of delay resulting from a continuance granted by the court for cause on motion of the child or his counsel or of the state.

Section 43. Paragraph (a) of subsection (1) of section 39.052, Florida Statutes, is amended to read:

39.052 Hearings.—

(1) ADJUDICATORY HEARING.—

(a) The adjudicatory hearing shall be held as soon as practicable after the petition alleging that a child has committed a delinquent act or violation of law is filed and in accordance with the Florida Rules of Juvenile Procedure; but reasonable delay for the purpose of investigation, discovery, or procuring counsel or witnesses shall be granted. If the child is being detained, the time limitations provided for in s. 39.044(5)(b) and (c) ~~shall~~ apply. The right to a speedy trial *is* ~~shall be~~ governed by the provisions of s. 39.048(7), but such right may be voluntarily waived by the child in accordance with the Florida Rules of Juvenile Procedure. *Arraignment may be conducted at an adjudicatory hearing, if the delinquency allegation for which the juvenile is being arraigned is not the subject of the impending hearing.*

Section 44. Subsection (1) of section 39.054, Florida Statutes, is amended to read:

39.054 Powers of disposition.—

(1) The court which has jurisdiction of an adjudicated delinquent child shall have the power, by an order stating the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing, to:

(a)1. Place the child in a community control program under the supervision of an authorized agent of the department or of any other person or agency specifically authorized and appointed by the court, whether in the child's own home, in the home of a relative of the child, or in some other suitable place under such reasonable conditions as the court may direct. A community control program for an adjudicated delinquent child *must* ~~shall~~ include a penalty component such as restitution in money or in kind, community service, a curfew, revocation or suspension of the driver's license of the child, or other nonresidential punishment appropriate to the offense~~,~~ and *must* ~~shall~~ also include a rehabilitative program component such as a requirement of participation in substance abuse treatment~~,~~ or *in* school or other educational program ~~attendance~~.

2. A restrictiveness level classification scale for levels of supervision shall be provided by the department, taking into account the child's needs and risks relative to community control supervision requirements to reasonably ensure the public safety. Community control programs for children shall be supervised by the department or by any other person or agency specifically authorized by the court. These programs *must* ~~shall~~ include, but *are* ~~shall~~ not ~~be~~ limited to, structured or restricted activities as described in subparagraph 1., and shall be designed to encourage the child toward acceptable and functional social behavior. *If* ~~When~~ supervision or a program of community service is ordered by the court, the duration of such supervision or program *must* ~~shall~~ be consistent with any treatment and rehabilitation needs identified for the child and *may* ~~shall~~ not exceed the term for which sentence could be imposed if the child were committed for the offense. *If* ~~When~~ restitution is ordered by the court, the amount of restitution *may* ~~shall~~ not exceed an amount the child and his parents could reasonably be expected to pay or make. A child who participates in any work program under ~~the provisions of~~ this chapter *is* ~~shall be considered~~ an employee of the state for purposes of liability, unless otherwise provided by law.

3. The court may conduct judicial review hearings for a child placed on community control for the purpose of fostering accountability to the judge and compliance with other requirements, such as restitution and community service. The court may allow early termination of community control for a child who has substantially complied with the terms and conditions of community control.

4. If the conditions of the community control program are violated, the agent supervising the community control program as it relates to the child involved, or the state attorney, may bring the child before the court on a petition alleging a violation of the program. If the child denies that he has violated the conditions of his program, the court shall give him an opportunity to be heard in person or through counsel, or both. Upon his admission or after such hearing, if the court finds that the conditions of the community control program have been violated, the court shall enter an order revoking, modifying, or continuing the program. In all cases after a revocation, the court shall enter a new disposition order and shall have full power at that time to make any disposition it could have made at the original disposition hearing.

5. Notwithstanding the provisions of s. 743.07 and subsection (4), and except as provided in s. 39.058, the term of any order placing a child in a community control program *must* ~~shall~~ be until his 19th birthday unless he is sooner released by the court, on the motion of an interested party or on its own motion.

(b) Commit the child to a licensed child-caring agency willing to receive the child, but the court *may* ~~shall~~ not commit the child to a jail or to a facility used primarily as a detention center or facility or shelter.

(c) Commit the child to the department. Such commitment *must* ~~shall~~ be for the purpose of exercising active control over the child, including, but not limited to, custody, care, training, and treatment of the child, and furlough of the child into the community. Notwithstanding the provisions of s. 743.07 and subsection (4), and except as provided in s. 39.058, the term of the commitment *must* ~~shall~~ be until the child is discharged by the department or until he reaches the age of 19.

(d) Revoke or suspend the driver's license of the child.

(e) Require the child to render community service in a public service program.

(f) As part of the community control program to be implemented by the department, or, in the case of a committed child, as part of the community-based sanctions ordered by the court at the disposition hearing or before the child's release from commitment, order the child or parent to make restitution in money or in kind for any damage or loss caused by the child's offense in a reasonable amount or manner to be determined by the court. The clerk of the circuit court shall be the receiving and dispensing agent. In such case, the court shall order the child or parent to pay to the office of the clerk of the circuit court an amount not to exceed the actual cost incurred by the clerk as a result of receiving and dispensing restitution payments. The liability of a parent under this paragraph *may* ~~shall~~ not exceed $2,500 for any one criminal episode. A finding by the court, after a hearing, that the parent has made diligent good faith efforts to prevent the child from engaging in delinquent acts shall absolve the parent of liability for restitution under this paragraph. *When the child attains the age of 18, if the ordered restitution has not been paid in full, any unpaid balance may be converted by the court into a judgment lien and civil remedies shall be explained by the court to the victim who has become the judgment creditor.*

(g) Order the child to participate in a community work project, either as an alternative to monetary restitution or as part of the rehabilitative or community control program.

(h) Commit the child to the department for placement in a serious or habitual delinquent children program or facility in accordance with s. 39.058. Any commitment of a child to a program or facility for serious or habitual delinquent children *must* ~~shall~~ be for an indeterminate period of time, but the time *may* ~~shall~~ not exceed the maximum term of imprisonment *that* ~~which~~ an adult may serve for the same offense. The court may retain jurisdiction over such child until the child reaches the age of 21, specifically for the purpose of the child completing the program.

Section 45. For the purpose of incorporating the amendment to section 39.044, Florida Statutes, in references thereto, subsection (1) of section 39.037, Florida Statutes, is reenacted to read:

39.037 Taking a child into custody.—

(1) A child may be taken into custody under the following circumstances:

(a) Pursuant to an order of the circuit court issued pursuant to the provisions of this chapter, based upon sworn testimony, either before or after a petition is filed; or

(b) For a delinquent act or violation of law, pursuant to Florida law pertaining to a lawful arrest.

(c) For failing to appear at a court hearing after being properly noticed.

Nothing in this subsection shall be construed to allow the detention of a child who does not meet the detention criteria in s. 39.044.

Section 46. For the purpose of incorporating the amendment to section 39.044, Florida Statutes, in references thereto, subsections (2) and (4) of section 39.038, Florida Statutes, are reenacted to read:

39.038 Release or delivery from custody.—

(2) Unless otherwise ordered by the court pursuant to s. 39.044, and unless there is a need to hold the child, a person taking a child into custody shall attempt to release the child as follows:

(4) A person taking a child into custody who determines, pursuant to s. 39.044, that the child should be detained or released to a shelter designated by the department, shall make a reasonable effort to immediately notify the parent, guardian, or legal custodian of the child and shall, without unreasonable delay, deliver the child to the appropriate intake counselor or case manager or, if the court has so ordered pursuant to s. 39.044, to a detention center or facility. Upon delivery of the child, the person taking the child into custody shall make a written report or probable cause affidavit to the appropriate intake counselor or case manager. Such written report or probable cause affidavit shall:

(a) Identify the child and, if known, his parents, guardian, or legal custodian.

(b) Establish that the child was legally taken into custody, with sufficient information to establish the jurisdiction of the court and to make a prima facie showing that the child has committed a violation of law.

Section 47. For the purpose of incorporating the amendment to section 39.044, Florida Statutes, in references thereto, paragraph (b) of subsection (3) of section 39.042, Florida Statutes, is reenacted to read:

39.042 Use of detention.—

(3)

(b)1. The risk assessment instrument for detention care placement determinations and orders shall be developed by the department in agreement with representatives appointed by the following associations: the Conference of Circuit Judges of Florida, the Prosecuting Attorneys Association, and the Public Defenders Association. Each association shall appoint two individuals, one representing an urban area and one representing a rural area. The risk assessment instrument shall be developed and implemented not later than December 1, 1990. Such agreement must include a method for revising the risk assessment instrument. If agreement is not reached within 90 days, the parties involved shall submit in writing the reasons for not reaching agreement to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives. Until such time as the risk assessment instrument is developed, the court criteria in s. 39.044 shall be used to determine detention care placement. The parties involved shall evaluate and revise the risk assessment instrument as is considered necessary using the method for revision as agreed by the parties. The risk assessment instrument shall take into consideration aggravating and mitigating circumstances and shall be designed to target a narrower population of children than s. 39.044(2). The risk assessment instrument shall also include any information concerning the child's history of abuse and neglect. The risk assessment shall indicate whether detention care is warranted, and, if detention care is warranted, whether the child should be placed into secure, nonsecure, or home detention care.

2. If, at the detention hearing, the court finds a material error in the scoring of the risk assessment instrument, the court may amend the score to reflect factual accuracy.

Section 48. For the purpose of incorporating the amendment to section 39.044, Florida Statutes, in references thereto, subsection (5) of section 39.049, Florida Statutes, is reenacted to read:

39.049 Process and service.—

(5) If the petition alleges that the child has committed a delinquent act or violation of law and the judge deems it advisable to do so, pursuant to the criteria of s. 39.044, the judge may, by endorsement upon the summons and after the entry of an order in which valid reasons are specified, order the child to be taken into custody immediately, and in such case the person serving the summons shall immediately take the child into custody.

Section 49. For the purpose of incorporating the amendment to section 39.044, Florida Statutes, in references thereto, subsection (1) of section 39.064, Florida Statutes, is reenacted to read:

39.064 Detention of furloughed child or escapee on authority of the department.—

(1) If an authorized agent of the department has reasonable grounds to believe that any delinquent child committed to the department has escaped from a facility of the department, such agent may take such child into his active custody and may deliver the child to the facility from which he escaped or, if it is closer, to a detention center for return to the

facility from which he escaped. However, no child shall be held in detention longer than 24 hours, excluding Saturdays, Sundays, and legal holidays, unless a special order so directing is made by the judge after a detention hearing resulting in a finding that detention is required based on the criteria in s. 39.044(2). The order shall state the reasons for such finding. The reasons shall be reviewable by appeal or in habeas corpus proceedings in the district court of appeal.

Section 50. For the purpose of incorporating the amendment to section 39.044, Florida Statutes, in references thereto, subsection (4) of section 39.402, Florida Statutes, is reenacted to read:

39.402 Placement in a shelter.—

(4) If the child is alleged to be both dependent and delinquent, the protective investigator may authorize either placement in a shelter pursuant to this section or detention pursuant to s. 39.044.

Section 51. Section 39.0445, Florida Statutes, is created to read:

39.0445 Juvenile domestic violence offenders.—If a child is charged with the commission of a domestic violence offense against the child's parent, spouse, or child and the child does not meet the detention criteria established in s. 39.044, the court may order that the child be placed in a respite home, if available, or similar residential facility, if available, other than a detention center, authorized by the department for the placement of juvenile domestic violence offenders.

Section 52. Section 775.089, Florida Statutes, is amended to read:

775.089 Restitution.—

(1)(a) In addition to any punishment, the court shall order the defendant *in a criminal case or, pursuant to s. 39.054(1)(f), the juvenile offender in a delinquency case* to make restitution to the victim for damage or loss caused directly or indirectly by the defendant's *or juvenile offender's* offense, unless it finds clear and compelling reasons not to order such restitution. Restitution may be monetary or nonmonetary restitution. The court shall make the payment of restitution a condition to probation in accordance with s. 948.03.

(b) If the court does not order restitution, or orders restitution of only a portion of the damages, as provided in this section, it shall state on the record in detail the reasons therefor.

(c) The term "victim" as used in this section and in any provision of law relating to restitution includes the aggrieved party, the aggrieved party's estate if the aggrieved party is deceased, and the aggrieved party's next of kin if the aggrieved party is deceased as a result of the offense.

(d) The term "juvenile offender" as used in this section includes the parents of the juvenile offender if the court so orders, subject to the limitations in s. 39.054(1)(f).

(2) When an offense has resulted in bodily injury to a victim, a restitution order entered pursuant to subsection (1) shall require that the defendant *or juvenile offender*:

(a) Pay the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a recognized method of healing.

(b) Pay the cost of necessary physical and occupational therapy and rehabilitation.

(c) Reimburse the victim for income lost by such victim as a result of the offense.

(d) In the case of an offense which resulted in bodily injury that also resulted in the death of a victim, pay an amount equal to the cost of necessary funeral and related services.

(3)(a) The court may require that the defendant *or juvenile offender* make restitution under this section within a specified period or in specified installments.

(b) The end of such period or the last such installment shall not be later than:

1. The end of the period of probation if probation is ordered;

2. Five years after the end of the term of imprisonment imposed if the court does not order probation; or

3. Five years after the date of sentencing in any other case.

(c) If not otherwise provided by the court under this subsection, restitution must be made immediately.

(4) If a defendant is placed on probation or paroled, complete satisfaction of any restitution ordered under this section shall be a condition of such probation or parole. The court may revoke probation, and the Parole Commission may revoke parole, if the defendant fails to comply with such order.

(5) An order of restitution may be enforced by the state, or a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

(6) The court, in determining whether to order restitution and the amount of such restitution, shall consider the amount of the loss sustained by any victim as a result of the offense, the financial resources of the defendant *or juvenile offender*, the present and potential future financial needs and earning ability of the defendant *or juvenile offender* and his dependents, and such other factors which it deems appropriate.

(7) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense is on the state attorney. The burden of demonstrating the present financial resources and the absence of potential future financial resources of the defendant *or juvenile offender* and the financial needs of the defendant *or juvenile offender* and his dependents is on the defendant *or juvenile offender*. The burden of demonstrating such other matters as the court deems appropriate is upon the party designated by the court as justice requires.

(8) The conviction of a defendant *or delinquency adjudication of a juvenile offender* for an offense involving the act giving rise to restitution under this section shall estop the defendant *or juvenile offender* from denying the essential allegations of that offense in any subsequent civil proceeding. An order of restitution hereunder will not bar any subsequent civil remedy or recovery, but the amount of such restitution shall be set off against any subsequent independent civil recovery.

(9) When a corporation or unincorporated association is ordered to make restitution, the person authorized to make disbursements from the assets of such corporation or association shall pay restitution from such assets, and such person may be held in contempt for failure to make such restitution.

(10) Any default in payment of restitution may be collected by any means authorized by law for enforcement of a judgment.

(11)(a) The court may order the clerk of the court to collect and dispense restitution payments in any case.

(b) The court may order the Department of Corrections to collect and dispense restitution and other payments from persons remanded to its custody or supervision.

(12)(a) Issuance of income deduction order with an order for restitution.—

1. Upon the entry of an order for restitution, the court shall enter a separate order for income deduction if one has not been entered.

2. The income deduction order shall direct a payor to deduct from all income due and payable to the defendant *or juvenile offender* the amount required by the court to meet the defendant's *or juvenile offender's* obligation.

3. The income deduction order shall be effective so long as the order for restitution upon which it is based is effective or until further order of the court.

4. When the court orders the income deduction, the court shall furnish to the defendant *or juvenile offender* a statement of his rights, remedies, and duties in regard to the income deduction order. The statement shall state:

a. All fees or interest which shall be imposed.

b. The total amount of income to be deducted for each pay period.

c. That the income deduction order applies to current and subsequent payors and periods of employment.

d. That a copy of the income deduction order will be served on the defendant's *or juvenile offender's* payor or payors.

e. That enforcement of the income deduction order may only be contested on the ground of mistake of fact regarding the amount of restitution owed.

f. That the defendant *or juvenile offender* is required to notify the clerk of court within 7 days after changes in the defendant's *or juvenile offender's* address, payors, and the addresses of his payors.

(b) Enforcement of income deduction orders.—

1. The clerk of court or probation officer shall serve an income deduction order and the notice to payor on the defendant's *or juvenile offender's* payor unless the defendant *or juvenile offender* has applied for a hearing to contest the enforcement of the income deduction order.

2.a. Service by or upon any person who is a party to a proceeding under this subsection shall be made in the manner prescribed in the Florida Rules of Civil Procedure for service upon parties.

b. Service upon the defendant's *or juvenile offender's* payor or successor payor under this subsection shall be made by prepaid certified mail, return receipt requested, or in the manner prescribed in chapter 48.

3. The defendant *or juvenile offender*, within 15 days after having an income deduction order entered against him, may apply for a hearing to contest the enforcement of the income deduction order on the ground of mistake of fact regarding the amount of restitution owed. The timely request for a hearing shall stay the service of an income deduction order on all payors of the defendant *or juvenile offender* until a hearing is held and a determination is made as to whether the enforcement of the income deduction order is proper.

4. The notice to payor shall contain only information necessary for the payor to comply with the income deduction order. The notice shall:

a. Require the payor to deduct from the defendant's *or juvenile offender's* income the amount specified in the income deduction order and to pay that amount to the clerk of court.

b. Instruct the payor to implement the income deduction order no later than the first payment date which occurs more than 14 days after the date the income deduction order was served on the payor.

c. Instruct the payor to forward within 2 days after each payment date to the clerk of court the amount deducted from the defendant's *or juvenile offender's* income and a statement as to whether the amount totally or partially satisfies the periodic amount specified in the income deduction order.

d. Specify that, if a payor fails to deduct the proper amount from the defendant's *or juvenile offender's* income, the payor is liable for the amount the payor should have deducted plus costs, interest, and reasonable attorney's fees.

e. Provide that the payor may collect up to $5 against the defendant's *or juvenile offender's* income to reimburse the payor for administrative costs for the first income deduction and up to $1 for each deduction thereafter.

f. State that the income deduction order and the notice to payor are binding on the payor until further notice by the court or until the payor no longer provides income to the defendant.

g. Instruct the payor that, when he no longer provides income to the defendant *or juvenile offender*, he shall notify the clerk of court and shall also provide the defendant's *or juvenile offender's* last known address and the name and address of the defendant's *or juvenile offender's* new payor, if known, and that, if the payor violates this provision, the payor is subject to a civil penalty not to exceed $250 for the first violation or $500 for any subsequent violation.

h. State that the payor shall not discharge, refuse to employ, or take disciplinary action against the defendant *or juvenile offender* because of an income deduction order and shall state that a violation of this provision subjects the payor to a civil penalty not to exceed $250 for the first violation or $500 for any subsequent violation.

i. Inform the payor that, when he receives income deduction orders requiring that the income of two or more defendants *or juvenile offenders* be deducted and sent to the same clerk of court, he may combine the amounts that are to be paid to the depository in a single payment as long as he identifies that portion of the payment attributable to each defendant *or juvenile offender*.

j. Inform the payor that if the payor receives more than one income deduction order against the same defendant *or juvenile offender*, he shall contact the court for further instructions.

5. The clerk of court shall enforce income deduction orders against the defendant's *or juvenile offender's* successor payor who is located in this state in the same manner prescribed in this subsection for the enforcement of an income deduction order against a payor.

6. A person may not discharge, refuse to employ, or take disciplinary action against an employee because of the enforcement of an income deduction order. An employer who violates this provision is subject to a civil penalty not to exceed $250 for the first violation or $500 for any subsequent violation.

7. When a payor no longer provides income to a defendant *or juvenile offender*, he shall notify the clerk of court and shall provide the defendant's *or juvenile offender's* last known address and the name and address of the defendant's *or juvenile offender's* new payor, if known. A payor who violates this provision is subject to a civil penalty not to exceed $250 for the first violation or $500 for a subsequent violation.

Section 53. Subsection (2) of section 538.07, Florida Statutes, is amended to read:

538.07 Penalty for violation of chapter.—

(2) When the lawful owner recovers stolen property from a secondhand dealer and the person who sold or pledged the stolen property to the secondhand dealer is convicted of theft, a violation of this section, or dealing in stolen property, the court shall order ~~the defendant to make~~ restitution to the secondhand dealer, pursuant to s. 775.089.

Section 54. Subsection (4) of section 538.23, Florida Statutes, is amended to read:

538.23 Violations and penalties.—

(4) When a lawful owner recovers stolen regulated metals property from a secondary metals recycler who has complied with the provisions of this part, and the person who sold the regulated metals property to the secondary metals recycler is convicted of theft, a violation of this section, or dealing in stolen property, the court shall order ~~the defendant to make~~ full restitution, including, without limitation, attorneys' fees, court costs, and other expenses to the secondary metals recycler pursuant to s. 775.089.

Section 55. Section 810.115, Florida Statutes, is amended to read:

810.115 Breaking or injuring fences.—*A person who* ~~Whoever~~ willfully and maliciously breaks down, mars, injures, defaces, cuts, or otherwise creates or causes to be created an opening, gap, interruption, or break in any fence, or any part thereof, belonging to or enclosing land not his own, or *who* ~~whoever~~ causes to be broken down, marred, injured, defaced, or cut any fence belonging to or enclosing land not his own, *commits* ~~shall be guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and the court may require full compensation to the owner of such fence for any and all damages or losses resulting directly or indirectly from such act or commission, pursuant to s. 775.089.

Section 56. For the purpose of incorporating the amendment to section 775.089, Florida Statutes, in references thereto, subsection (2) of section 921.187, Florida Statutes, is reenacted to read:

921.187 Disposition and sentencing; alternatives; restitution.—

(2) The court shall require an offender to make restitution pursuant to s. 775.089, unless the court finds clear and compelling reasons not to order such restitution as provided in that section. If the court does not order restitution, or orders restitution of only a portion of the damages, as provided in s. 775.089, the court shall state on the record in detail the reasons therefor.

Section 57. For the purpose of incorporating the amendment to section 775.089, Florida Statutes, in references thereto, paragraph (f) of subsection (5) of section 944.17, Florida Statutes, is reenacted to read:

944.17 Commitments and classification; transfers.—

(5) The department shall also refuse to accept a person into the state correctional system unless the following documents are presented in a completed form by the sheriff or chief correctional officer, or a designated representative, to the officer in charge of the reception process:

(f) A copy of the restitution order or the reasons by the court for not requiring restitution pursuant to s. 775.089(1).

In addition, the sheriff or other officer having such person in charge shall also deliver with the foregoing documents any available presentence investigation reports as described in s. 921.231 and any attached documents.

Section 58. For the purpose of incorporating the amendment to section 775.089, Florida Statutes, in references thereto, section 947.147, Florida Statutes, is reenacted to read:

947.147 Victim restitution as condition of control release.—If the defendant is released under control release, any restitution ordered under s. 775.089 shall be a condition of such release. The Control Release Authority may revoke the offender's control release if the defendant fails to comply with such order. In determining whether to revoke control release, the Control Release Authority shall consider the defendant's employment status, earning ability, and financial resources; the willfulness of the defendant's failure to pay; and any other special circumstances that may have a bearing on the defendant's ability to pay.

Section 59. For the purpose of incorporating the amendment to section 775.089, Florida Statutes, in references thereto, subsection (2) of section 947.181, Florida Statutes, is reenacted to read:

947.181 Victim restitution as condition of parole.—

(2) If a defendant is paroled, any restitution ordered under s. 775.089 shall be a condition of such parole. The Parole Commission may revoke parole if the defendant fails to comply with such order. In determining whether to revoke parole, the Parole Commission shall consider the defendant's employment status, earning ability, and financial resources; the willfulness of the defendant's failure to pay; and any other special circumstances that may have a bearing on the defendant's ability to pay.

Section 60. For the purpose of incorporating the amendment to section 775.089, Florida Statutes, in references thereto, paragraph (e) of subsection (1) of section 948.03, Florida Statutes, is reenacted to read:

948.03 Terms and conditions of probation or community control.—

(1) The court shall determine the terms and conditions of probation or community control and may include among them the following, that the probationer or offender in community control shall:

(e) Make reparation or restitution to the aggrieved party for the damage or loss caused by his offense in an amount to be determined by the court. The court shall make such reparation or restitution a condition of probation, unless it determines that clear and compelling reasons exist to the contrary. If the court does not order restitution, or orders restitution of only a portion of the damages, as provided in s. 775.089, it shall state on the record in detail the reasons therefor.

Section 61. For the purpose of incorporating the amendment to section 775.089, Florida Statutes, in references thereto, section 948.032, Florida Statutes, is reenacted to read:

948.032 Condition of probation; restitution.—If a defendant is placed on probation, any restitution ordered under s. 775.089 shall be a condition of such probation. The court may revoke probation if the defendant fails to comply with such order. In determining whether to revoke probation, the court shall consider the defendant's employment status, earning ability, and financial resources; the willfulness of the defendant's failure to pay; and any other special circumstances that may have a bearing on the defendant's ability to pay.

Section 62. Subsection (6) of section 39.023, Florida Statutes, is amended to read:

39.023 Commission on Juvenile Justice.—The Commission on Juvenile Justice is hereby created.

(6) POWERS AND DUTIES.—The commission shall have the following powers and duties:

(a) To review and recommend programmatic and fiscal policies governing the operation of programs, services, and facilities for which the department is responsible under this part.

(b) To monitor the development and implementation of long-range juvenile justice policies, including prevention, early intervention, diversion, adjudication, and commitment.

(c) To monitor all activities of the executive and judicial branch and their effectiveness in implementing policies pursuant to this part.

(d) To advise the Governor, the President of the Senate, and the Speaker of the House of Representatives on matters relating to this part, and to submit an annual report to the Legislature no later than December 30 of each calendar year summarizing the activities and reports of the commission for the preceding year, and any recommendations of the commission for the following year.

(e) To hold public hearings and to publicize activities of the commission and of the department relating to this part, as appropriate.

(f) To monitor the delivery and use of services, programs, *and* ~~or~~ facilities operated, funded, regulated, or licensed by the department for juvenile offenders and alleged juvenile offenders and for prevention, diversion, or early intervention of delinquency, and to develop programs to educate the citizenry about such services, programs, and facilities and about the need and procedure for siting new facilities.

(g) To contract for consultants as necessary and appropriate, within the limits of specific appropriations.

(h) To apply for, receive, and administer grant funds, including, but not limited to, funds available through the Office of Juvenile Justice and Delinquency Prevention.

(i)~~(h)~~ To conduct such other activities as the commission may determine are necessary and appropriate to monitor the effectiveness of the delivery of juvenile justice under this part.

Section 63. Section 960.001, Florida Statutes, is amended to read:

960.001 Guidelines for fair treatment of victims and witnesses in the criminal justice *and juvenile justice systems* ~~system~~.—

(1) The Department of Legal Affairs, the state attorneys, the Department of Corrections, the Parole Commission, the State Courts Administrator and circuit court administrators, the Department of Law Enforcement, and every sheriff's department, police department, or other law enforcement agency as defined in s. 943.10(4) shall develop and implement guidelines for the use of their respective agencies, which guidelines are consistent with the purposes of this act and s. 16(b), Art. I of the State Constitution and are designed to implement the provisions of s. 16(b), Art. I of the State Constitution and to achieve the following objectives:

(a) Information concerning services available to victims of *adult and juvenile* crime.—Witness coordination offices as provided in s. 43.35 shall gather information regarding the following services in the geographic boundaries of their respective circuits and shall provide such information to each law enforcement agency with jurisdiction within such geographic boundaries. Law enforcement personnel shall ensure, through distribution of a victim's rights information card or brochure at the crime scene, during the criminal investigation, and in any other appropriate manner, that victims are given, as a matter of course at the earliest possible time, information about:

1. The availability of crime victim compensation, when applicable;

2. Crisis intervention services, supportive or bereavement counseling, social service support referrals, and community-based victim treatment programs;

3. The role of the victim in the criminal *or juvenile* justice process, including what the victim may expect from the system as well as what the system expects from the victim;

4. The stages in the criminal *or juvenile* justice process which are of significance to *the* ~~a crime~~ victim and the manner in which information about such stages can be obtained;

5. The right of a victim, who is not incarcerated, including the next of kin of a homicide victim, to be informed, to be present, and to be heard when relevant, at all crucial stages of a criminal *or juvenile* proceeding, to the extent that this right does not interfere with constitutional rights of the accused, as provided by s. 16(b), Art. I of the State Constitution; and

6. In the case of incarcerated victims, the right to be informed and to submit written statements at all crucial stages of the criminal proceedings and parole proceedings.

(b) Information concerning protection available to victim or witness.—A victim or witness shall be furnished, as a matter of course, with information on steps that are available to law enforcement officers and state attorneys to protect victims and witnesses from intimidation.

(c) Notification of scheduling changes.—Each victim or witness who has been scheduled to attend a criminal *or juvenile* justice proceeding shall be notified as soon as possible by the agency scheduling his appearance of any change in scheduling which will affect his appearance.

(d) Advance notification to victim or relative of victim concerning judicial proceedings; right to be present.—Any victim, relative of a minor who is a victim, or relative of a homicide victim shall receive from the appropriate agency, at the address found in the police report or other criminal report or at a more current address if such has been provided to the agency, prompt advance notification, unless the agency itself does not have advance notification, of judicial and post-judicial proceedings relating to his case, including all proceedings or hearings relating to:

1. The arrest of an accused;

2. The release of the accused pending judicial proceedings or any modification of release conditions; and

3. Proceedings in the prosecution *or petition for delinquency* of the accused, including the filing of the accusatory instrument, the arraignment, disposition of the accusatory instrument, trial *or delinquency proceeding*, sentencing, appellate review, subsequent modification of sentence, collateral attack of a judgment, and, when a term of imprisonment, *detention*, or involuntary commitment is imposed, the release of the defendant *or juvenile offender* from such imprisonment, *detention*, or commitment by expiration of sentence or parole and any meeting held to consider such release.

A victim or a victim's next of kin may not be excluded from any portion of any hearing, ~~or~~ trial, *or proceeding* pertaining to the offense based *solely* on the fact that such person is subpoenaed to testify, unless, upon motion, the court determines such person's presence to be prejudicial. The appropriate agency with respect to notification under subparagraph 1. is the arresting law enforcement agency and the appropriate agency with respect to notification under subparagraphs 2. and 3. is the Attorney General or state attorney, unless the notification relates to a hearing concerning parole, in which case the appropriate agency is the Parole Commission. The Department of Corrections, *the Department of Health and Rehabilitative Services*, or the sheriff is the appropriate agency with respect to release by expiration of sentence or any other release program provided by law. Any victim may waive notification at any time and such waiver shall be noted in the agency's files.

(e) Consultation with victim or guardian or family of victim.—In addition to being notified of the provisions of s. 921.143, the victim of a felony involving physical or emotional injury or trauma or, in a case in which the victim is a minor child or in a homicide, the guardian or family of the victim shall be consulted by the state attorney in order to obtain the views of the victim or family about the disposition of any criminal *or juvenile* case brought as a result of such crime, including the views of the victim or family about:

1. The release of the accused pending judicial proceedings;

2. Plea agreements;

3. Participation in pretrial diversion programs; and

4. Sentencing of the accused.

(f) Return of property to victim.—Law enforcement agencies and the state attorney shall promptly return a victim's property held for evidentiary purposes unless there is a compelling law enforcement reason for retaining it. The trial *or juvenile* court exercising jurisdiction over the criminal *or juvenile* proceeding may enter appropriate orders to implement the provisions of this subsection, including allowing photographs of the victim's property to be used as evidence at *the criminal* trial *or the juvenile proceeding* in place of the victim's property when no substantial evidentiary issue related thereto is in dispute.

(g) Notification to employer and explanation to creditors of victim or witness.—A victim or witness who so requests shall be assisted by law enforcement agencies and the state attorney in informing his employer that the need for victim and witness cooperation in the prosecution of the case may necessitate the absence of that victim or witness from work. A victim or witness who, as a direct result of a crime or of his cooperation with law enforcement agencies or a state attorney, is subjected to serious financial strain shall be assisted by such agencies and state attorney in explaining to the creditors of such victim or witness the reason for such serious financial strain.

(h) Notification of right to request restitution.—Law enforcement agencies and the state attorney shall inform the victim of the victim's right to request and receive restitution pursuant to s. 775.089, and of the victim's rights of enforcement under s. 775.089(5) in the event an offender does not comply with a restitution order. The state attorney shall seek the assistance of the victim in the documentation of the victim's losses for the purpose of requesting and receiving restitution. In addition, the state attorney shall inform the victim if and when restitution is ordered.

(i) Notification of right to submit impact statement.—The state attorney shall inform the victim of the victim's right to submit an oral or written impact statement pursuant to s. 921.143 and shall assist in the preparation of such statement if necessary.

(j) Local witness coordination office.—The requirements for notification provided for in paragraphs (c), (d), and (g) may be performed by the local witness coordinating office established by s. 43.35, as appropriate.

(k) Victim assistance education and training.—Victim assistance education and training shall be offered to persons taking courses at law enforcement training facilities and to state attorneys and assistant state attorneys so that victims may be promptly, properly, and completely assisted.

(l) General victim assistance.—Victims and witnesses shall be provided with such other assistance, such as transportation, parking, separate pretrial waiting areas, and translator services in attending court, as is practicable.

(m) Victim's rights information card or brochure.—A victim of a crime shall be provided with a victim's rights information card or brochure containing essential information concerning the rights of a victim and services available to a victim as required by state law.

(n) Information concerning escape from a state correctional institution, county jail, juvenile detention facility or involuntary commitment facility.—In any case where an offender escapes from a state correctional institution, county jail, juvenile detention facility, or involuntary commitment facility, immediate notification shall be made by the institution of confinement to the state attorney of the jurisdiction where the criminal charge *or petition for delinquency* arose. The state attorney shall thereupon make every effort to notify the victim, material witness, parents or legal guardian of a minor who is a victim or witness, or immediate relatives of a homicide victim of the escapee. The state attorney shall also notify the sheriff of the county where the criminal charge *or petition for delinquency* arose. The sheriff shall offer assistance upon request.

(o) Presence of victim advocate during discovery deposition.—At the request of the victim, the victim advocate designated by state attorney's office, sheriff's office, or municipal police department, or one representative from a not-for-profit victim services organization, including, but not limited to, rape crisis centers, domestic violence advocacy groups, and alcohol abuse or substance abuse groups shall be permitted to attend and be present during any deposition of the victim.

(2)(a) A copy of the guidelines adopted by each agency shall be filed with the Governor, and subsequent changes or amendments thereto shall be likewise filed when adopted.

(b) The Governor shall advise state agencies of any statutory changes which require an amendment to its guidelines.

(c) The Executive Office of the Governor shall review the guidelines submitted pursuant to this section:

1. To determine whether all affected agencies have developed guidelines which address all appropriate aspects of this section; and

2. To encourage consistency in the guidelines and plans in their implementation in each judicial circuit and throughout the state.

(d) The Executive Office of the Governor may issue an annual report detailing each agency's compliance or noncompliance with its duties as provided under this section. In addition, the Governor may apply to the circuit court of the county where the headquarters of such agency is located for injunctive relief against any agency which has failed to comply with any of the requirements of this section, which has failed to file the guidelines, or which has filed guidelines in violation of this section, to compel compliance with this section.

(3) The state attorney and one or more of the law enforcement agencies within each judicial circuit may develop and file joint agency guidelines, as required by this section, which allocate the statutory duties among the participating agencies. Responsibility for successful execution of the entire guidelines lies with all parties.

(4) Nothing in this section or in the guidelines adopted pursuant to this section shall be construed as creating a cause of action against the state or any of its agencies or political subdivisions.

(5) Victims and witnesses who are not incarcerated shall not be required to attend discovery depositions in any correctional facility.

(6) Information gained by the victim pursuant to this chapter, including the next of kin of a homicide victim, regarding any case handled in juvenile court, may not be revealed to any outside party, except as is reasonably necessary in pursuit of legal remedies.

Section 64. Section 960.002, Florida Statutes, is amended to read:

960.002 Direct-support organization to assist victims of *adult and juvenile* crime.—

(1) The Governor may authorize a direct-support organization to assist in addressing the needs of victims of *adult and juvenile* crime. The direct-support organization shall operate under contract with the Executive Office of the Governor. Such a direct-support organization must be:

(a) Incorporated under chapter 617 and approved by the Department of State as a Florida corporation not for profit;

(b) Organized and operated to receive, hold, invest, and administer property and to make expenditures to or for the benefit of victims of *adult and juvenile* crime. The direct-support organization may not receive funds from the Executive Office of the Governor by grant, gift, or contract unless specifically authorized by the Legislature; and

(c) Approved by the Governor to be operating for the benefit of and in the best interest of the state.

(2) The contract must provide for:

(a) Approval of the articles of incorporation of the direct-support organization by the Governor, and for the governance of the direct-support organization by members appointed by the Governor;

(b) Submission of an annual budget for the approval of the Governor;

(c) Certification by the Governor or his designee, after conducting an annual financial and performance review, that the direct-support organization is operating in compliance with the terms of the contract and in a manner consistent with the goals of the Legislature in providing assistance to victims of *adult and juvenile* crime and in the best interest of the state;

(d) The release and conditions for the expenditure of any state revenues;

(e) The reversion to the state of funds held in trust by the direct-support organization if the contract is terminated; and

(f) The fiscal year of the direct-support organization to begin on July 1 and end on June 30 of each year.

(3) The Executive Office of the Governor may authorize the use of state property, facilities, and personal services subject to the provisions of this section. For the purposes of this subsection, personal services includes full-time or part-time personnel as well as payroll processing services.

(4) The direct-support organization shall make provisions for an annual financial and compliance audit of its financial accounts and records by an independent certified public accountant in accordance with rules established by the Governor. The annual audit report shall be submitted to the Governor for review and approval. Upon approval, the Governor shall certify the audit report to the Auditor General for review and approval.

(5) All records of the direct-support organization constitute public records for the purposes of chapter 119.

Section 65. Section 960.003, Florida Statutes, is amended to read:

960.003 Human immunodeficiency virus testing for persons charged with *or alleged by petition for delinquency to have committed* sex offenses; disclosure of results to victims.—

(1) LEGISLATIVE INTENT.—The Legislature finds that a victim of a sexual offense is entitled to know at the earliest possible opportunity whether the person charged with *or alleged by petition for delinquency to have committed* the offense has tested positive for human immunodeficiency virus (HIV) infection. The Legislature finds that to deny victims access to HIV test results causes unnecessary mental anguish in persons who have already suffered trauma. The Legislature further finds that since medical science now recognizes that early diagnosis is a critical factor in the treatment of HIV infection, both the victim and the person charged with *or alleged by petition for delinquency to have committed* the offense benefit from prompt disclosure of test results. The Legislature finds that HIV test results can be disclosed to the victim of a sexual offense while confidentiality is protected in other respects.

(2) TESTING OF PERSON CHARGED WITH *OR ALLEGED BY PETITION FOR DELINQUENCY TO HAVE COMMITTED* SEX OFFENSE.—In any case in which a person has been charged by information or indictment with *or alleged by petition for delinquency to have committed* any sexual offense proscribed in chapter 794 or s. 800.04 which involves the transmission of body fluids from one person to another, upon request of the victim or the victim's legal guardian, or of the parent or legal guardian of the victim if the victim is a minor, the court shall order such person to undergo HIV testing. The testing shall be performed under the direction of the Department of Health and Rehabilitative Services in accordance with s. 381.004. The results of an HIV test performed on a defendant *or juvenile offender* pursuant to this subsection shall not be admissible in any criminal *or juvenile* proceeding arising out of the alleged sexual offense.

(3) DISCLOSURE OF RESULTS.—

(a) The results of the test shall be disclosed, under the direction of the Department of Health and Rehabilitative Services, to the person charged with *or alleged by petition for delinquency to have committed* the offense, and, upon request, shall also be disclosed to the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor. The test results shall not be disclosed to any other person except as expressly authorized by law or court order.

(b) At the time that the results are disclosed to the victim or the victim's legal guardian, or to the parent or legal guardian of a victim if the victim is a minor, the same immediate opportunity for face-to-face counseling which must be made available under s. *381.004* ~~381.609~~(3)(e) to those who undergo HIV testing shall also be afforded to the victim or the victim's legal guardian, or to the parent or legal guardian of the victim if the victim is a minor. The Department of Health and Rehabilitative Services is responsible for ensuring that test results are disclosed in accordance with the terms of this subsection.

(4) POST-CONVICTION TESTING.—If, for any reason, the testing requested under subsection (2) has not been undertaken, then upon request of the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor, the court shall order the offender to undergo HIV testing following conviction *or delinquency adjudication*. The testing shall be performed under the direction of the Department of Health and Rehabilitative Services, and the results shall be disclosed in accordance with the provisions of subsection (3). The test results shall not be disclosed to any other person except as expressly authorized by law or court order.

(5) EXCEPTIONS.—The provisions of subsections (2) and (4) do not apply if:

(a) The person charged with or convicted of *or alleged by petition for delinquency to have committed or adjudicated delinquent for* a sexual offense as described in subsection (2) has undergone HIV testing voluntarily or pursuant to procedures established in s. *381.004* ~~381.609~~(3)(i)6. or s. 951.27, or any other applicable law or rule providing for HIV testing

of criminal defendants, ~~or~~ inmates, *or juvenile offenders* subsequent to his arrest, ~~or~~ conviction, *or delinquency adjudication* for the sexual offense for which he was charged *or alleged by petition for delinquency to have committed*; and

(b) The results of such HIV testing have been furnished to the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor.

(6) TESTING DURING INCARCERATION, *DETENTION, OR PLACEMENT*; DISCLOSURE.—In any case in which a person convicted of *or adjudicated delinquent for* a sexual offense described in subsection (2) has not been tested under subsection (2), but undergoes HIV testing during his incarceration, *detention, or placement*, the results of the initial HIV testing shall be disclosed to the victim or the victim's legal guardian, or to the parent or legal guardian of the victim if the victim is a minor, upon request. Except as otherwise requested by the victim or the victim's legal guardian, or the parent or guardian of the victim if the victim is a minor, if the initial test is conducted within the first year of the ~~inmate's~~ imprisonment, *detention, or placement*, the request for disclosure shall be considered a standing request for any subsequent HIV test results obtained within 1 year after the initial HIV test performed, and need not be repeated for each test administration. Where the inmate *or juvenile offender* has previously been tested pursuant to subsection (2) the request for disclosure under this subsection shall be considered a standing request for subsequent HIV results conducted within *1* ~~one~~ year of the test performed pursuant to subsection (2). If the HIV testing is performed by an agency other than the Department of Health and Rehabilitative Services, that agency shall be responsible for forwarding the test results to the Department of Health and Rehabilitative Services for disclosure to the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor, in accordance with subsection (3). This subsection shall not be limited to results of HIV tests administered subsequent to June 27, 1990, but shall also apply to the results of all HIV tests performed on inmates convicted of *or juvenile offenders adjudicated delinquent for* sex offenses as described in subsection (2) during their incarceration, *detention, or placement* prior to June 27, 1990. The test results shall not be disclosed to any other person except as expressly authorized by law or court order.

Section 66. Section 960.01, Florida Statutes, is amended to read:

960.01 Short title.—The provisions of *ss. 960.01-960.28* ~~this chapter shall be known and~~ may be cited as the "Florida Crimes Compensation Act."

Section 67. Section 960.02, Florida Statutes, is amended to read:

960.02 Declaration of policy and legislative intent.—The Legislature recognizes that many innocent persons suffer personal injury or death as a direct result of *adult and juvenile* criminal acts or in their efforts to prevent crime or apprehend persons committing or attempting to commit *adult and juvenile* crimes. Such persons or their dependents may thereby suffer disabilities, incur financial hardships, or become dependent upon public assistance. The Legislature finds and determines that there is a need for government financial assistance for such victims of *adult and juvenile* crime. Accordingly, it is the intent of the Legislature that aid, care, and support be provided by the state, as a matter of moral responsibility, for such victims of *adult and juvenile* crime. It is the express intent of the Legislature that all state departments and agencies cooperate with the Department of Legal Affairs in carrying out the provisions of this chapter.

Section 68. Section 960.03, Florida Statutes, is amended to read:

960.03 Definitions.—As used in ss 960.01-960.28, unless the context otherwise requires, the term:

(1) "Claimant" means any person filing a claim pursuant to this chapter.

(2) "Department" means the Department of Legal Affairs.

(3) "Crime" means the commission by any person, *including a juvenile offender,* of a felony or misdemeanor *offense punishable* under the laws of this state, which ~~is punishable under the criminal laws of this state and which~~ results in physical injury or death. The term also includes any *such* criminal act which is committed within this state but which falls exclusively within federal jurisdiction. "Crime" also includes any violation of s. 316.193, which ~~violation~~ 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. "Crime" also includes any *such* criminal act committed outside of this state against a resident of this state that would have been compensable if it had occurred in this state and that occurred in a state that does not have an eligible crime victim compensation program as the term is defined in the federal Victims of Crime Act of 1984.

(4) "Crime Victims' Services Office" means the former Bureau of Crimes Compensation and Victim and Witness Services, now the Crime Victims' Services Office of the Department of Legal Affairs.

(5) "Hearing officer" means a hearing officer from the Division of Administrative Hearings

(6) "Intervenor" means any person who goes to the aid of another and suffers bodily injury or death as a direct result of acting, not recklessly, to prevent the commission of a crime, to lawfully apprehend a person reasonably suspected of having committed a crime, or to aid the victim of a crime.

(7) "Victim" means any person who suffers personal physical injury or death as a direct result of a crime.

(8) "Out-of-pocket loss" means unreimbursed and unreimbursable expenses or indebtedness incurred for medical care, nonmedical remedial care, psychological counseling, or other treatment rendered in accordance with a religious method of healing or for other services necessary as a result of the injury or death upon which such claim is based.

Section 69. Subsection (4) of section 960.07, Florida Statutes, is amended to read:

960.07 Filing of claims for compensation.—

(4) Upon filing of a claim pursuant to this chapter, the department shall promptly notify the state attorney of the circuit wherein the crime is alleged to have occurred. If within 10 days after such notification such state attorney advises the department that a criminal prosecution *or delinquency petition* is pending upon the same alleged crime and requests that action by the department be deferred, the department shall defer all proceedings under this chapter until such time as a trial verdict *or delinquency adjudication* has been rendered, and shall so notify such state attorney and claimant. When a trial verdict *or delinquency adjudication* has been rendered, such state attorney shall promptly notify the department. Nothing in this subsection shall limit the authority of the department to grant emergency awards pursuant to s. 960.12.

Section 70. Subsection (1) of section 960.17, Florida Statutes, is amended to read:

960.17 Award constitutes debt owed to state.—

(1) Any payment of benefits to, or on behalf of, a victim or other claimant under this chapter creates a debt due and owing to the state by any person found, in ~~either~~ a civil, ~~or~~ criminal, *or juvenile* court proceeding in which he is a party, to have committed such criminal act.

Section 71. Section 960.20, Florida Statutes, is amended to read:

960.20 Additional costs.—When any person pleads guilty or nolo contendere to, or is convicted of *or adjudicated delinquent for*, any felony, misdemeanor, or criminal traffic offense under the laws of this state or the violation of any municipal or county ordinance which adopts by reference any misdemeanor under state law, there shall be imposed as an additional cost in the case, in addition and prior to any other cost required to be imposed by law, the sum of $20. Any person whose adjudication is withheld pursuant to the provisions of s. 318.14(10) shall also be assessed such cost. The clerk of the court shall collect and forward $19 of each $20 collected to the Treasurer, to be deposited in the Crimes Compensation Trust Fund. The clerk shall retain the remaining $1 of each $20 collected as a service charge of the clerk's office. Under no condition shall a political subdivision be held liable for the payment of this sum of $20.

Section 72. Subsection (4) of section 960.28, Florida Statutes, is amended to read:

960.28 Payment for victims' initial examinations.—

(4) Any defendant *or juvenile offender* who pleads guilty or nolo contendere to, or is convicted of *or adjudicated delinquent for*, any violation of chapter 794 shall be ordered by the court to make restitution to the Crimes Compensation Trust Fund in an amount equal to the compensation paid to the victim or medical provider by the Crime Victims' Services Office for the cost of the initial examination.

And the title is amended as follows:

In title, on page 31, line 9, following the second semicolon (;) insert: amending s. 39.0255, F.S.; revising a reporting requirement for a juvenile who is issued a civil citation by a law enforcement officer; amending s. 39.01, F.S.; revising the definition of the term "serious or habitual juvenile offender"; providing for a separate program for young offenders; reenacting ss. 39.052(5), 39.058(3)(e), (4)(a), F.S., relating to serious or habitual delinquent child placement and assessments, to incorporate the amendment to s. 39.01, F.S., in references thereto; amending s. 39.038, F.S.; requiring the child to join in the release agreement; amending s. 39.047, F.S.; providing responsibilities of the case manager; providing for the removal of the disabilities of nonage for certain minors; amending s. 39.048, F.S.; deleting the 45-day filing requirement; providing that a speedy trial runs from service of summons or first court appearance; amending s. 39.0585, F.S.; revising provisions relating to information systems and records to authorize identification files on chronic delinquent offenders; defining "chronic delinquent offender"; providing for certain sharing of information; amending s. 39.044, F.S.; expanding detention criteria, and reenacting ss. 39.037(1), 39.038(2) and (4), 39.042(3)(b)1., 39.049(5), 39.064(1), 39.402(4), F.S., relating to taking a child into custody, release from custody, use of detention, process and service, detention of escaped child, and placement in a shelter, to incorporate changes in references thereto; amending s. 39.052, F.S.; providing for arraignment at an adjudicatory hearing; creating s. 39.0445, F.S.; providing for placement of juvenile domestic violence offenders; amending s. 39.054, F.S.; providing for a judgment lien; amending s. 775.089, F.S., to expand applicability of restitution provisions to juvenile offenders, and reenacting ss. 921.187(2), 944.17(5)(f), 947.147, 947.181(2), 948.03(1)(e), 948.032, F.S., relating to sentencing, commitment, control release, parole, probation, and community control, to incorporate changes in references thereto; amending ss. 538.07, 538.23, 810.115, F.S., relating to secondhand dealers, secondary metals recyclers, and injuring fences, to conform; amending s. 39.023, F.S.; expanding powers of the Commission on Juvenile Justice; amending ss. 960.001, 960.002, 960.003, 960.01, 960.02, 960.03, 960.07, 960.17, 960.20, 960.28, F.S., relating to victim assistance, to provide that victims and witnesses in juvenile delinquency cases have the same rights as those afforded to victims and witnesses in adult criminal cases;

Senator Crotty moved the following amendments which were adopted:

Senate Amendment 5 to House Amendment 1—On page 28, between lines 17 and 18, insert:

Section 33. Intent and purposes.—It is the intent of sections 33-36 of this act to authorize the establishment of structured disciplinary training programs within the Department of Corrections. These programs are expressly intended to instill self-discipline, improve work habits, and improve self-confidence for inmates.

Section 34. Eligibility of inmates.—

(1) The provisions of sections 33-36 of this act shall apply to all eligible inmates of state correctional institutions.

(2) Upon receipt of an inmate into the prison system, the department shall screen offenders for the training program. To participate, an inmate must have no physical limitations which would preclude participation in strenuous activity and must not be impaired. In screening offenders for the training program, the department shall consider the offender's criminal history and the possible rehabilitative benefits of "shock" incarceration.

Section 35. Program operation.—

(1) The department shall, subject to specific legislative appropriation, develop and implement training programs for eligible inmates which shall include, but not be limited to, marching drills, calisthenics, a rigid dress code, work assignments, physical training, training in decisionmaking and personal development, drug counseling, education, and rehabilitation programs.

(2) The department shall adopt rules establishing criteria for placement in the training program which shall include the requirements for successful completion of the program. The rules shall further define the structured disciplinary program and allow for restrictions on general inmate population privileges.

(3) The program shall provide a short incarceration period of rigorous training to offenders who require a greater degree of supervision than is provided for persons on community control or probation. The program is not intended to divert offenders away from probation or community control, but to divert them from long periods of incarceration when a short "shock" incarceration could produce the same deterrent effect.

(4) Upon the offender's completion of the training program, the department shall submit a report to the releasing authority that describes the offender's performance. If the performance has been satisfactory, the releasing authority shall establish a release date which is within 30 days following program completion. As a condition of release, offenders shall be placed on community supervision as provided in chapter 947, Florida Statutes, and shall be subject to the conditions established therefor.

(5) If an offender in the training program becomes unmanageable, the department may place the offender in the general inmate population to complete the remainder of the sentence. Any period of time in which the offender is unable to participate in the training activities may be excluded from the specified time requirements in the program. The portion of the sentence served prior to placement in the training program shall not be counted toward program completion.

(6) The department shall work cooperatively with the Control Release Authority, the Florida Parole Commission, or such other authority as may exist or as may be established in the future which is empowered by law to effect the release of an inmate who has successfully completed the requirements established by this act.

(7) The department shall provide a special training program for staff selected for the training program.

Section 36. Reporting and implementation.—

(1) The department shall implement the provisions of sections 33-36 of this act to the fullest extent feasible within the parameters of sections 33-36 of this act.

(2) On October 15, 1992, the department shall submit a report to the Speaker of the House of Representatives, the President of the Senate, and the chairmen of the Senate and House of Representatives corrections committees detailing the extent of implementation of sections 33-36 of this act and outlining future goals and any recommendations the department has for future legislative actions.

(Renumber subsequent section.)

Senate Amendment 6 to House Amendment 1—In title, on page 31, line 9, after the second semicolon (;) insert: providing legislative intent and purpose; providing guidelines for regulating inmate behavior at state correctional institutions; requiring the Department of Corrections to adopt certain rules; requiring the department to report to the Legislature;

On motions by Senator Dantzler, the Senate concurred in **House Amendment 1** as amended and the House was requested to concur in the Senate amendments to the House amendment; and concurred in **House Amendment 2**.

CS for SB 1720 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37 Nays—1

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 1730 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1730—A bill to be entitled An act relating to disability insurance policies; providing that a health care practitioner whose practice is restricted under certain circumstances because of his testing positive for human immunodeficiency virus has a disability for purposes of health insurance policies delivered in this state; providing an effective date.

House Amendment 1—On page 1, line 25, strike the entire line and insert:

Section 2. This act shall take effect July 1, 1992, but shall not apply to any policy issued prior to that date.

House Substitute Amendment 2 (with Title Amendment)—On page 1, between lines 24 and 25, insert:

Section 2. Paragraph (i) of subsection (3) of section 381.004, Florida Statutes, is amended to read:

381.004 Testing for human immunodeficiency virus.—

(3) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.—

(i) Notwithstanding the provisions of paragraph (a), informed consent is not required:

1. When testing for sexually transmissible diseases is required by state or federal law, or by rule including the following situations:

a. HIV testing of persons convicted of prostitution, or convicted of procuring another to commit prostitution with himself, pursuant to s. 796.08(1)(b);

b. Testing for HIV by a medical examiner in accordance with s. 406.11.

2. Those exceptions provided for blood, plasma, organs, skin, semen, or other human tissue pursuant to s. 381.6105.

3. For the performance of an HIV-related test by licensed medical personnel in bona fide medical emergencies when the test results are necessary for medical diagnostic purposes to provide appropriate emergency care or treatment to the person being tested and the patient is unable to consent, as supported by documentation in the medical record. Posttest counseling shall nonetheless be required.

4. For the performance of an HIV-related test by licensed medical personnel for medical diagnosis of acute illness where, in the opinion of the attending physician, the obtaining of informed consent would be detrimental to the patient, as supported by documentation in the medical record, and the test results are necessary for medical diagnostic purposes to provide appropriate care or treatment to the person being tested. Posttest counseling shall nonetheless be required if such counseling would not be detrimental to the patient. This provision does not authorize the routine testing of patients for HIV infection without informed consent.

5. When HIV testing is performed as part of an autopsy for which consent was obtained pursuant to s. 872.04.

6. For the performance of an HIV test upon a defendant pursuant to the victim's request in a prosecution for any type of sexual battery where a blood sample is taken from the defendant voluntarily or pursuant to court order for any purpose, or pursuant to the provisions of s. 951.27 or s. 960.003; provided, however, that the results of any HIV test performed shall be disclosed solely to the victim and the defendant, except as provided in ss. 951.27 and 960.003.

7. When an HIV test is mandated by court order.

8. For epidemiological research pursuant to s. 381.614, for research consistent with institutional review boards created by 45 C.F.R. part 46, or for the performance of an HIV-related test for the purpose of research, if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher.

9. When human tissue is collected lawfully without the consent of the donor for corneal removal as authorized by s. 732.9185 or enucleation of the eyes as authorized by s. 732.919.

10. For the performance of an HIV test upon an individual who comes into contact with medical personnel in such a way that a significant exposure has occurred during the course of employment or within the scope of practice and where a blood sample is taken from that individual voluntarily by medical personnel for other purposes. Medical personnel shall include a licensed or certified health care professional; an employee of a health care professional, health care facility, or blood bank; or a paramedic or emergency medical technician as defined in s. 401.23.

a. Prior to performance of an HIV test on a voluntarily obtained blood sample, the individual from whom the blood was obtained shall be requested to consent to the performance of an HIV test and to the release of the results. The individual's refusal to consent and all information concerning the performance of an HIV test and any HIV test result shall be documented only in the medical personnel's record unless the individual gives written consent to entering this information on the individual's medical record.

b. Reasonable attempts to locate the individual and to obtain consent shall be made and all attempts must be documented. If the individual cannot be found, an HIV test may be conducted on the available blood sample. If the individual does not voluntarily consent to the performance of an HIV test, the individual shall be informed that an HIV test will be performed and counseling shall be furnished as provided in this section. However, HIV testing shall be conducted only after a licensed physician documents, in the medical record of the medical personnel, that there has been a significant exposure and that, in the physician's medical judgment, the information is medically necessary to determine the course of treatment for the medical personnel.

c. Costs of any HIV test of a blood sample performed with or without the consent of the individual, as provided in this subparagraph, shall be borne by the medical personnel or the employer of the medical personnel. However, costs of testing or treatment not directly related to the initial HIV tests or costs of subsequent testing or treatment shall not be borne by the medical personnel or the employer of the medical personnel.

d. In order to utilize the provisions of this subparagraph, the medical personnel shall be tested for HIV pursuant to this section or shall provide the results of an HIV test taken within 6 months prior to the significant exposure if such test results are negative.

e. Any person who receives the results of an HIV test pursuant to this subparagraph shall maintain the confidentiality of the information received and of the persons tested. Such confidential information is exempt from s. 119.07(1). The exemption from s. 119.07(1) provided by this sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

11. For the performance of an HIV test upon an individual who comes into contact with medical personnel in such a way that a significant exposure has occurred during the course of employment or within the scope of practice of the medical personnel while the medical personnel provides emergency medical treatment to the individual*; or who comes into contact with nonmedical personnel in such a way that a significant exposure has occurred while the nonmedical personnel provides emergency medical assistance during a medical emergency. For the purposes of this subparagraph, a medical emergency means an emergency medical condition as defined in s. 395.0142, outside of a hospital or health care facility that provides physician care.* The test may be performed only during the course of treatment for the medical emergency.

a. Where the individual is capable of providing consent, the individual shall be requested to consent to an HIV test prior to the performance of an HIV test. The individual's refusal to consent and all information concerning the performance of an HIV test and any HIV test result shall be documented only in the medical personnel's *or nonmedical personnel's* record unless the individual gives written consent to entering this information on the individual's medical record.

b. HIV testing shall be conducted only after a licensed physician documents, in the medical record of the medical personnel *or nonmedical personnel*, that there has been a significant exposure and that, in the physician's medical judgment, the information is medically necessary to determine the course of treatment for the medical personnel *or nonmedical personnel.*

c. Costs of any HIV test performed with or without the consent of the individual, as provided in this subparagraph, shall be borne by the medical personnel or the employer of the medical personnel *or nonmedical personnel.* However, costs of testing or treatment not directly related to the initial HIV tests or costs of subsequent testing or treatment shall not be borne by the medical personnel or the employer of the medical personnel *or nonmedical personnel.*

d. In order to utilize the provisions of this subparagraph, the medical personnel *or nonmedical personnel* shall be tested for HIV pursuant to this section or shall provide the results of an HIV test taken within 6 months prior to the significant exposure if such test results are negative.

e. Any person who receives the results of an HIV test pursuant to this subparagraph shall maintain the confidentiality of the information received and of the persons tested. Such confidential information is exempt from s. 119.07(1). The exemption from s. 119.07(1) provided by this sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

12. The performance of an HIV-related test where medically indicated by licensed medical personnel for medical diagnosis of a hospitalized infant where such test results are necessary to provide appropriate care and treatment of the infant and when, after a reasonable attempt, a parent cannot be contacted to provide consent. The medical records of the infant shall reflect the reason consent of the parent was not initially obtained. Test results and posttest counseling shall be provided to the parent when such parent is located.

Section 3. Section 395.0147, Florida Statutes, is amended to read:

395.0147 Infectious diseases; notification.—*Notwithstanding the provisions in s. 381.004,* if, while treating or transporting an ill or injured patient to a licensed facility, an emergency medical technician, paramedic, or other person comes into direct contact with the patient who is subsequently diagnosed as having an infectious disease, it shall be the duty of the licensed facility receiving the patient to notify the emergency medical technician, paramedic, or his emergency medical transportation service employer, or other person of the individual's exposure to the patient within 48 hours, or sooner, of confirmation of the patient's diagnosis and to advise him of the appropriate treatment, if any. Notification made pursuant to this section shall be done in a manner which will protect the confidentiality of such patient information and shall not include any patient's name.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 8, insert after the semicolon: amending s. 381.004, F.S.; revising language with respect to testing for human immunodeficiency virus; amending s. 395.0147, F.S.; providing for exceptions for infectious disease notification;

On motions by Senator Myers, the Senate concurred in the House amendments.

CS for SB 1730 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—35 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for SB 1828 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1828—A bill to be entitled An act relating to farmworker housing; amending s. 381 008, F.S.; providing definitions; creating s. 381.0089, F.S.; providing for right of access to migrant labor camps and residential migrant housing; authorizing civil action; providing for civil liability; providing for rules; creating s. 381.00891, F.S.; providing for an administrative complaint process; creating s. 381.00892, F.S.; prohibiting discriminatory conduct; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 1, line 16, strike everything after the enacting clause and insert:

Section 1. Section 381.008, Florida Statutes, is amended to read:

381.008 Definitions of terms used in ss. 381.008-*381.00892* ~~381.0088~~.—As used in ss. 381.008-*381.00892* ~~381.0088~~, the following words and phrases mean:

(1) "Common areas"—That portion of a migrant labor camp or residential migrant housing not included within private living quarters and where migrant labor camp or residential migrant housing residents generally congregate.

(2)~~(1)~~ "Department"—The Department of Health and Rehabilitative Services and its representative county public health units.

(3) "Invited guest"—Any person who is invited by a resident to a migrant labor camp or residential migrant housing to visit that resident.

(4)~~(2)~~ "Migrant farmworker"—A person who is or has been employed in hand labor operations in planting, cultivation, or harvesting of agricultural crops within the last 12 months and who has changed residence for purposes of employment in agriculture within the last 12 months.

(5)~~(3)~~ "Migrant labor camp"—One or more buildings, structures, barracks, or dormitories, and any portion thereof, together with the land appertaining thereto, constructed, established, operated, or furnished as an incident of employment as living quarters for seasonal, temporary, or migrant farmworkers whether or not rent is paid or reserved in connection with the use or occupancy of such premises. It is the intent of this section to require migrant farmworker housing to be subject to the provisions of either chapter 509 or this law.

(6) "Other visitors"—Any person, other than an invited guest, representing a private or public organization whose primary interest in entering the premises is the health, safety, welfare, or dignity of farmworkers.

(7) "Private living quarters"—A building or portion of a building, including bathroom facilities, which is the home, residence, or sleeping place of a resident or residents of a migrant labor camp or residential migrant housing. For the purpose of this definition, "private living quarters" includes dormitories, barracks, and other similar type sleeping and bathroom areas.

(8)~~(4)~~ "Residential migrant housing"—A dwelling unit or dwelling units, which may be a single-family, multi-family, or mobile home, rented or reserved for occupancy by five or more unrelated migrant farmworkers. Any single-family or mobile home dwelling unit which is not adjacent to or contiguous with other residential migrant housing, and which is occupied by one migrant farmworker family, shall be excluded from this definition.

Section 2. Section 381.0089, Florida Statutes, is created to read:

381.0089 Access.—

(1) RIGHT OF ACCESS OF INVITED GUEST.—Residents of migrant labor camps or residential migrant housing shall have the right to decide who may visit them in their private living quarters. No person may prohibit or attempt to prohibit an invited guest access to or egress from the private living quarters of the individual who invited the guest by the erection or maintenance of any physical barrier, or physical force or violence, or by threat of force or violence, or by any verbal order or notice given in any manner. This section shall not prohibit the erection or maintenance of a fence around a migrant labor camp or residential migrant housing if one or more unlocked gates or gateways in the fence are provided; nor shall this section prohibit posting the land adjacent to a migrant labor camp or residential migrant housing if access to the camp is clearly marked; nor shall this section restrict migrant workers residing within the same living quarters from imposing reasonable restrictions on their fellow workers to accommodate reasonable privacy and other concerns of the other residents. Any invited guest shall be required to leave the private living quarters upon the reasonable request by a resident residing within the same private living quarters.

(2) RIGHT OF ACCESS OF OTHERS.—Other visitors shall have a right of access to or egress from the common areas of a migrant labor camp or residential migrant housing as provided in this section. No person may prohibit or attempt to prohibit other visitors access to or egress from the common areas of a migrant labor camp or residential migrant housing by the erection or maintenance of any physical barrier, or by physical force or violence, or by threat of force or violence, or by any verbal order or notice given in any manner, except as provided in this section. This section shall not prohibit the erection or maintenance of a fence around a migrant labor camp or residential migrant housing if one or more unlocked gates or gateways in the fence are provided; nor shall this section prohibit posting the land adjacent to a migrant labor camp or residential migrant housing if access to the camp is clearly marked; nor shall this section restrict migrant workers residing within the same living quarters from imposing reasonable restrictions on their fellow workers to accommodate reasonable privacy and other concerns of the residents. Owners or operators of migrant labor camps or residential migrant housing may adopt reasonable rules regulating hours of access to housing, provided that such rules permit a minimum of 4 hours of access per day during nonworking hours Monday through Saturday and between the hours of 12 noon through 8 p.m. on Sunday.

(3) NOTIFICATION REQUIREMENT.—The housing owner or operator may require invited guests and other visitors to check in prior to entry and present picture identification. Other visitors may be required to give the housing owner or operator reasonable notice of their visit. The notice shall include the location to be visited, the date and time of the visit to the location, and the name of each representative who will be present during the visit.

(4) CIVIL ACTION.—Any person prevented from exercising rights guaranteed by this section may bring an action in the appropriate court of the county in which the alleged infringement occurred; and, upon favorable adjudication, the court shall enjoin the enforcement of any rule, practice, or conduct which operates to deprive the person of such rights.

(5) CIVIL LIABILITY.—Other visitors shall be deemed to be licensees, not guests or invitees, for purposes of any premises liability.

(6) OTHER RULES.—Migrant labor camp and residential migrant housing owners or operators may adopt other rules regulating access to a camp only if the rules are reasonably related to the purpose of promoting the safety, welfare, or security of residents, visitors, farmworkers, or the owner's or operator's business.

(7) POSTING REQUIRED.—No rules relating to access shall be enforceable unless such rules have first been conspicuously posted in the migrant labor camp or migrant residential housing and a copy furnished to the department.

(8) NO RIGHT OF SOLICITATION.—Nothing within this section shall be presumed to create a general right of solicitation in migrant labor camps or residential migrant housing.

Section 3. Section 381.00891, Florida Statutes, is created to read:

381.00891 Complaints by aggrieved parties.—Any person who believes that the housing violates any of the provisions of ss. 381.008-381.00892 or rules adopted pursuant to said sections may make a complaint with the department. Upon receipt of the complaint, if the department determines there are reasonable grounds to believe a violation exists and that the nature of the alleged violation may pose a serious and immediate threat to public health, the department shall conduct an inspection as soon as practicable. In all other cases where the department determines there are reasonable grounds to believe that a violation exists, the department shall notify the owner and the operator of the housing that a complaint has been received and the nature of the complaint. In addition, the department shall advise the owner and the operator that the alleged violation must be remedied within 3 business days. After the owner or operator has had 3 business days to remediate the alleged violation, the department shall conduct an inspection as soon as practicable. The department shall notify the owner or the operator of the housing and the complainant in writing of the results of the inspection and action taken. Upon request of the complainant, the department shall conduct the inspection in a manner which protects the confidentiality of the complainant or other person who provides information to the department in good faith. The department shall promulgate rules by January 1, 1993, to implement this section.

Section 4. Section 381.00892, Florida Statutes, is created to read:

381.00892 Prohibited acts; application.—

(1) It is unlawful for an owner or operator of housing subject to the provisions of ss. 381.008-381.00892 to discriminatorily terminate or discriminatorily modify a tenancy by increasing a resident's rent, decreasing services to a resident, bringing or threatening to bring an action for eviction, possession, or other civil action, refusing to renew a tenancy, or in any way intimidating, threatening, restraining, coercing, blacklisting, or discharging a resident because the owner or the operator of the housing is retaliating against the resident. Examples of conduct for which the owner or operator may not retaliate include, but are not limited to, situations in which:

(a) The resident has complained in good faith, orally or in writing, to the owner or operator of the housing, the employer, or any government agency charged with the responsibility of enforcing the provisions of ss. 381.008-381.00892.

(b) The resident has exercised any legal right with respect to the housing provided in this chapter.

(2) In order for the resident to bring a cause of action for or raise a defense of retaliatory conduct, the resident must have acted in good faith.

(3) This section does not apply if the owner or operator of housing proves that the eviction or other action is for good cause. Examples of good cause include, but are not limited to, good faith actions for nonpayment of rent, violation of the resident's rental or employment agreement or of reasonable rules of the owner or operator of the housing or of the employer, or the violation of this chapter or the Florida Landlord and Tenant Act.

Section 5. Section 381.008, Florida Statutes, as amended by this act, and each section which is added to chapter 381, Florida Statutes, by this act are repealed on October 1, 2002, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.

Section 6. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, line 1, strike the entire title and insert: A bill to be entitled An act relating to farmworker housing; amending s. 381.008, F.S.; providing definitions; creating s. 381.0089, F.S.; providing for right of access to migrant labor camps and residential migrant housing; providing notice requirement; authorizing civil action; providing for civil liability; providing for rules; creating s. 381.00891, F.S.; providing for an administrative complaint process; creating s. 381.00892, F.S.; prohibiting discriminatory conduct; providing for review and repeal; providing an effective date.

On motion by Senator Diaz-Balart, the Senate refused to concur in the House amendment and the House was requested to recede.

CS for SB 1828 passed and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33 Nays—2

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 2314 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 2314—A bill to be entitled An act relating to alcoholic beverages; amending s. 561.01, F.S.; redefining the term "licensed premises" with respect to the beverage law to include sidewalks, if approved by the county or municipality to permit the service of alcoholic beverages at sidewalk cafes; amending s. 562.11, F.S.; providing for the use of certain identification cards issued by another state; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 1, line 12, strike everything after the enacting clause and insert:

Section 1. Subsection (11) of section 561.01, Florida Statutes, 1990 Supplement, is amended to read:

561.01 Definitions.—As used in the Beverage Law:

(11) "Licensed premises" means not only rooms where alcoholic beverages are stored or sold by the licensee, but also all other rooms in the building which are so closely connected therewith as to admit of free passage from drink parlor to other rooms over which the licensee has some dominion or control and shall also include all of the area embraced within the sketch, appearing on or attached to the application for the license involved and designated as such on said sketch, in addition to that included or designated by general law. *The area embraced within the sketch may include a sidewalk or other outside area which is contiguous to the licensed premises. When the sketch includes a sidewalk or other outside area, written approval from the county or municipality attesting to compliance with local ordinances must be submitted to the division to authorize inclusion of sidewalks and outside areas in licensed premises. The division may approve applications for temporary expansion of the licensed premises to include a sidewalk or other outside area for special events upon the payment of a $100 application fee, stipulation of the timeframe for the special event, and submission of a sketch outlining the expanded premises and accompanied by written approval from the county or municipality as required in this subsection. All moneys collected from the fees assessed under this subsection shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund.*

Section 2. Subsection (6) of section 561.19, Florida Statutes, is amended to read:

561.19 License issuance upon approval of division.—

(6) A fee of *$10,750* ~~$5,000~~ shall be collected from each person, firm, or corporation that is issued a new liquor license subject to the limitation imposed in s. 561.20(1) as provided in this section. This initial license fee shall not be imposed on any license renewal and shall be in addition to the license fees imposed by s. 565.02. The revenues collected from the initial license fee imposed by this subsection shall be deposited in the *Department of Health and Rehabilitative Services' Operations and Maintenance Trust Fund to be used only for alcohol and drug abuse education, treatment, and prevention programs* ~~"Hughes Act" fund~~.

Section 3. Subsection (1) of section 561.20, Florida Statutes, is amended to read:

561.20 Limitation upon number of licenses issued.—

(1) No license under s. 565.02(1)(a)-(f), inclusive, shall be issued so that the number of such licenses within the limits of the territory of any county exceeds one such license to each *5,000* ~~2,500~~ residents~~, or major fraction thereof,~~ within such county *Regardless of the number of quota licenses issued prior to October 1, 1992, on and after that date, a new license under s. 565.02(1)(a)-(f), inclusive, shall be issued for each population increase of 5,000 residents above the number of residents who resided in the county according to the April 1, 1991, Florida Estimate of Population as published by the Bureau of Economic and Business Research at the University of Florida, and thereafter*, based on the last regular population estimate prepared pursuant to s. 186.901, for such county. Such population estimates shall be the basis for annual license issuance regardless of any local acts to the contrary. However, such limitation shall not prohibit the issuance of at least three licenses in any county that may approve the sale of intoxicating liquors in such county.

Section 4. The amendment to section 561.20(1), Florida Statutes, as set forth in section 3 of this bill, shall take effect October 1, 1992, and shall apply only to those licensees licensed to operate after October 1, 1992, and shall in no manner amend, repeal, or nullify any license issued under provisions of law which are now operating or will operate prior to October 1, 1992; and all such licenses shall be exempt from the provisions of the amendment so long as they are in continuous existence. The provisions of this act shall not apply to applications for a license which were filed prior to October 1, 1992.

Section 5. Subsection (1) of section 562.11, Florida Statutes, is amended to read:

562.11 Selling, giving, or serving alcoholic beverages to person under age 21; misrepresenting or misstating age or age of another to induce licensee to serve alcoholic beverages to person under 21; penalties.—

(1)(a) It is unlawful for any person to sell, give, serve, or permit to be served alcoholic beverages to a person under 21 years of age or to permit a person under 21 years of age to consume such beverages on the licensed premises. Anyone convicted of violation of the provisions hereof is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A licensee who violates paragraph (a) shall have a complete defense to any civil action therefor, except for any administrative action by the division under the Beverage Law, if, at the time the alcoholic beverage was sold, given, served, or permitted to be served, the person falsely evidenced that he was of legal age to purchase or consume the alcoholic beverage and the appearance of the person was such that an ordinarily prudent person would believe him to be of legal age to purchase or consume the alcoholic beverage and if the licensee carefully checked one of the following forms of identification with respect to the person: a driver's license, an identification card issued under the provisions of s. 322.051 *or, if the person is physically handicapped as defined in s. 553.45(1), a comparable identification card issued by another state which indicates the person's age*, a passport, or a United States Uniformed Services identification card, and acted in good faith and in reliance upon the representation and appearance of the person in the belief that he was of legal age to purchase or consume the alcoholic beverage. Nothing herein shall negate any cause of action which arose prior to June 2, 1978.

Section 6. Paragraphs (b) through (f) of subsection (2) of section 562.13, Florida Statutes, are redesignated as paragraphs (c) through (g), respectively, new paragraph (c) is amended, and new paragraphs (b) and (h) are added to said subsection to read:

562.13 Employment of minors or certain other persons by certain vendors prohibited; exceptions.—

(2) This section shall not apply to:

(b) Minors employed in the entertainment industry, as defined by s. 450.012(5), who have either been granted a waiver under s. 450.095 or employed under the terms of s. 450.132 or under rules adopted pursuant to either of these sections.

(c) ~~(b)~~ Persons under the age of 18 years who are employed in drugstores, grocery stores, *department stores, florists, speciality gift shops,* or automobile service stations which have obtained licenses to sell beer or beer and wine, when such sales are made for consumption off the premises.

(h) Persons under the age of 18 years who are employed in places of business licensed under s. 565.02(6), provided such persons do not participate in the sale, preparation, or service of alcoholic beverages.

Section 7. Paragraphs (b) through (f) of subsection (1) of section 563.02, Florida Statutes, is amended to read:

563.02 License fees; vendors; manufacturers and distributors.—

(1) Each vendor of malt beverages containing alcohol of 0.5 percent or more by volume shall pay an annual state license tax as follows:

(b) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 100,000, according to the latest *population estimate prepared pursuant to s. 186.901, for such county* ~~state or federal census~~, $200.

(c) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 75,000 and not over 100,000, according to the latest *population estimate prepared pursuant to s. 186.901, for such county* ~~state or federal census~~, $160.

(d) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 50,000 and less than 75,000, according to the latest *population estimate prepared pursuant to s. 186.901, for such county* ~~state or federal census~~, $120.

(e) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 25,000 and less than 50,000, according to the latest *population estimate prepared pursuant to s. 186.901, for such county* ~~state or federal census~~, $80.

(f) Vendors operating places of business where consumption on the premises is permitted in counties having a population of less than 25,000, according to the latest *population estimate prepared pursuant to s. 186.901, for such county* ~~state or federal census~~, $40.

Section 8. Paragraphs (b) through (f) of subsection (1) of section 564.02, Florida Statutes, is amended to read:

564.02 License fees; vendors; manufacturers and distributors.—

(1) Each vendor authorized to sell brewed beverages containing malt, wines, and fortified wines shall pay an annual state license tax, as follows:

(b) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 100,000, according to the latest *population estimate prepared pursuant to s. 186.901, for such county* ~~state or federal census~~, shall pay $280.

(c) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 75,000 and not over 100,000, according to the latest *population estimate prepared pursuant to s. 186.901, for such county* ~~state or federal census~~, shall pay $240.

(d) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 50,000 and less than 75,000, according to the latest *population estimate prepared pursuant to s. 186.901, for such county* ~~state or federal census~~, shall pay $200.

(e) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 25,000 and less than 50,000, according to the latest *population estimate prepared pursuant to s. 186.901, for such county* ~~state or federal census~~, shall pay $160.

(f) Vendors operating places of business where consumption on the premises is permitted in counties having a population of less than 25,000, according to the latest *population estimate prepared pursuant to s. 186.901, for such county* ~~state or federal census~~, shall pay $120.

Section 9. Subsection (1) of section 565.02, Florida Statutes, is amended to read:

565.02 License fees; vendors; clubs; caterers; and others.—

(1) The following state license taxes apply to vendors who are permitted to sell any alcoholic beverages regardless of alcoholic content:

(a) A vendor operating a place of business where beverages are sold only in sealed containers for consumption off the premises where sold shall pay an amount equal to 75 percent of the amount of the license tax for vendors in the same county as provided in paragraphs (b), (c), (d), (e), and (f).

(b) A vendor operating a place of business where consumption on the premises is permitted in a county having a population of over 100,000, according to the latest *population estimate prepared pursuant to s. 186.901, for such county* ~~state or federal census~~, shall pay *$1,820* ~~$1,750~~.

(c) A vendor operating a place of business where consumption on the premises is permitted in a county having a population over 75,000 and not over 100,000, according to the latest *population estimate prepared pursuant to s. 186.901, for such county* ~~state or federal census~~, shall pay *$1,560* ~~$1,500~~.

(d) A vendor operating a place of business where consumption on the premises is permitted in a county having a population of over 50,000 and not over 75,000, according to the latest *population estimate prepared pursuant to s. 186.901, for such county* ~~state or federal census~~, shall pay *$1,300* ~~$1,250~~.

(e) A vendor operating a place of business where consumption on the premises is permitted in a county having a population of over 25,000 and not over 50,000, according to the latest *population estimate prepared pursuant to s. 186.901, for such county* ~~state or federal census~~, shall pay *$858* ~~$825~~.

(f) A vendor operating a place of business where consumption on the premises is permitted in a county having a population of 25,000 or less, according to the latest *population estimate prepared pursuant to s. 186.901, for such county* ~~state or federal census~~, shall pay *$624* ~~$600~~.

(g) A vendor operating a place of business where consumption on the premises is permitted and which has more than three separate rooms or enclosures in which permanent bars or counters are located from which alcoholic beverages are served for consumption on the licensed premises shall pay, in addition to the license tax imposed in paragraphs (b)-(f), $1,000. However, such permanent bars or counters do not include service bars not accessible to the public or portable or temporary bars being used for a single occasion or event. A golf club licenseholder may operate service bars or portable or temporary bars on the grounds contiguous to its licensed premises and shall pay $100 for a certified copy of the club license, which shall be posted on the bar. The area contiguous to the licensed premises shall be considered an extension of the licensed premises upon payment of the fee, posting of the certified copy of the license, and notation of such extension upon the sketch accompanying the original license application.

Section 10. This act shall take effect October 1, 1992.

And the title is amended as follows:

On page 1, lines 3-10, strike all of said lines and insert: amending s. 561.01, F.S.; redefining the term "licensed premises" with respect to the beverage law to include sidewalks and other outside areas under certain circumstances; providing for disposition of the license fee; amending s. 561.19, F.S.; increasing the fee for licenses; providing for the disposition of the fee; amending s. 561.20, F.S.; revising the formula for the issuance of quota alcoholic beverage licenses; providing for the application of the act; amending s. 562.11, F.S.; providing for the use of certain identification cards issued by another state; amending s. 562.13, F.S.; providing exceptions from the prohibition of the employment of minors by certain vendors; amending paragraphs (b)-(f) of subsection (1) of section 563.02, F.S., deleting references to state or federal census; amending paragraphs (b)-(f) of subsection (1) of section 564.02, F.S., deleting references to state or federal census; amending s. 565.02, F.S.; increasing license fees; providing an effective date.

On motion by Senator Diaz-Balart, the Senate concurred in the House amendment.

SB 2314 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—31 Nays—7

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 2334 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 2334—A bill to be entitled An act relating to community associations; amending s. 718.103, F.S.; revising definitions for purposes of ch. 718, F.S.; amending s. 718.111, F.S.; revising provisions with respect to the corporate entity of a condominium association; revising requirements for maintaining official records of the condominium association; providing for privileged records and information; revising requirements for furnishing financial reports; providing for confidentiality; revising certain requirements for maintaining association funds; amending s. 718.112, F.S.; providing for nominations to the board of administration of an association; revising procedures for meetings and elections; revising provisions with respect to fidelity bonds of the association; amending s. 718.113, F.S.; providing requirements for approving alterations or additions to association property; amending s. 718.115, F.S.; providing that certain unpaid shares of common expenses or assessments are collectible from all unit owners; amending s. 718.116, F.S.; providing a mortgagee limited liability for unpaid assessments accruing prior to foreclosure sale; amending s. 718.1255, F.S.; providing for an award of costs in arbitration proceedings; providing for attorney's fees and costs in proceedings to enforce an arbitration award; amending s. 718.301, F.S.; prescribing procedures for the election of a member of the board of an association when unit owners other than the developer are entitled to elect such a member; conditioning developer turnover upon an audit if audits have been performed each year since incorporation; amending s. 718.3026, F.S.; providing certain exemptions from competitive bid requirements; amending s. 718.303, F.S.; providing for a hearing before a committee of unit owners; amending s. 718.501, F.S.; revising provisions with respect to the powers and duties of the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business Regulation; providing for a mediation program; providing for procedures to handle complaints to the division; amending s. 718.5019, F.S.; prescribing criteria for making appointments to the Advisory Council on Condominiums; amending ss. 718.503, 718.504, F.S.; revising disclosure requirements for developers and nondevelopers prior to the sale of a condominium unit; repealing ss. 718.5015, 718.5016, 718.5017, 718.5018, F.S., relating to the Office of the Condominium Ombudsman; amending s. 719.103, F.S.; revising definitions for purposes of ch. 719, F.S.; amending s. 719.104, F.S.; providing for additional information in the official records of the cooperative; providing for availability of records; providing for rules with respect to records; providing for insurance; revising language with respect to financial reports; providing for confidentiality of certain records; providing for commingling and for the corporate entity; amending s. 719.105, F.S.; providing for use rights of tenants who rent cooperatives; amending s. 719.106, F.S., relating to bylaws and cooperative ownership; amending s. 719.107, F.S.; revising provisions with respect to common expenses and assessments; amending s. 719.108, F.S.; revising provisions with respect to rents and assessments; providing fees; amending s. 719.1255, F.S.; revising provisions with respect to alternative dispute resolution; repealing s. 719.201, F.S., relating to taxes and bond for payment of liability during construction; amending s. 719.301, F.S.; revising provisions with respect to transfer of association control; creating s. 719.3026, F.S.; providing for written contracts for products and services; providing for bids; providing exceptions; amending s. 719.303, F.S.; revising provisions with respect to the obligations of cooperative owners; increasing a penalty; amending s. 719.501, F.S.; revising provisions with respect to the powers and duties of the Division of Florida Land Sales, Condominiums, and Mobile Homes; providing procedures for investigating complaints and for voluntary mediation; increasing a fee; amending s. 719.502, F.S.; revising provisions with respect to filing prior to sale or lease; requiring a filing fee; amending s. 719.503, F.S.; revising provisions with respect to disclosure prior to sale; amending s. 719.504, F.S.; revising provisions with respect to the prospectus or offering circular; amending s. 719.608, F.S.; revising provisions relating to notice of intended conversion; providing for retroactive appli-

cation; creating ss. 617.301, 617.302, 617.303, 617.304, 617.305, 617.306, F.S.; providing for the regulation of homeowners' associations; providing for the scope of such regulation, minimum requirements of homeowners' associations, the right of owners to peaceably assemble, appointment of a receiver for failure to fill vacancies on the board of directors sufficient to constitute a quorum, and voting and election procedures; providing legislative intent; requiring a disclosure statement that provides information regarding recreational facilities and charges be given to certain prospective purchasers of real property; providing effective dates.

House Amendment 1 (with Title Amendment)—On page 26, line 14, insert:

Section 8. Subsection (2) of section 718.203, Florida Statutes, is amended to read:

718.203 Warranties.—

(2) The contractor, and all subcontractors *and*~~,~~ suppliers, ~~design professionals, architects, and engineers~~ grant to the developer and to the purchaser of each unit implied warranties of fitness as to the work performed or materials supplied by them as follows:

(a) For a period of 3 years from the date of completion of construction of a building or improvement, a warranty as to the roof and structural components of the building or improvement and mechanical and plumbing elements serving a building or an improvement, except mechanical elements serving only one unit.

(b) For a period of 1 year after completion of all construction, a warranty as to all other improvements and materials.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, line 30, after the semicolon, insert: amending s. 718.203, F.S.; revising language with respect to warranties;

House Amendment 2—On page 19, line 16, and on page 65, line 25, after the period, insert: *As used in this section, the term "persons who control or disburse funds of the association" means those individuals authorized to sign checks, and the president, secretary and treasurer of the association.*

House Amendment 3—On page 29, lines 2-4, strike all of said lines and insert: *the board to cancel the contract on 30 days' notice. Materials, equipment, or*

House Amendment 4—On page 7, lines 8-9, strike "~~prior to October 1, 1986,~~" and insert: prior to October 1, 1986,

House Amendment 5—On page 13, line 30, strike "*an*" and insert: *a legal*

House Amendment 6—On page 22, lines 10-16, strike all of said lines

House Amendment 7—On page 21, lines 28-29, strike "and subsection (6) is added to that section"

House Amendment 8—On page 38, line 26, strike "~~IF SO REQUESTED IN WRITING~~" and insert: IF SO REQUESTED IN WRITING

House Amendment 9—On page 39, line 1, strike "~~IF REQUESTED IN WRITING~~" and insert: IF REQUESTED IN WRITING

House Amendment 10—On page 90, line 16, before the period, insert: *, IF SO REQUESTED IN WRITING*

House Amendment 11—On page 90, line 21, before the period, insert: *, IF REQUESTED IN WRITING*

House Amendment 12—On page 88, lines 7-8, before the word "*common*" insert: *limited*

House Amendment 13—On page 13, line 28, and on page 53, line 16, before the period insert: *of receipt of the complaint*

On motions by Senator Dudley, the Senate concurred in the House amendments.

CS for SB 2334 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—37 Nays—3

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 2390 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 2390—A bill to be entitled An act relating to group health insurance; creating s. 627.6699, F.S.; creating the "Employee Health Care Access Act"; providing purpose and intent; providing definitions; providing for application; providing for availability of coverage; providing for reports; providing for elections not to offer coverage; providing procedures for electing to become a risk-assuming carrier; providing for standard, basic, and limited health benefit plans to be offered to all small employers; restricting the use of exclusions for preexisting conditions; establishing a health reinsurance program for small employers; providing for assessment of small employer carriers under the program; providing standards for marketing health care plans; providing for applicability of other state laws; authorizing the Department of Insurance to adopt rules for implementing and administering the act; requiring small employers to file with the department certain premium information relating to a certain time period; requiring the department to apply for federal waivers to implement competitive bidding and selective contracting procedures; requiring the department to pilot test competitive bidding and selective contracting procedures if waivers are obtained; amending s. 409.912, F.S.; requiring the Department of Health and Rehabilitative Services to apply for federal waivers to expand enrollment of Medicaid recipients in managed care plans; requiring the department to enroll certain Medicaid clients in managed care plans, if federal waivers are obtained; authorizing the department to contract with certain entities to develop Medicaid prepaid health plans; requiring the department to inform recipients of their choices and rights and to monitor managed care plans; requiring the department to contract for certain services with the Florida Health Care Purchasing Cooperative; authorizes the resources necessary to implement the Medicaid managed care provisions; providing severability; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 40, lines 5-12, strike all of said lines and insert:

Section 2. Effective October 1, 1992, section 627.4106, Florida Statutes, is amended to read:

627.4106 Small group health insurance; rates; restrictions.—

(1) PURPOSE.—The *purposes* ~~intent~~ of this section *are* ~~is~~ to promote the availability of health insurance coverage to small employers through the participation of more insurers in the market, to prevent abusive rating practices, to require disclosure of rating practices to purchasers, to establish rules for continuity of coverage for employers and covered individuals, and to improve the efficiency and fairness of the small group health insurance marketplace.

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

(a) "Small employer" means any person actively engaged in business that, on at least 50 percent of its working days during the preceding *calendar quarter* ~~year~~, employed no more than 25 eligible employees. In determining the number of eligible employees, persons that are affiliated persons or that are eligible to file a combined tax return for purposes of state taxation *are* ~~shall be~~ considered one employer.

(b) "Carrier" means any person *that* ~~who~~ provides health insurance in this state. "Carrier" includes a licensed insurance company, a health maintenance organization, a multiple-employer welfare arrangement, *a fraternal benefit society,* or any other person providing a plan of health insurance subject to state insurance regulation.

(c) "Health benefit plan" means any hospital or medical ~~expense incurred~~ policy or certificate~~, any hospital or medical service plan contract,~~ or any health maintenance organization subscriber contract. "Health benefit plan" does not include accident-only, credit, dental, *vision, Medicare supplement, long-term care,* or disability income insurance,~~;~~ coverage issued as a supplement to liability insurance,~~;~~ workers' compensation and employers' liability or similar insurance,~~;~~ or *motor vehicle* ~~automobile~~ medical-payment insurance.

(d) "Small employer carrier" means any carrier that offers health benefit plans covering the employees of a small employer.

(e) "Case characteristics" means demographic or other *objective* ~~relevant~~ characteristics of a small employer~~, as determined by a small employer carrier,~~ that are considered by the carrier in the determination of premium rates for the small employer. Claim experience, health status, and duration of coverage since issue are not case characteristics.

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

(f)~~(g)~~ "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or which could have been charged *by the small employer carrier* under a rating system for that class of business, ~~by the small employer carrier~~ to small employers with similar case characteristics for health benefit plans with the same or similar coverage.

(g)~~(h)~~ "New business premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or offered by the small employer carrier to small employers with similar case characteristics for newly issued health benefit plans with the same or similar coverage.

(h)~~(i)~~ "Index rate" means, for each class of business *as to a rating period* for small employers with similar case characteristics, the arithmetical average of the applicable base premium rate and the corresponding highest premium rate.

(i)~~(j)~~ "Class of business" means all or a distinct grouping of small employers as shown on the records of the small employer carrier, *established pursuant to subsection (3).*

~~1. A distinct grouping may only be established by the small employer carrier on the basis that the applicable health benefit plans:~~

~~a. Are marketed and sold through individuals and organizations which are not participating in the marketing or sale of other distinct groupings of small employers for such small employer carrier;~~

~~b. Have been acquired from another small employer carrier as a distinct grouping of plans;~~

~~c. Are provided through an association with membership of not less than 25 small employers that has been formed for purposes other than obtaining insurance; or~~

~~d. Are in a class of business that meets the requirements for exception to the restrictions related to premium rates provided in sub-subparagraph (4)(a)2.a.~~

~~2. A small employer carrier may establish no more than two additional groupings under each of the sub-subparagraphs in subparagraph 1. on the basis of underwriting criteria which are expected to produce substantial variation in the health care costs.~~

~~3. The department may approve the establishment of additional distinct groupings upon application to the commissioner and a finding by the department that this action would enhance the efficiency and fairness of the small employer insurance marketplace.~~

(j)~~(k)~~ "Actuarial certification" means a written statement by a member of the American Academy of Actuaries or *another individual* ~~other individuals~~ acceptable to the department that a small employer carrier is in compliance with the provisions of subsection (4), based upon the person's examination, including a review of the appropriate records and of the actuarial assumptions and methods *used* ~~utilized~~ by the carrier in establishing premium rates for applicable health benefit plans.

(k)~~(l)~~ "Rating period" means the calendar period for which premium rates established by a small employer carrier are assumed to be in effect~~, as determined by the small employer carrier~~.

(3) ESTABLISHMENT OF CLASSES OF BUSINESS—

(a) A small employer carrier may establish a class of business only to reflect substantial differences in expected claims experience or administrative costs related to the following reasons:

1. The small employer carrier uses more than one type of system for the marketing and sale of health benefits plans to small employers;

2. The small employer carrier has acquired a class of business from another small employer carrier; or

3. The small employer carrier provides coverage to one or more association groups that meet the requirements of ss. 627.654 and 627.6515(2)(a)7.

(b) A small employer carrier may establish up to 9 separate classes of business under paragraph (a).

(c) The department may adopt rules to provide for a period of transition in order for a small employer carrier to come into compliance with paragraph (b) in the instance of acquisition of an additional class of business from another small employer carrier.

(d) The department may approve the establishment of additional classes of business upon application to the department and a finding by the department that such action would enhance the efficiency and fairness of the small employer marketplace.

(4) APPLICABILITY AND SCOPE.—

(a) This section shall apply to any health benefit plan that provides coverage, whether through a group or individual policy, to employees of a small employer in this state if any of the following conditions are met:

1. Any portion of the premium or benefits is paid by or on behalf of the small employer;

2. An eligible employee or dependent is reimbursed, whether through wage adjustments or otherwise, by or on behalf of the small employer for any portion of the premium; or

3. The health benefit plan is treated by the employer or any of the eligible employees or dependents as a part of a plan or program for the purposes of s. 162, s. 125, or s. 106 of the Internal Revenue Code.

4. An individual health insurance policy is not subject to the rating provisions of this section if the insurer certifies to the department that the policy was issued in good faith with no knowledge or intent that the policy, at the time of issuance or thereafter, falls within one or more of the conditions set forth in subparagraphs 1.-3. Such an individual policy must contain a clause authorizing cancellation of the policy if the insured accepts reimbursement from an employer as described in this section.

(b) Except as provided in paragraph (c), for the purposes of this section, carriers that are affiliated companies or that are eligible to file a consolidated tax return shall be treated as one carrier and any restrictions or limitations imposed by this section shall apply as if all health benefit plans issued to small employers in this state by such affiliated carriers were issued by one carrier.

(c) An affiliated carrier that is a health maintenance organization having a certificate of authority under part I of chapter 641 may be considered to be a separate carrier for the purposes of this section.

~~(3) HEALTH INSURANCE PLANS SUBJECT TO THIS SECTION.—~~

~~(a) Except as provided in paragraph (b) and notwithstanding any other provision of this part, the provisions of this section apply to any health benefit plan provided by a small employer carrier which provides coverage to one or more employees of a small employer.~~

~~(b) The provisions of this section do not apply to individual health insurance policies that are subject to part VI of this chapter which are subject to policy form and premium rate approval as provided in s. 627.410.~~

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

(5)~~(4)~~ RESTRICTIONS RELATING TO PREMIUM RATES.—

(a) Premium rates for health benefit plans subject to this section are subject to the following provisions:

1. The index rate for a rating period for any class of business *may* ~~shall~~ not exceed *by more than 20 percent* the index rate for any other class of business ~~by more than 20 percent~~.

2. Subparagraph 1. does not apply to a class of business if all of the following apply:

a. The class of business is one for which the carrier does not reject, and never has rejected, small employers included within the definition of employers eligible for the class of business or otherwise eligible employees and dependents who enroll on a timely basis, based upon their claim experience or health status.

b. The carrier does not involuntarily transfer, and never has involuntarily transferred, a health benefit plan into or out of the class of business.

c. The class of business is currently available for purchase.

3. For a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates *that* ~~which~~ could be charged to these employers under the rating system for that class of business, may not vary from the index rate by more than 25 percent of the index rate.

4. The percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of the following:

a. The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. *If the small employer carrier is not issuing new policies, but is only renewing policies,* ~~In the case of a class of business for which the small employer carrier is not issuing new policies,~~ the carrier *must* ~~shall~~ use the percentage change in the base premium rate *provided that such change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers.*

b. An adjustment, not to exceed 15 percent annually and adjusted pro rata for rating periods of less than 1 year, due to the claim experience, health status, or duration of coverage of the employees or dependents of the small employer as determined from the carrier's rate manual for the class of business.

c. Any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the carrier's rate manual for the class of business.

5. Adjustments in rates for claims experience, health status, and duration of coverage may not be charged to individual employees or dependents. Any such adjustment must be applied uniformly to the rates charged for all employees and dependents of the small employer.

6. If a small employer carrier uses industry classification as a case characteristic in establishing premium rates, the rate factor associated with any industry classification may not be more than 15 percent higher or lower than the arithmetic average of the rate factors associated with all industry classifications.

7. ~~5.~~ In the case of health benefit plans issued prior to October 1, 1991, a premium rate for a rating period may exceed the ranges described in subparagraph 1. or subparagraph 3. until October 1, 1996. In this case, the percentage increase in the premium rate charged to a small employer in this class of business for a new rating period may not exceed the sum of the following:

a. The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. *If the small employer carrier is not issuing new policies, but is only renewing policies,* ~~In the case of a class of business for which the small employer carrier is not issuing new policies,~~ the carrier *must* ~~shall~~ use the percentage change in the base premium rate *provided that such change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers.*

b. Any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the carrier's rate manual for the class of business.

8. Small employer carriers must apply rating factors, including case characteristics, consistently with respect to all small employers in a class of business.

~~(b) Nothing in this section is intended to affect the use by a small employer carrier of legitimate rating factors other than claim experience, health status, or duration of coverage in the determination of premium rates. Small employer carriers shall apply rating factors, including case characteristics, consistently with respect to all small employers in a class of business.~~

9. A small employer carrier shall not use case characteristics, other than age, gender, industry, geographic area, family composition, and group size without prior approval of the department.

10. The department may, by rule, establish regulations to implement the provisions of this section and to assure that rating practices used by small employer carriers are consistent with the purpose of this act, including:

a. Assuring that differences in rates charged for health benefit plans by small employer carriers are reasonable and reflect objective differences in plan design, not including differences due to the nature of the groups assumed to select particular health benefit plans; and

b. Prescribing the manner in which case characteristics may be used by small employer carriers.

(b)~~(c)~~ A small employer carrier *may* ~~shall~~ not involuntarily transfer a small employer into or out of a class of business. A small employer carrier *may* ~~shall~~ not offer to transfer a small employer into or out of a class of business unless the offer is made to transfer all small employers in the class of business without regard to case characteristics, claim experience, health status, or duration since issue.

(6)~~(5)~~ ~~PROVISIONS ON~~ RENEWABILITY OF COVERAGE.—

(a) Except as provided in paragraph (b), a health benefit plan subject to this section *is* ~~shall be~~ renewable *for* ~~to~~ all eligible employees and dependents at the option of the small employer, except for *any of* the following reasons:

1. Nonpayment of required premiums.;

2. Fraud or misrepresentation of the small employer, or with respect to coverage of an insured individual or subscriber, or fraud or misrepresentation by the insured individual or subscriber or individual's or subscriber's representative.;

3. Noncompliance with plan provisions.;

4. Noncompliance with the carrier's minimum participation requirements.

5. Noncompliance with the carrier's employer contribution requirements.

~~4. The number of individuals covered under the plan is less than the number or percentage of eligible individuals required by percentage requirements under the plan; or~~

6. ~~5.~~ The small employer is no longer actively engaged in the business in which it was engaged on the effective date of the plan.

7. The department finds that the continuation of the coverage would not be in the best interest of the policyholders or certificate holders, or would impair the carrier's ability to meet its contractual obligations. In such instances the department shall assist affected small employers in finding replacement coverage.

(b) A small employer carrier may cease to renew all plans under a class of business *if it notifies.* ~~The carrier shall provide notice to~~ all affected health benefit plans and to the insurance regulatory agency in each state in which an affected insured individual is known to reside at least *180* ~~90~~ days prior to *the nonrenewal of the health benefit plan by the carrier* ~~termination of coverage~~. *Notice to the insurance regulatory agencies must be given at least 3 working days prior to the notice to the affected insureds.* A carrier that exercises its right to cease to renew all plans in a class of business may not:

1. Establish a new class of business for a period of 5 years after the nonrenewal of the plans without prior approval of the department; or

2. Transfer or otherwise provide coverage to any of the employers from the nonrenewed class of business unless the carrier offers to transfer or provide coverage to all affected employers and eligible employees and dependents without regard to case characteristics, claim experience, health status, or duration of coverage.

(7)~~(6)~~ DISCLOSURE OF RATING PRACTICES AND RENEWABILITY PROVISIONS.—Each small employer carrier *must* ~~shall~~ make reasonable disclosure in solicitations and sales materials provided to small employers of all the following:

(a) The extent to which premium rates for a specific small employer are established or adjusted *in part based upon the actual or expected variation in claims costs or actual or expected variation in health status of the employees and the employees' dependents of such small employer* ~~due to the claim experience, health status, or duration of coverage of the employees of the small employer or their dependents~~.

(b) The provisions concerning the carrier's right to change premium rates and the factors, *other than claim experience,* including case characteristics, that affect changes in premium rates.

(c) A description of the class of business in which the small employer is or will be included, including the applicable grouping of plans.

(d) The provisions relating to renewability of coverage.

(8)~~(7)~~ MAINTENANCE OF RECORDS.—

(a) Each small employer carrier *must* ~~shall~~ maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

(b) Each small employer carrier *must* ~~shall~~ file with the department *on or before* ~~each~~ March *15 of each year* ~~1~~ an actuarial certification that the carrier is in compliance with this section and that the rating methods of the carrier are actuarially sound. *Such certification shall be in a form and manner, and shall contain such information as, prescribed by the department. The carrier must retain* a copy of the certification ~~shall be retained by the carrier~~ at its principal place of business.

(c) A small employer carrier *must* ~~shall~~ make the information and documentation described in paragraph (a) available to the department upon request. The information *constitutes* ~~shall be considered~~ proprietary and trade secret information and *may not be disclosed* ~~shall not be subject to disclosure~~ by the department to persons outside the department except as agreed to by the carrier or as ordered by a court of competent jurisdiction.

(9)~~(8)~~ WAIVER OF REQUIREMENTS.—The department may suspend all or any part of the provisions of subsection *(5)*~~(4)~~ as to the premium rates applicable to one or more small employers for one or more rating periods upon a filing by the small employer carrier and a finding by the department that either the suspension is reasonable in light of the financial condition of the carrier or that the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance.

Section 3. Effective October 1, 1992, section 627.4233, Florida Statutes, is created to read:

627.4233 Total disability defined.—

(1) If an individual or group policy of disability income insurance provides for the waiver of premiums or payment of claims upon total disability:

(a) The policy must, at a minimum, provide that for the first 12 months of the disability, a person is totally disabled if the person is unable to perform any of the material duties of the person's regular occupation, or must include a provision at least as favorable to the insured.

(b) The policy may provide that after the first 12 months of disability as described in paragraph (a), the insurer may predicate the continuance of benefits on the person's ability to perform any work or occupation for which the person is reasonably qualified or trained.

(2) If an individual or group policy of life insurance provides for the waiver of premiums or payment of claims upon total disability, the definition of total disability may not be more restrictive than the person's inability to perform any work or occupation for which the person is reasonably qualified or trained.

(3) If an individual or group policy of medical expense insurance provides for extension of benefits for persons who are totally disabled on the date their insurance terminates, the definition of totally disabled may not be more restrictive than:

(a) For an employee, the person's inability to perform any work or occupation for which the person is reasonably qualified or trained; or

(b) For a dependent, the person's inability to engage in most normal activities of a person of like age and sex in good health.

Section 4. Effective October 1, 1992, section 627.4237, Florida Statutes, is created to read:

627.4237 Sickness disability or disability due to sickness.—Notwithstanding any provision of law to the contrary, the term "sickness disability" or "disability due to sickness," as used in individual or group disability insurance policies issued in this state on or after October 1, 1992, includes any restriction of a health care practitioner's ability to perform his occupation because of action taken by his state licensing board as a result of his testing positive on a human immunodeficiency virus test. The provisions of this section do not require payment of disability income benefits under any policy without the insured experiencing an actual loss of income as may be required under the terms of the policy as a condition of receiving such benefits.

Section 5. Effective October 1, 1992, section 627.602, Florida Statutes, is amended to read:

627.602 Scope, format of policy.—

(1) *Each* ~~No~~ health insurance policy ~~shall be~~ delivered or issued for delivery to any person in this state *must comply with all applicable provisions of this code and all of the following requirements* ~~unless it otherwise complies with this code, and complies with the following~~:

(a) The monetary and other considerations shall be expressed *in the policy.* ~~therein;~~

(b) The time when the insurance takes effect and terminates shall be expressed *in the policy.* ~~therein;~~

(c) *The policy may* ~~It shall~~ purport to insure only one person, except that ~~a policy may insure, originally or by subsequent amendment~~, upon the application of an adult member of a family, who *is deemed to be* ~~shall be deemed~~ the policyholder, *a policy may insure, either originally or by subsequent amendment,* any eligible members of that family, including husband, wife, ~~dependent children or~~ any children ~~under a specified age which shall not exceed 18 years, and~~ *or* any ~~other~~ person dependent upon the policyholder.;

(d) The style, arrangement, and overall appearance of the policy *may not give any* ~~shall give no~~ undue prominence to any portion of the text.; ~~and~~ Every printed portion of the text of the policy and of any endorsements or attached papers shall be plainly printed in lightfaced type of a style in general use, the size of which *is* ~~shall be~~ uniform and *is* not less than 10 points with a lower-case, unspaced alphabet length of not less than 120 points. *As used in this paragraph, "text" includes* ~~The "text" shall include~~ all printed matter except the name and address of the insurer, the name or title of the policy, the brief description of the coverage provided, if any, and captions and subcaptions.;

(e) The exceptions and reductions of indemnity shall be set forth in the policy and, other than those contained in ss. 627.606-627.629, ~~inclusive,~~ shall be printed, at the insurer's option, either included with the benefit provisions to which they apply, or under an appropriate caption such as "Exceptions," or "Exceptions and Reductions.;" *However,* ~~except that~~ if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies.;

(f) Each ~~such~~ form, including outlines of coverage, applications, riders, and endorsements, shall be identified by a form identification number in the lower left-hand corner of the first page *of the form.* ~~thereof; and~~

(g) The policy *may not contain any* ~~shall contain no~~ provision purporting to make any portion of the charter, rules, constitution, or bylaws

of the insurer a part of the policy unless *the* ~~such~~ portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates, *statement of* ~~or~~ classification of risks, or short-rate table filed with the department.

(2) The department may require any health insurance policy or certificate containing a provision commonly known as a "deductible provision" to have printed or stamped on such policy or certificate: "This policy or certificate contains a deductible provision."; or appropriate words of similar import approved by the department. *The statement* ~~This legend~~ shall appear on the first page of *the* ~~such~~ policy or certificate in at least 18-point type and may be printed or stamped either as an overprint or by means of a rubber stamp impression ~~in a contrasting color~~.

Section 6. Effective October 1, 1992, section 627.6055, Florida Statutes, is renumbered as section 627.6041, Florida Statutes, and is amended to read:

627.6041 ~~627.6055~~ Handicapped children; continuation of coverage ~~under individual policy~~.—*A* ~~An individual~~ hospital or medical expense insurance policy or health care services plan contract *that is*~~,~~ delivered or issued for delivery in this state *and that*~~, which~~ provides that coverage of a dependent child will terminate upon attainment of the limiting age for dependent children specified in the policy or contract shall also provide in substance that attainment of *the limiting age does not* ~~such limiting age will not operate to~~ terminate the coverage of *the* ~~such~~ child while the child ~~is and~~ continues to be both:

(1) Incapable of self-sustaining employment by reason of mental retardation or physical handicap; and

(2) Chiefly dependent upon the policyholder or subscriber for support and maintenance.

If a claim is denied under a policy or contract for the stated reason that the child has attained the limiting age for dependent children specified in the policy or contract, the *notice of denial must state that the policyholder has the burden of establishing that the child continues to meet the criteria specified in* ~~burden is on the policyholder to establish that the child is and has continued to be handicapped as defined by~~ subsections (1) and (2).

Section 7. Effective October 1, 1992, section 627.641, Florida Statutes, is amended to read:

627.641 Coverage for newborn children.—

(1) *A health insurance policy that provides* ~~All health insurance policies providing~~ coverage on an expense-incurred basis ~~and all health care services plan contracts issued by a nonprofit corporation which provide~~ ~~coverage~~ for a member of the family of the insured or subscriber shall, as to *the* ~~such~~ family member's coverage, also provide that the health insurance benefits applicable for children will be payable with respect to a newborn child of the insured or subscriber, or covered family member of the insured or subscriber, from the moment of birth. However, with respect to a newborn child of a covered family member *other than the spouse* of the insured or subscriber, the coverage for the newborn child *terminates* ~~will terminate~~ 18 months after the birth of the newborn child.

(2) The coverage for newborn children *required by this section consists* ~~shall consist~~ of coverage for injury or sickness, including the necessary care or treatment of medically diagnosed congenital defects, birth abnormalities, or prematurity, and transportation costs of the newborn to and from the nearest available facility appropriately staffed and equipped to treat the newborn's condition, when such transportation is certified by the attending physician as necessary to protect the health and safety of the newborn child. The coverage of such transportation costs *may* ~~shall~~ not exceed the usual and customary charges, up to $1,000.

(3) This section does not apply to disability income or hospital indemnity policies or to normal maternity policy provisions applicable to the mother.

(4) A policy may require the insured, subscriber, or covered family member to notify the insurer of the birth of a child within a time period, as specified in the policy, of not less than 30 days after the birth. If timely notice is given, the insurer may not charge an additional premium for coverage of the newborn child for the duration of the notice period. If timely notice is not given, the insurer may charge an additional premium from the date of birth. The insurer may not deny coverage for a child due to the failure of the insured to timely notify the insurer of the birth of the child.

(5) If the policy does not require the insured to notify the insurer of the birth of a child within a specified time period, the insurer may not deny coverage for such child or retroactively charge the insured an additional premium for such child. However, the insurer may prospectively charge the insured an additional premium for the child if the insurer provides at least 45 days' notice of the additional premium required.

Section 8. Effective October 1, 1992, section 627.6415, Florida Statutes, is amended to read:

627.6415 Coverage for adopted children ~~upon placement in residence~~.—

(1) A health insurance policy that provides ~~All health insurance policies that provide~~ coverage for a member of the family of the insured shall, as to *the* ~~such~~ family member's coverage, ~~also~~ provide that the health insurance benefits applicable *to* ~~for~~ children *of the insured also apply* ~~shall be payable with respect~~ to an adopted child of the insured~~, which child is~~ placed in compliance with chapter 63, prior to the child's 18th birthday, from the moment of placement in the residence of the insured. *The policy* ~~Such policies~~ may not exclude coverage for any preexisting condition of the child. In the case of a newborn child, coverage *begins at* ~~shall begin from~~ the moment of birth if a written agreement to adopt *the* ~~such~~ child has been entered into by the insured prior to the birth of the child, whether or not *the* ~~such~~ agreement is enforceable. *This section does not require coverage for an adopted child who* ~~However, coverage for such child shall not be required in the event that the child~~ is not ultimately placed in the residence of the insured in compliance with chapter 63.

(2) A policy may require the insured to notify the insurer of the birth or placement of an adopted child within a specified time period of not less than 30 days after the birth or placement in the residence of a child adopted by the insured. If timely notice is given, the insurer may not charge an additional premium for coverage of the child for the notice period. If timely notice is not given, the insurer may charge an additional premium from the date of birth or placement. The insurer may not deny coverage for the child due to the failure of the insured to timely notify the insurer of the birth or placement of the child.

(3) If the policy does not require the insured to notify the insurer of the birth or placement of an adopted child within a specified time period, the insurer may not deny coverage for such child or retroactively charge the insured an additional premium for such child. However, the insurer may prospectively charge the insured an additional premium for the child if the insurer provides at least 45 days' notice of the additional premium required.

Section 9. Effective October 1, 1992, section 627.6418, Florida Statutes, is amended to read:

627.6418 Coverage for mammograms.—

(1) *An accident or health insurance policy* ~~All accident or health insurance policies which provide for the surgical procedure known as a mastectomy~~ issued, amended, delivered, or renewed in this state *that provides coverage for mastectomies must* ~~on or after October 1, 1988, shall be deemed to~~ provide coverage for at least the following:

(a) A baseline mammogram for women *who are 35 years of age or older, but younger than 40 years of age* ~~age 35 to 39, inclusive~~.

(b) A mammogram for women *who are 40 years of age or older, but younger than 50 years of age* ~~age 40 to 49, inclusive,~~ every 2 years, or more frequently based on the patient's physician's recommendation.

(c) A mammogram every year for women *who are 50 years of age or older* ~~age 50 and over~~.

(2) Except as provided in paragraph (1)(b), for mammograms done more frequently than every two years for women 40 years of age or older but younger than 50 years of age, the coverage required by subsection (1) applies, with or without a physician prescription, if the insured obtains a mammogram in an office, facility, or ~~Such coverage shall apply if the patient is referred by a physician for breast cancer screening or diagnostic purposes, or uses a~~ health testing service *that uses* ~~utilizing~~ radiological equipment ~~for breast cancer screening, which equipment is~~ registered with the Department of Health and Rehabilitative Services *for breast cancer screening. The coverage is* ~~Such coverage shall be~~ subject to the deductible and coinsurance provisions *applicable to out-patient visits, and is also subject to* ~~applied to a mastectomy, and~~ all other terms

and conditions applicable to other benefits. *This section does not affect any requirements or prohibitions relating to who may perform, analyze, or interpret a mammogram or the persons to whom the results of a mammogram may be furnished or released.*

(3)~~(2)~~ As used in this section, "mastectomy" means the removal of all or part of the breast for medically necessary reasons as determined by a licensed physician.

(4)~~(3)~~ This section does not apply to disability income, specified disease, or hospital indemnity policies.

Section 10. Effective October 1, 1992, section 627.4134, Florida Statutes, is renumbered as section 627.6471, Florida Statutes, and is amended to read:

627.6471 ~~627.4134~~ Contracts for reduced rates of payment; limitations; coinsurance and deductibles.—

(1) As used in this section:

(a) "Insurer" means an insurer as defined in s. 624.03 or a multiple-employer welfare arrangement as defined in s. 624.437.

(b) "Preferred provider" means any licensed health care provider with which the insurer has *directly or indirectly contracted for an alternative or* ~~negotiated and entered into a contract for~~ a reduced rate of payment, which shall include any health care provider listed in s. 627.419(3) and (4) and shall provide reasonable access to such health care providers.

(c) "Preferred provider network" means a group of licensed health care providers with *each of which* ~~whom~~ the insurer has *directly or indirectly contracted* ~~negotiated and entered into contracts~~ for alternative or reduced rates of payment. *If an insurer negotiates with providers practicing as a group, the insurer may contract with the group.*

(2) Any insurer issuing a policy *of* ~~for~~ health insurance in this state, which insurance includes *coverage for* the services of a preferred provider ~~network~~, *must* ~~shall~~ provide each policyholder and certificateholder with a current list of *preferred providers and must* ~~health care providers in the network under contract with the insurer to provide services at alternative or reduced rates under the policy and shall~~ make the list available for public inspection during regular business hours at the principal office of the insurer within the state.

(3) A policy may limit payments regardless of the providers chosen by an insured and may offer alternative or reduced rates to an insured who selects preferred providers.

(4) Any policy *that* ~~which~~ provides ~~different~~ schedules of payments for services provided by preferred providers *that differ from the schedules of payments for services provided* ~~and~~ by *nonpreferred* providers ~~with which the insurer does not have a contract for an alternative or reduced rate of payment~~ is subject to the following limitations:

(a) The amount of any annual deductible *per covered person or per family* for treatment in a facility *that* ~~which~~ is not a preferred provider *may* ~~shall~~ not exceed four times the amount of a corresponding annual deductible for treatment in a facility *that* ~~which~~ is a preferred provider.

(b) If the policy has no deductible for treatment in a preferred provider facility, the ~~annual~~ deductible for treatment received in a facility *that* ~~which~~ is not a preferred provider facility *may* ~~shall~~ not exceed $500 *per covered person* per visit.

(c)~~(b)~~ The amount of any annual deductible *per covered person or per family* for treatment, other than inpatient treatment, by a provider *that* ~~which~~ is not a preferred provider *may* ~~shall~~ not exceed four times the amount of a corresponding annual deductible for treatment, other than inpatient treatment, by a preferred provider.

(d) If the policy has no deductible for treatment by a preferred provider, the annual deductible for treatment received from a provider which is not a preferred provider shall not exceed $500 *per covered person.*

(e)~~(c)~~ The percentage amount of any coinsurance to be paid by an insured to a provider *that* ~~which~~ is not a preferred provider *may* ~~shall~~ not exceed by more than *50* ~~30~~ percentage points the percentage amount of any coinsurance payment to be paid to a preferred provider.

(f)~~(d)~~ The amount of any deductible and payment of coinsurance paid by the insured *must* ~~shall~~ be applied to the reduced charge negotiated between the insurer and *the* ~~a~~ preferred provider.

(g) Notwithstanding the limitations of deductibles and coinsurance provisions in this section, an insurer may require the insured to pay a reasonable copayment per visit for inpatient or outpatient services.

(h)~~(e)~~ If any service or treatment is not within the scope of services provided by the network of preferred providers, but is within the scope of services or treatment covered by the policy, the service or treatment shall be *reimbursed at a rate not less than 10 percentage points lower than the percentage rate paid to preferred providers* ~~deemed to be provided by a preferred provider~~. *The reimbursement rate must be applied to the usual and customary charges in the area.*

Section 11. Effective October 1, 1992, section 627.6472, Florida Statutes, is created to read:

627.6472 Exclusive provider organizations.—

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

(a) "Complaint" means any dissatisfaction expressed by a policyholder concerning an insurer or its network providers.

(b) "Emergency care" means medical services provided after the sudden or unexpected onset of a medical condition manifesting itself by acute symptoms, including injury caused by an accident, which are severe enough that the lack of immediate medical attention could reasonably be expected to result in any of the following:

1. The patient's life or health would be placed in serious jeopardy.

2. Vital bodily functions would be seriously impaired.

3. There would be serious and permanent dysfunction of a bodily organ or part.

(c) "Exclusive provider" means a provider of health care, or a group of providers of health care, that has entered into a written agreement with the insurer to provide benefits under a health insurance policy issued under this section, which agreement shall include any health care provider listed in s. 627.419(3) and (4) and shall provide reasonable access to such health care providers.

(d) "Exclusive provider provision" means any provision that conditions the payment of benefits, in whole or in part, on the use of exclusive providers.

(e) "Department" means the Department of Health and Rehabilitative Services.

(f) "Grievance" means dissatisfaction with the administration, claims practices, or provisions of services concerning an insurer or its network providers, expressed in writing by a policyholder under a health insurance policy or certificate.

(g) "Service area" means the geographic area approved by the department within which an insurer is authorized to offer a health insurance policy.

(2) The department may authorize a health insurer to offer a health insurance policy or certificate under this section if the department finds that the insurer has satisfied all of the requirements of this section.

(3) An insurer may not issue a policy or certificate in this state that is subject to an exclusive provider provision until its plan of operation has been approved by the department. If the insurer files a plan of operation which states that the insurer will be utilizing a health maintenance organization provider network, subscriber grievance procedure and internal and external quality assurance program all of which have been approved by the department, the insurers plan of operation shall be deemed to have met the requirements of subsections (4), (5), (12), and (14).

(4) An insurer must file a proposed plan of operation with the department in a format prescribed by the department. The plan of operation must contain evidence that all covered services that are subject to exclusive provider provisions are available and accessible through exclusive providers, including a demonstration that:

(a) Such services can be provided by exclusive providers with reasonable promptness with respect to geographic location, hours of operation, and after-hour care. The hours of operation and availability of after-hour care must reflect usual practice in the local area. Geographic availability must reflect the usual travel times within the community.

(b) The number of exclusive providers in the service area is sufficient, with respect to current and expected policyholders, either:

1. To deliver adequately all services that are subject to an exclusive provider provision; or

2. To make appropriate referrals.

(c) There are written agreements with exclusive providers describing specific responsibilities.

(d) Emergency care is available 24 hours a day and 7 days a week.

(e) In the case of covered services that are subject to an exclusive provider provision, there are written agreements with exclusive providers prohibiting such providers from billing or otherwise seeking reimbursement from or recourse against any policyholders. This paragraph does not apply to supplemental charges or coinsurance amounts stated in the policy or certificate.

(5) The proposed plan of operation must include:

(a) A statement or map providing a clear description of the service area.

(b) A description of the grievance procedure to be used.

(c) A description of the quality assurance program, including all of the following:

1. The formal organizational structure.

2. The written criteria for selection, retention, and removal of exclusive providers.

3. The procedures for evaluating quality of care provided by exclusive providers, and the process to initiate corrective action when warranted.

(d) A list and description, by specialty, of the exclusive providers.

(e) The written information proposed to be used by the insurer to comply with subsection (10).

(f) Any other information requested by the department.

(6) An insurer must file any proposed changes to the plan of operation, except for changes to the list of exclusive providers, with the department prior to implementing the changes. The changes are considered approved by the department after 30 days unless specifically disapproved.

(7) An updated list of exclusive providers must be filed with the department at least semi-annually.

(8) A health insurance policy or certificate may not restrict payment for covered services provided by nonexclusive providers if:

(a) The services are for symptoms requiring emergency care or are immediately required for an unforeseen illness, injury, or condition; and

(b) A network provider is not reasonably accessible.

(9) If any service or treatment is not within the scope of services provided by the network or exclusive providers, but is within the scope of services or treatment covered by the policy, the service or treatment shall be reimbursed at a rate not less than 10 percentage points lower than the percentage rate paid to network providers. The reimbursement rate must be applied to the usual and customary charges in the area.

(10) An insurer must make full and fair disclosure in writing of the provisions, restrictions, and limitations of the policy or certificate to each policyholder and certificateholder, including at least the following:

(a) A description (including address and phone number) of the exclusive providers, including primary care physicians, specialty physicians, hospitals, and other providers.

(b) A description of the exclusive provider provisions, including coinsurance and deductible levels if providers other than exclusive providers are used.

(c) A description of coverage for emergency and urgently needed care and other out-of-service area coverage.

(d) A description of limitations on referrals to restricted exclusive providers and to other providers.

(e) A description of the insurer's quality assurance program and grievance procedure.

(11) Prior to or at the time of the sale of a policy or certificate that is subject to an exclusive provider organization, the insurer must obtain from the policyholder or certificateholder a signed and dated form stating that the policyholder or certificateholder has received the information provided pursuant to subsection (10) and that the policyholder or certificateholder understands the restrictions of the policy or certificate.

(12)(a) An insurer issuing policies or certificates that are subject to an exclusive provider organization must have and use procedures for hearing complaints and resolving written grievances from the policyholders. The procedures must be aimed at mutual agreement for settlement and may include arbitration procedures.

(b) The grievance procedure must be described in the policy and certificates.

(c) At the time the policy or certificate is issued, the insurer must provide detailed information to the policyholder describing how a grievance may be registered with the insurer.

(d) Grievances must be considered in a timely manner and must be transmitted to appropriate decisionmakers who have the authority to fully investigate the issue and take corrective action.

(e) If a grievance is found to be valid, corrective action must be taken promptly.

(f) All concerned parties must be notified about the results of a grievance.

(g) The insurer must report no later than each March 31 to the department regarding its grievance procedure. The report must be in a format prescribed by the department and must contain the number of grievances filed in the past year and a summary of the subject, nature, and resolution of such grievances.

(13) At the time of initial purchase, an insurer issuing policies or certificates that are subject to an exclusive provider organization must offer to each policyholder the opportunity to purchase a policy otherwise offered by the insurer that is not subject to an exclusive provider network.

(14)(a) There is imposed on every authorized insurer that offers exclusive provider policies under this section an annual assessment payable to the department. The assessment must be determined and collected pursuant to the procedures specified in s. 641.58, and may not exceed 0.1 percent of the gross premium collected by the insurer in the prior year for exclusive provider policies issued in this state under this section. The assessment does not apply to policies issued pursuant to s. 627.6473.

(b) The department must deposit the assessments in the Health Maintenance Organization Quality Care Trust Fund. Assessments deposited under this subsection must be used to defray the expenses of the department connected with implementation of this section. Prior to collection of assessments under this subsection, the department may use moneys in the Health Maintenance Organization Quality Care Trust Fund, as appropriated by the Legislature, to defray the expenses of the department connected with implementation of this section.

(c) The failure of the insurer to pay the assessment within the time specified in s. 641.58 constitutes grounds for suspension or revocation of the insurer's certificate of authority by the Department of Insurance.

Section 12. Effective October 1, 1992, section 627.6473, Florida Statutes, is created to read:

627.6473 Combined preferred provider and exclusive provider policies.—An insurer may issue a policy that provides coverage for certain benefits through a preferred provider network and other benefits through an exclusive provider network. With regard to the coverage provided through a preferred provider network, the requirements of s. 627.6471 apply and with regard to the coverage provided through an exclusive provider network, the requirements of s. 627.6472 apply.

Section 13. Effective October 1, 1992, section 627.6515, Florida Statutes, is amended to read:

627.6515 Out-of-state groups.—

(1) Any group health insurance policy issued or delivered outside this state under which a resident of this state is provided coverage shall comply with the provisions of this part in the same manner as group health policies issued in this state.

(2) This part does not apply to a group health insurance policy issued or delivered outside this state under which a resident of this state is provided coverage if:

(a) The policy is issued to an employee group the composition of which is substantially as described in s. 627.653; a labor union group or association group the composition of which is substantially as described in s. 627.654; an additional group the composition of which is substantially as described in s. 627.656; a group insured under a blanket health policy when the composition of the group is substantially in compliance with s. 627.659; a group insured under a franchise health policy when the composition of the group is substantially in compliance with s. 627.663; an association group to cover persons associated in any other common group, which common group is formed primarily for purposes other than providing insurance; a group which is established primarily for the purpose of providing group insurance, provided the benefits are reasonable in relation to the premiums charged thereunder and the issuance of the group policy has resulted, or will result, in economies of administration; or a group of insurance agents of an insurer, which insurer is the policyholder;

(b) Certificates evidencing coverage under the policy are issued to residents of this state and contain in contrasting color and not less than 10-point type the following statement: "The benefits of the policy providing your coverage are governed primarily by the law of a state other than Florida"; and

(c) The policy provides the benefits specified in ss. 627.419, 627.6574, 627.6575, 627.6579, *627.6613,* 627.667, and 627.6675.

(3) Section 624.428 is not applicable when residents of this state are enrolled for coverage under a policy or certificate issued in accordance with subsection (2).

(4) Prior to solicitation in this state, a copy of the master policy and a copy of the form of the certificate evidencing coverage that will be issued to residents of this state shall be filed with the department for informational purposes.

(5) Prior to solicitation in this state, an officer of the insurer shall truthfully certify to the department that the policy and certificates evidencing coverage have been reviewed and approved by the state in which the group policy is issued.

(6) Any insurer who provides coverage under certificates of insurance issued to residents of this state shall designate one Florida-licensed resident agent as agent of record for the service of such certificates, unless the policy is issued to a group substantially as described in s. 627.653, s. 627.654, s. 627.656, s. 627.659, or s. 627.663.

Section 14. Effective October 1, 1992, section 627.6561, Florida Statutes, is created to read:

627.6561 Preexisting condition.—A group health insurance policy must comply with the following provisions:

(1) Preexisting condition provisions may not exclude coverage for a period beyond 12 months following the individual's effective date of coverage and may relate only to:

(a) Conditions that, during the 6-month period immediately preceding the effective date of coverage, had manifested themselves in such a manner as would cause an ordinarily prudent person to seek medical advice, diagnosis, care, or treatment or for which medical advice, diagnosis, care, or treatment was recommended or received; or

(b) A pregnancy existing on the effective date of coverage.

(2) In determining whether a preexisting condition provision applies to an eligible insured or dependent, credit must be given for the time the person was covered under previous coverage if the previous coverage was similar to or exceeding the coverage provided under the new policy and if the previous coverage was continuous to a date not more than 30 days prior to the effective date of the new coverage, exclusive of any applicable waiting period under the plan.

Section 15. Effective October 1, 1992, section 627.6562, Florida Statutes, is created to read:

627.6562 Dependent coverage.—

(1)If an insurer offers coverage that insures dependent children of the policyholder or certificateholder, the policy must insure a dependent child of the policyholder or certificateholder at least until the end of the calendar year in which the child reaches the age of 25, if the child meets all of the following:

(a) The child is dependent upon the policyholder or certificateholder for support.

(b) The child is living in the household of the policyholder or certificateholder, or the child is a full-time or part-time student.

(2) Nothing in this section affects or preempts an insurer's right to medically underwrite or charge the appropriate premium.

Section 16. Effective October 1, 1992, section 627.6563, Florida Statutes, is created to read:

627.6563 Full-time employment defined.—Upon the request of the policyholder, a group, blanket, or franchise health insurance policy issued or delivered in this state that provides coverage to an employer for the benefit of its employees, shall include in the definition of "full-time employee" an employee who has a normal work week of 25 or more hours. This section does not prohibit an insurer from excluding coverage for a temporary or substitute employee.

Section 17. Effective October 1, 1992, section 627.6575, Florida Statutes, is amended to read:

627.6575 Coverage for newborn children.—

(1) *Any* ~~All~~ group, blanket, or franchise health insurance *policy* ~~policies~~ providing coverage on an expense-incurred basis *that provides coverage for a family member of the certificateholder or subscriber, or any*~~,~~ ~~and~~ group, blanket, or franchise health care services plan *contract* ~~contracts~~ issued by a nonprofit corporation *that provides*~~, which provide~~ coverage for a family member of the certificateholder or subscriber, *must, with respect to the* ~~shall, as to such~~ family member's coverage, also provide that the health insurance benefits applicable for children will be payable with respect to a newborn child of the certificateholder, ~~or~~ subscriber, or covered family member ~~of the certificateholder or subscriber,~~ from the moment of birth. However, *the coverage for* ~~with respect to~~ a newborn child of a covered family member of the certificateholder or subscriber *terminates*~~, the coverage for the newborn child will terminate~~ 18 months after the birth of the newborn child.

(2) The coverage for newborn children *required by this section consists* ~~shall consist~~ of coverage for injury or sickness, including the necessary care or treatment of medically diagnosed congenital defects, birth abnormalities, or prematurity, and *also includes* transportation costs of the newborn to and from the nearest available facility appropriately staffed and equipped to treat the newborn's condition *if the*~~, when such~~ transportation is certified by the attending physician as necessary to protect the health and safety of the newborn child. The coverage of ~~such~~ transportation costs *may* ~~shall~~ not exceed the usual and customary charges, up to $1,000.

(3) The benefits *required* ~~provided~~ by this section *also* apply to holders of group certificates ~~which are~~ delivered or issued for delivery to residents of this state under group policies effectuated or delivered outside this state.

(4) A policy or contract may require the insured to notify the insurer of the birth of a child within a time period, as specified in the policy, of not less than 30 days after the birth. If timely notice is given, the insurer may not charge an additional premium for coverage of the newborn child for the duration of the notice period. If timely notice is not given, the insurer may charge an additional premium from the date of birth. The insurer may not deny coverage for a child due to the failure of the insured to timely notify the insurer of the birth of the child.

(5) If the policy or contract does not require the insured to notify the insurer of the birth within a specified time period, the insurer may not deny coverage for such child or retroactively charge the insured an additional premium for the child if the insurer provides at least 45 days' notice of the additional premium required.

(6) This section does not apply to disability income or hospital indemnity policies or to normal maternity policy provisions applicable to the mother.

Section 18. Effective October 1, 1992, section 627.6578, Florida Statutes, is amended to read:

627.6578 Coverage for adopted children upon placement in residence.—

(1) A group, blanket, or franchise health insurance policy that provides ~~All group, blanket, and franchise health insurance policies that provide~~ coverage for a family member of the certificateholder or subscriber shall, as to such family member's coverage, provide that benefits applicable *to* ~~for~~ children *of the certificateholder or subscriber also apply* ~~shall be payable with respect~~ to an adopted child of the certificateholder or subscriber~~, which child is~~ placed in compliance with chapter 63, from the moment of placement in the residence of the certificateholder or subscriber. *The policy* ~~Such policies~~ may not exclude coverage for any preexisting condition of the child. In the case of a newborn child, coverage *begins at* ~~shall begin from~~ the moment of birth if a written agreement to adopt such child has been entered into by the certificateholder or subscriber prior to the birth of the child, whether or not *the* ~~such~~ agreement is enforceable. *This section does not require coverage for an adopted child who* ~~However, coverage for such child shall not be required in the event that the child~~ is not ultimately placed in the residence of the certificateholder or subscriber in compliance with chapter 63.

(2) A policy or contract may require the insured to notify the insurer of the birth or placement of an adopted child within a specified time period of not less than 30 days after the birth or placement in the residence of a child adopted by the insured. If timely notice is given, the insurer may not charge an additional premium for coverage of the child for the duration of the notice period. If timely notice is not given, the insurer may charge an additional premium from the date of birth or placement. The insurer may not deny coverage for the child due to the failure of the insured to timely notify the insurer of the birth or placement of the child.

(3) If the policy does not require the insured to notify the insurer of the birth or placement of an adopted child within a specified time period, the insurer may not deny coverage for such child or retroactively charge the insured an additional premium for such child. However, the insurer may prospectively charge the insured an additional premium for the child if the insurer provides at least 45 days' notice of the additional premium required.

Section 19. Effective October 1, 1992, section 627.6613, Florida Statutes, is amended to read:

627.6613 Coverage for mammograms.—

(1) *A* ~~All policies of~~ group, blanket, or franchise accident or health insurance *policy* ~~which provide for the surgical procedure known as a mastectomy~~ issued, amended, delivered, or renewed in this state *that provides coverage for mastectomies must* ~~on or after October 1, 1988, shall be deemed to~~ provide coverage for at least the following:

(a) A baseline mammogram for women *who are 35 years of age or older, but younger than 40 years of age* ~~age 35 to 39, inclusive~~.

(b) A mammogram for women *who are 40 years of age or older, but younger than 50 years of age* ~~age 40 to 49, inclusive,~~ every 2 years, or more frequently based on the patient's physician's recommendation.

(c) A mammogram every year for women *who are 50 years of age or older* ~~age 50 and over~~.

(2) Except as provided in paragraph (1)(b), for mammograms done more frequently than every two years for women 40 years of age or older but younger than 50 years of age, the coverage required by subsection (1) applies, with or without a physician prescription, if the insured obtains a mammogram in an office, facility, or ~~Such coverage shall apply if the patient is referred by a physician for breast cancer screening or diagnostic purposes, or uses a~~ health testing service *that uses* ~~utilizing~~ radiological equipment ~~for breast cancer screening, which equipment is~~ registered with the Department of Health and Rehabilitative Services *for breast cancer screening. The coverage is* ~~Such coverage shall be~~ subject to the deductible and coinsurance provisions *applicable to out-patient visits, and is also subject to* ~~applied to a mastectomy, and~~ all other terms and conditions applicable to other benefits. *This section does not affect any requirements or prohibitions relating to who may perform, analyze, or interpret a mammogram or the persons to whom the results of a mammogram may be furnished or released.*

(3)~~(2)~~ As used in this section, "mastectomy" means the removal of all or part of the breast for medically necessary reasons as determined by a licensed physician.

Section 20. Effective October 1, 1992, section 627.6615, Florida Statutes, is amended to read:

627.6615 Handicapped children; continuation of coverage under group policy.—A group health insurance policy or health care services plan contract *that is*~~,~~ delivered or issued for delivery in this state *and that*~~, which~~ provides that coverage of a dependent child of an employee or other member of the covered group will terminate upon attainment of the limiting age for dependent children specified in the policy or contract shall also provide in substance that attainment of *the limiting age does not* ~~such limiting age will not operate to~~ terminate the coverage of *the* ~~such~~ child while the child ~~is and~~ continues to be both:

(1) Incapable of self-sustaining employment by reason of mental retardation or physical handicap; and

(2) Chiefly dependent upon the employee or member for support and maintenance.

If a claim is denied under a policy or contract for the stated reason that the child has attained the limiting age for dependent children specified in the policy or contract, the *notice of denial must state that the certificateholder or subscriber has the burden of establishing that the child continues to meet the criteria specified in* ~~burden is on the policyholder to establish that the child is and has continued to be handicapped as defined by~~ subsections (1) and (2).

Section 21. Effective October 1, 1992, section 627.662, Florida Statutes, is amended to read:

627.662 Other provisions applicable.—The following *provisions* ~~sections from part VI also~~ apply to group health insurance, blanket health insurance, and franchise health insurance:

(1) Section 627.569, relating to use of dividends, refunds, rate reductions, commissions, and service fees.

(2)~~(1)~~ Section 627.602(1)(f) and (2), *relating to identification numbers and statement of deductible provisions.*

(3)~~(2)~~ Section 627.635, *relating to excess insurance.*

(4)~~(3)~~ Section 627.638, *relating to direct payment for hospital or medical services.*

(5)~~(4)~~ Section 627 640, *relating to filing and classification of rates.*

(6)~~(5)~~ Section 627.645(1), *relating to denial of claims.*

(7)~~(6)~~ Section 627.613, *relating to time of payment of claims.*

(8) Section 627.6471, relating to preferred provider organizations.

(9) Section 627.6472, relating to exclusive provider organizations.

(10) Section 627.6473, relating to combined preferred provider and exclusive provider policies.

Section 22. Effective October 1, 1992, section 627.6675, Florida Statutes, is amended to read:

627.6675 Conversion on termination of eligibility.—*Subject to all of the provisions of this section,* a group policy delivered or issued for delivery in this state by an insurer or nonprofit health care services plan *that*~~, which~~ provides, *on an expense-incurred basis,* hospital, surgical, or major medical expense insurance, or any combination of these coverages, ~~on an expense incurred basis, but not a policy which provides benefits for specified diseases, accidental injuries only, disability income, Medicare supplement, hospital indemnity, limited benefit, nonconventional, or excess policies,~~ shall provide that an employee or member whose insurance under the group policy has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy, and under any group policy providing similar benefits *that the terminated group policy replaced* ~~which it replaces~~, for at least 3 months immediately prior to termination, shall be entitled to have issued to him

by the insurer a policy or certificate of health insurance, ~~hereafter~~ referred to *in this section* as a "converted policy." An employee or member shall not be entitled to ~~have~~ a converted policy ~~issued to him~~ if termination of his insurance under the group policy occurred because he failed to pay any required contribution, or because any discontinued group coverage was replaced by similar group coverage within 31 days *after discontinuance.* ~~Issuance of a converted policy shall be subject to the following conditions:~~

(1) TIME LIMIT.—Written application for the converted policy shall be made and the first premium *must be* paid to the insurer, not later than 31 days after ~~such~~ termination *of the group policy.*

(2) EVIDENCE OF INSURABILITY.—The converted policy shall be issued without evidence of insurability.

(3) CONVERSION PREMIUM*; EFFECT ON PREMIUM RATES FOR GROUP COVERAGE.*—

(a) The premium for the converted policy shall be determined in accordance with premium rates applicable to the age and class of risk of each person to be covered under the converted policy and to the type and amount of insurance provided. *However, the premium for the converted policy may not exceed 200 percent of the standard risk rate as established by the Florida Comprehensive Health Association, adjusted for differences in benefit levels and structure between the converted policy and the policy offered by the Florida Comprehensive Health Association.*

(b) Actual or expected experience under converted policies may be combined with such experience under group policies for the purposes of determining premium and loss experience and establishing premium rate levels for group coverage.

(4) EFFECTIVE DATE OF COVERAGE.—The effective date of the converted policy shall be the day following the termination of insurance under the group policy.

(5) SCOPE OF COVERAGE.—The converted policy shall cover the employee or member and his dependents who were covered by the group policy on the date of termination of insurance. At the option of the insurer, a separate converted policy may be issued to cover any dependent.

(6) OPTIONAL COVERAGE.—The insurer shall not be required to issue a converted policy covering any person *who* ~~if such person~~ is or could be covered by Medicare, ~~Title XVIII of the Social Security Act, as added by the Social Security Amendments of 1965, or as later amended or superseded. Furthermore,~~ The insurer shall not be required to issue a converted policy covering *a person if paragraphs (a) and (b) apply to the person* ~~any person if~~:

(a) *If any of the following apply to the person:*

1. *The* ~~Such~~ person is covered for similar benefits by another hospital, surgical, medical, or major medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan, or by any other plan or program.;

2. *The* ~~Such~~ person is eligible for similar benefits, whether or not *actually provided coverage* ~~covered therefor~~, under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis.; ~~or~~

3. Similar benefits are provided for or are available to *the person under* ~~such person pursuant to or in accordance with the requirements of~~ any state or federal law.; ~~and~~

(b) *If* the benefits provided under the sources referred to in subparagraph (a)1. ~~for such person~~ or the benefits provided or available under the sources referred to in subparagraphs (a)2. and 3. ~~for such person~~, together with the benefits provided by the converted policy, would result in overinsurance according to the insurer's standards. The insurer's standards must bear some reasonable relationship to actual health care costs in the area in which the insured lives at the time of conversion and must be filed with the department prior to their use in denying coverage.

(7) INFORMATION REQUESTED BY INSURER.—

(a) A converted policy may include a provision *under which* ~~whereby~~ the insurer may request information, in advance of any premium due date ~~of such policy~~, of any person covered thereunder as to whether:

1. He is covered for similar benefits by another hospital, surgical, medical, or major medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan or by any other plan or program.;

2. He is covered for similar benefits under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis.; ~~or~~

3. Similar benefits are provided for or are available to *the* ~~such~~ person *under* ~~pursuant to or in accordance with the requirements of~~ any state or federal law.

(b) The converted policy may provide that the insurer may refuse to renew the policy or the coverage of any person *only for one or more of* ~~insured thereunder for~~ the following reasons ~~only~~:

1. Either the benefits provided under the sources referred to in subparagraphs (a)1. and 2. for *the* ~~such~~ person or the benefits provided or available under the sources referred to in subparagraph (a)3. for *the* ~~such~~ person, together with the benefits provided by the converted policy, would result in overinsurance according to the insurer's standards on file with the department. ~~or~~

2. The converted policyholder fails to provide the ~~requested~~ information *requested pursuant to paragraph (a).*;

~~3.~~2. Fraud or material misrepresentation in applying for any benefits under the converted policy.;

~~4.~~3. Eligibility of the insured person for coverage under Medicare, ~~Title XVIII of the Social Security Act, as added by the Social Security Amendments of 1965, or as later amended or superseded,~~ or under any other state or federal law providing for benefits similar to those provided by the converted policy.; ~~or~~

~~5.~~4. Other reasons approved by the department.

(8) BENEFITS OFFERED.—

(a) An insurer shall not be required to issue a converted policy *that* ~~which~~ provides benefits in excess of those provided under the group policy from which conversion is made.

(b) An insurer shall offer the benefits specified in s. 627.668 and the benefits specified in s. 627.669 if those benefits were provided in the group plan.

(c) An insurer shall offer maternity benefits and dental benefits if those benefits were provided in the group plan.

(9) PREEXISTING CONDITION PROVISION.—The converted policy shall not exclude a preexisting condition not excluded by the group policy. However, the converted policy may provide that any hospital, surgical, or medical benefits payable *under the converted policy* ~~thereunder~~ may be reduced by the amount of any such benefits payable under the group policy after the termination of *covered under the group policy* ~~the individual's insurance thereunder~~. The converted policy may also *provide* ~~include provisions so~~ that during the first policy year the benefits payable under the converted policy, together with the benefits payable under the group policy, shall not exceed those that would have been payable had the individual's insurance under the group policy remained in force ~~and effect~~.

~~(10) OPTIONAL COVERAGE; HOSPITALIZATION OR SURGICAL EXPENSE.—Subject to the provisions and conditions of this part, if the group insurance policy from which conversion is made insures the employee or member for basic hospital or surgical expense insurance, the employee or member shall be entitled to obtain a converted policy providing, at his option, coverage on an expense-incurred basis under any one of the plans meeting the following requirements:~~

~~(a) Plan A:~~

~~1. Hospital room and board daily expense benefits in a maximum dollar amount approximating the average semiprivate rate charged in metropolitan areas of this state, for a maximum duration of 70 days;~~

~~2. Miscellaneous hospital expense benefits of a maximum amount of 10 times the hospital room and board daily expense benefits per hospital confinement; and~~

~~3. Surgical operation expense benefits according to a surgical schedule consistent with those customarily offered by the insurer under group or individual health insurance policies and providing a maximum benefit of $800 for any one procedure.~~

~~(b) Plan B:~~

~~1. Hospital room and board daily expense benefits in a maximum dollar amount equal to 75 percent of the maximum dollar amount determined for Plan A, for a maximum duration of 70 days;~~

~~2. Miscellaneous hospital expense benefits of a maximum amount of 10 times the hospital room and board daily expense benefits per hospital confinement; and~~

~~3. Surgical operation expense benefits according to a surgical schedule consistent with those customarily offered by the insurer under group or individual health insurance policies and providing a maximum benefit of $600 for any one procedure.~~

~~(c) Plan C:~~

~~1. Hospital room and board daily expense benefits in a maximum dollar amount equal to 50 percent of the maximum dollar amount determined for Plan A, for a maximum duration of 70 days;~~

~~2. Miscellaneous hospital benefits of a maximum amount of 10 times the hospital room and board daily expense benefits per hospital confinement; and~~

~~3. Surgical operation expense benefits according to a surgical schedule consistent with those customarily offered by the insurer under group or individual health insurance policies and providing a maximum benefit of $400 for any one procedure.~~

~~The maximum dollar amounts in Plan A shall be determined by the department and may be redetermined from time to time as to converted policies issued subsequent to such redetermination. Such redetermination shall not be made more often than once in 3 years. The maximum dollar amounts in Plans A, B, and C shall be rounded to the nearest multiple of $10.~~

(10)~~(11)~~ *REQUIRED OPTION FOR* ~~OPTIONAL COVERAGE;~~ MAJOR MEDICAL *COVERAGE.*—Subject to the provisions and conditions of this part, ~~if the group insurance policy from which conversion is made insures the employee or member for major medical expense insurance,~~ the employee or member shall be entitled to obtain a converted policy providing ~~catastrophic or~~ major medical coverage under a plan meeting the following requirements:

(a) A maximum benefit ~~at least~~ equal to ~~either, at the option of the insurer, the amount specified in subparagraph 1. or subparagraph 2.~~

~~1. The smaller of the following amounts:~~

~~a. The maximum benefit provided under the group policy.~~

~~b. A maximum payment of~~ $250,000 per covered person for all covered medical expenses incurred during the covered person's lifetime.

~~2. The smaller of the following amounts:~~

~~a. The maximum benefit provided under the group policy.~~

~~b. A maximum payment of $250,000 for each unrelated injury or sickness.~~

(b) Payment of benefits at the rate of 80 percent of covered medical expenses which are in excess of the deductible, until 20 percent of such expenses in a benefit period reaches *$2,000* ~~$1,000~~, after which benefits will be paid at the rate of *90* ~~100~~ percent during the remainder of *the contract year unless the insured is in the insurer's case management program, in which case benefits shall be paid at the rate of 100 percent during the remainder of the contract year* ~~such benefit period~~. *For the purposes of this paragraph "case management program" means the specific supervision and management of the medical care provided or prescribed for a specific individual, which may include the use of health care providers designated by the insurer.* Payment of benefits for outpatient treatment of mental illness, if provided in the converted policy, may be at a lesser rate but not less than 50 percent.

(c) A deductible for each *calendar year that must be $500, $1,000, or $2,000, at the option of the policyholder.* ~~benefit period which, at the option of the insurer, shall be either the sum of the benefits deductible and $100, or the corresponding deductible in the group policy. The term "benefits deductible," as used in this subsection, means the value of any benefits provided on an expense incurred basis which are provided with respect to covered medical expenses by any other hospital, surgical, or medical insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan, or any other plan or program whether on an insured or uninsured basis, or in accordance with the requirements of any state or federal law; and if, pursuant to subsection (12), the converted policy provides both basic hospital or surgical coverage and major medical coverage, the term means the value of such basic benefits. If the maximum benefit is determined by subparagraph (a)1., the insurer may require that the deductible be satisfied during a period of not less than 3 months if the deductible is $100 or less, and not less than 6 months if the deductible exceeds $100.~~

~~(d) The benefit period shall be each calendar year when the maximum benefit is determined by subparagraph (a)1., or 24 months when the maximum benefit is determined by subparagraph (a)2.~~

(d)~~(c)~~ The term "covered medical expenses," as used in this subsection, ~~includes at least, in the case of hospital room and board charges, the lesser of the dollar amount in Plan A and the average semiprivate room and board rate for the hospital in which the individual is confined and, for charges in an intensive care unit, twice such amount. Any surgical schedule~~ shall be consistent with those customarily offered by the insurer under group or individual health insurance policies *but is not required to be identical to the covered medical expenses provided in the group policy from which the individual converted* ~~and must provide at least a $1,200 maximum benefit per procedure~~.

~~(12) BENEFIT PLANS UNDER SUBSECTIONS (10) AND (11) INCLUDING OPTIONAL COVERAGES.—The conversion privilege required by this section shall, if the group insurance policy insures the employee or member for basic hospital or surgical expense insurance as well as major medical expense insurance, make available the plans of benefits as set forth in subsections (10) and (11). At the option of the insurer, such plans of benefits may be provided under one policy. The insurer may also, in lieu of the plans of benefits set forth in subsections (10) and (11), provide a policy of comprehensive medical expense benefits without first dollar coverage. Such policy shall conform to the requirements of subsection (11), provided that an insurer electing to provide such a policy shall make available a low deductible option not to exceed $100, a high deductible option between $500 and $1,000, and a third deductible option midway between the high and low deductible options.~~

(11)~~(13)~~ *ALTERNATIVE* ~~ALTERNATE~~ PLANS.—The insurer may, at its option, also offer alternative plans for group health conversion in addition to *the one* ~~those~~ required by this section.

(12)~~(14)~~ RETIREMENT COVERAGE.—*If* ~~In the event that~~ coverage would be continued under the group policy on an employee following his retirement prior to the time he is or could be covered by Medicare, he may elect, *instead* ~~in lieu~~ of such continuation of group insurance, to have the same conversion rights as would apply had his insurance terminated at retirement by reason or termination of employment or membership.

(13)~~(15)~~ REDUCTION OF COVERAGE DUE TO MEDICARE.—The converted policy may provide for reduction of coverage on any person upon his eligibility for coverage under Medicare~~, Title XVIII of the Social Security Act, as added by the Social Security Amendments of 1965, or as later amended or superseded~~, or under any other state or federal law providing for benefits similar to those provided by the converted policy.

(14)~~(16)~~ CONVERSION PRIVILEGE ALLOWED.—~~Subject to the conditions set forth above~~, The conversion privilege shall also be available *to any of the following*:

(a) ~~To~~ The surviving spouse, if any, at the death of the employee or member, with respect to the spouse and *the* ~~such~~ children whose coverages under the group policy terminate by reason of *the* ~~such~~ death, otherwise to each surviving child whose coverage under the group policy terminates by reason of such death, or, if the group policy provides for continuation of dependents' coverages following the employee's or member's death, at the end of such continuation.;

(b) ~~To~~ The former spouse whose coverage would otherwise terminate because of annulment or dissolution of marriage, if the former spouse is dependent for financial support.;

(c) ~~To~~ The spouse of the employee or member upon termination of coverage of the spouse, while the employee or member remains insured under the group policy, by reason of ceasing to be a qualified family member under the group policy, with respect to the spouse and *the* ~~such~~ children whose coverages under the group policy terminate at the same time.~~; or~~

(d) ~~To~~ A child solely with respect to himself *or herself* upon termination of his coverage by reason of ceasing to be a qualified family member under the group policy, if a conversion privilege is not otherwise provided *in this subsection* ~~above~~ with respect to such termination.

(15)~~(17)~~ BENEFIT LEVELS.—If the benefit levels required in subsection (10) exceed the benefit levels provided under the group policy, the conversion policy may offer benefits which are substantially similar to those provided under the group policy in lieu of those required in subsection (10).

(16)~~(18)~~ GROUP COVERAGE *INSTEAD* ~~IN LIEU~~ OF INDIVIDUAL COVERAGE.—The insurer may elect to provide group insurance coverage *instead of issuing* ~~in lieu of the issuance of~~ a converted individual policy.

(17)~~(19)~~ NOTIFICATION.—A notification of the conversion privilege shall be included in each certificate of coverage.

(18)~~(20)~~ OUTSIDE CONVERSIONS.—A converted policy *that* ~~which~~ is delivered outside *of* this state must be on a form *that* ~~which~~ could be delivered in *the* ~~such~~ other jurisdiction as a converted policy had the group policy been issued in that jurisdiction.

(19) APPLICABILITY.—This section does not require conversion on termination of eligibility for a policy or contract that provides benefits for specified diseases, or for accidental injuries only, disability income, Medicare supplement, hospital indemnity, limited benefit, nonconventional, or excess policies.

(20) Nothing in this section or in the incorporation of it into insurance policies shall be construed to require insurers to provide benefits equal to those provided in the group policy from which the individual converted. Further, the Legislature finds and declares that this subsection is a clarification and specification of the legislative intent of this section prior to this enactment; and that in light of confusion relating to the rights and obligations of insurers and insureds resulting from judicial and administrative interpretations of this section, the state has great interest in giving retrospective intent to this clarification. The Legislature therefore intends that this section be given such retrospective effect as is necessary to clarify that it does not, and did not before this enactment, require the issuance of conversion policies providing benefits equal to those provided in the group policy from which the individual converted.

Section 23. Effective October 1, 1992, section 627.673, Florida Statutes, is amended to read:

627.673 Designation as Medicare supplement policy; penalties for violations.—

(1) An ~~No policy of health insurance, whether~~ individual, group, blanket, or franchise *health insurance policy may not*~~, shall~~ be delivered or issued for delivery in this state as a Medicare supplement policy unless it *complies with this part.*

(2) A violation of this part is punishable under ~~meets the requirements of ss. 627.671-627.675. Any violation of this act shall subject the insurer to the provisions of~~ s. 624.4211. In addition, the department may require insurers violating *this part* ~~any of the provisions of ss. 627.671-627.675~~ to cease marketing any Medicare supplement policy in this state which is related directly or indirectly to a violation *of this part*, or *the department* may require the insurer to take any action necessary to comply with *this part.*

(3) This part does not ~~the provisions of ss. 627.671-627.675. The provisions of ss. 627.671-627.675 are not intended to~~ prohibit or apply to insurance policies or health care benefit plans, including group conversion policies, provided to Medicare eligible persons *if the* ~~which~~ policies are not marketed or held to be Medicare supplement policies or benefit plans.

(4) The loss ratio requirement applicable to Medicare supplement policies that was in effect at the time of issuance of the policy applies to policies that were issued as Medicare supplement policies and have been redefined as limited benefit policies.

Section 24. Effective October 1, 1992, section 627.6736, Florida Statutes, is amended to read:

627.6736 Filing requirements for out-of-state group policies.—*An* ~~Every~~ insurer providing group Medicare supplement insurance benefits to a resident of this state shall file a copy of the master policy and any certificate used in this state in accordance with ss. 627.410 and 627.411,as if the policy were to be issued in this state. ~~However, no insurer shall be required to make a filing earlier than 30 days after insurance was provided to a resident of this state under a master policy issued for delivery outside this state.~~

Section 25. Effective October 1, 1992, section 627.674, Florida Statutes, is amended to read:

627.674 Minimum standards; filing requirements.—

(1) An insurance policy or subscriber contract may not be advertised, solicited, or issued for delivery in this state as a Medicare supplement policy unless it meets the minimum standards *adopted under this section. The* ~~Such~~ minimum standards do not preclude other provisions or benefits which are not inconsistent with *the minimum* ~~these~~ standards.

(2)(a) The department *must adopt rules establishing minimum standards for Medicare supplement policies that, taken together with the requirements of this part, are* ~~shall issue rules so that the combination of this law and such rules shall be~~ no less comprehensive or beneficial to persons insured or covered under Medicare supplement policies issued, delivered, or issued for delivery in this state, including certificates under ~~such~~ group or blanket policies~~, which policies have been~~ issued, delivered, or issued for delivery *in this state*, than *the standards provided* ~~under the provisions pertaining to Medicare supplement policies contained~~ in the NAIC Model Regulation To Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act adopted by the National Association of Insurance Commissioners on *July 31, 1991* ~~December 7, 1989~~, or the Omnibus Budget Reconciliation Act of 1990 (Pub. L. No. 101-508).

(b) The *rules must* ~~department shall issue rules to~~ establish specific standards, including standards of full and fair disclosure, that set forth the manner, content, and required disclosure for the sale of group, blanket, franchise, and individual Medicare supplement policies and Medicare supplement subscriber contracts of dental service plans and nonprofit health care services plans. The standards may cover, but not be limited to:

1. Terms of renewability.~~;~~
2. Initial and subsequent conditions of eligibility.~~;~~
3. Nonduplication of coverage.~~;~~
4. Probationary periods.~~;~~
5. Benefit limitations, exceptions, and reductions.~~;~~
6. Elimination periods.~~;~~
7. Requirements for replacement coverage.~~;~~
8. Recurrent conditions.~~;~~
9. Definitions of terms.~~; and~~
10. Application forms.

(c) The department may *adopt* ~~issue~~ rules that specify prohibited policies or policy provisions, not otherwise specifically authorized by statute, which in the opinion of the *department* ~~commissioner~~ are unjust, unfair, or unfairly discriminatory to the policyholder, the person insured under the policy, or the beneficiary.

(d) For policies issued on or after January 1, 1991, the department may adopt rules to establish minimum policy standards and any optional benefits to facilitate policy comparisons.

(3) *A policy may not* ~~No policy shall~~ be filed with the department as a Medicare supplement policy unless the policy meets or exceeds, either in a single policy or, in the case of nonprofit health care services plans, in one or more policies issued in conjunction with one another, the requirements of the NAIC Medicare Supplement Insurance Minimum Standards Model Act, adopted by the National Association of Insurance Commissioners on *July 31, 1991* ~~December 7, 1989~~, and the Omnibus Budget Reconciliation Act of 1990 (Pub. L. No. 101-508).

(4) A policy filed with the department as a Medicare supplement policy must:

(a) Have a definition of "Medicare eligible expense" that is not more restrictive than health care expenses of the kinds covered by Medicare or to the extent recognized as reasonable by Medicare. Payment of benefits by insurers for Medicare eligible expenses may be conditioned upon the same or less restrictive payment conditions, including determinations of medical necessity, *as apply* ~~as are applicable~~ to Medicare claims.

(b) Provide that benefits designed to cover cost-sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factor. Premiums may be modified to correspond with such changes, subject to *prior* approval by the department.

(c) Be written in simplified language, be easily understood by purchasers, and ~~be~~ otherwise *comply* ~~in accordance~~ with s. 627.602.

(d) Contain a prominently displayed no-loss cancellation clause enabling the applicant to return the policy within 30 days *after receiving* ~~of the date of receipt of~~ the policy, or the certificate issued thereunder, with return in full of any premium paid. *The insurer must, in a timely manner, pay a refund under this paragraph* ~~Any refund made pursuant to this paragraph shall be paid in a timely manner by the insurer,~~ directly to the individual who paid the premium.

(e) Contain a prominently displayed notice of any coordination-of-benefits clause which might in any way restrict payment under the policy.

(f)*1.* Be accompanied by a copy of the Medicare Supplement Buyer's Guide developed jointly by the National Association of Insurance Commissioners and the Health Care Financing Administration of the United States Department of Health and Human Services.

2. A policy referred to in subparagraph (g)4. that does not qualify as a Medicare supplement policy under this part must also be accompanied by the buyer's guide pursuant to this paragraph. ~~Delivery of the buyer's guide shall be made whether or not the policy qualifies as a Medicare supplement coverage in accordance with this act.~~

3. Except in the case of a direct response insurer, delivery of the buyer's guide shall be made at the time of application, and acknowledgment of receipt or certification of delivery of the buyer's guide shall be provided to the insurer. Direct response insurers shall deliver the buyer's guide upon request, but not later than at the time the policy is delivered.

(g)*1.* Be accompanied by an outline of coverage ~~as to such policy,~~ in the form prescribed by the National Association of Insurance Commissioners in the NAIC Model Regulation To Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act, adopted by the National Association of Insurance Commissioners on *July 31, 1991* ~~December 7, 1989~~, and as prescribed in s. 627.6743.~~, and:~~

2.~~1.~~ The outline shall be delivered to the applicant at the time application is made, and, except for the direct response policy, acknowledgment of receipt or certification of delivery of the outline of coverage shall be provided to the insurer.

3.~~2.~~ If the policy is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy, contract, or group certificate must accompany the policy, when it is delivered, and contain the following statement, in no less than 12-point type, immediately above the company name: "NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application, and the coverage originally applied for has not been issued."

4.~~3.~~ *The following language must be printed on or attached to the first page of the outline* ~~Outlines~~ of coverage delivered in conjunction with *an* individual *policy* ~~policies~~ of hospital confinement insurance,~~;~~ indemnity insurance,~~;~~ specified disease insurance,~~;~~ specified accident insurance,~~;~~ supplemental health insurance~~,~~ other than Medicare supplement insurance,~~;~~ or nonconventional health insurance coverage, as defined by law in this state, to *a person* ~~persons~~ eligible for Medicare ~~by reason of age shall contain the following language which shall be printed on or attached to the first page~~: "This policy IS NOT A MEDICARE SUPPLEMENT policy. If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the company."

(5) A Medicare supplement policy *may* ~~shall~~ not contain benefits which duplicate benefits provided by Medicare.

Section 26. Effective October 1, 1992, section 627.6741, Florida Statutes, is amended to read:

627.6741 Issuance, cancellation, nonrenewal, and replacement.—

(1) An insurer issuing Medicare supplement policies in this state shall offer*:*

(a) To any individual who is 65 years of age or older and who resides in this state, upon the request of the individual during the 6-month period beginning with the first month in which the individual has attained *65 years of* ~~such~~ age and is enrolled in Medicare part B*; or*~~,~~

(b) To any individual who is 65 years of age or older and is enrolled in Medicare part B, who resides in this state, upon the request of the individual during the 2-month period following termination of coverage under a group health insurance policy;

the opportunity of enrolling in a Medicare supplement policy, without conditioning the issuance or effectiveness of *the* ~~such a~~ policy on, and without discriminating in the price of *the* ~~such~~ policy based on, the medical or health status or receipt of health care by the individual.

(2) For both individual and group Medicare supplement policies:

(a) An insurer shall neither cancel nor nonrenew a Medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation.

(b) If it is not replacing an existing policy, a Medicare supplement policy shall not limit or preclude liability under the policy for a period longer than 6 months because of a health condition existing before the policy is effective. The policy may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within 6 months before the effective date of coverage.

(c) If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate *or a group health insurance policy or certificate*, the replacing insurer shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, and probationary periods in the new Medicare supplement policy for similar benefits to the extent such time was spent under the original policy.

(3) For group Medicare supplement policies:

(a) If a group Medicare supplement insurance policy is terminated by the group policyholder and not replaced as provided in paragraph (c), the insurer shall offer certificateholders an individual Medicare supplement policy. The insurer shall offer the certificateholder at least the following choices:

1. An individual Medicare supplement policy *that* ~~which~~ provides for continuation of the benefits contained in the group policy.

2. An individual Medicare supplement policy *that* ~~which~~ provides only the benefits required to meet the minimum standards.

(b) If membership in a group is terminated, the insurer shall:

1. Offer the certificateholder conversion opportunities *specified* ~~described~~ in paragraph (a); or

2. At the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

(c) If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the succeeding insurer shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy *may* ~~shall~~ not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

(4) *If a policy is canceled* ~~In the event of cancellation~~, the insurer must return promptly the unearned portion of any premium paid. If the insured cancels *the policy*, the earned premium shall be computed by the use of the short-rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. If the insurer cancels, the earned premium shall be computed pro rata. Cancellation shall be without prejudice to any claim originating prior to the effective date of the cancellation.

Section 27. Effective October 1, 1992, section 627.6742, Florida Statutes, is amended to read:

627.6742 Permitted compensation arrangements.—

(1) The department shall adopt rules governing the permitted compensation arrangements between insurers and agents with respect to Medicare supplement policies.

(2) The rules shall be based upon the format, interrelationships, and parameters relating to compensation arrangements as set forth in the NAIC Medicare Supplement Insurance Minimum Standards Model Act and Regulations adopted by the National Association of Insurance Commissioners on *July 31, 1991* ~~December 7, 1989~~.

~~(3) The rules adopted pursuant to this section shall not apply to an agent's contract with an insurer existing on the date such rules become effective until such contract is renewed or until October 1, 1991, whichever is sooner.~~

Section 28. Effective October 1, 1992, section 627.6744, Florida Statutes, is amended to read:

627.6744 Recommended purchase and excessive insurance.—

(1) ~~No person shall issue or sell~~ Medicare supplement insurance *may not be issued or sold*, whether directly, through the mail, or otherwise, to an individual unless the issuer or seller obtains from the individual, as a part of the application, a written statement signed by the individual stating what Medicare supplement policies the individual has, from what source, and whether the individual has applied for and been determined to be entitled to Medicaid. The written statement must be accompanied by a written acknowledgment, signed by the seller, of the request for and receipt of the statement. The written acknowledgment does not constitute a verification or affirmation by the seller of the truth of any information supplied by the individual in the written statement. The written statement shall be on forms prescribed by the department in accordance with the Omnibus Budget Reconciliation Act of 1990 (Pub. L. No. 101-508).

(2) ~~No person shall issue or sell~~ Medicare supplement insurance *may not be issued or sold* to an individual if:

(a) An individual's written statement indicates that the individual is entitled to Medicaid, *unless this state's Medicaid plan under Title XIX pays the premiums for the policy, or pays less than an individual's full liability for Medicare cost sharing as defined under the federal Medicare law*; or

(b) The sale of Medicare supplement coverage will provide an individual more than one Medicare supplement policy or certificate.

(3) This section does not prohibit the sale of a Medicare supplement policy to an individual who has another Medicare supplement policy if:

(a) The individual indicates in writing that the policy replaces the other policy and indicates an intent to terminate the policy being replaced when the new policy becomes effective; and

(b) The insurer providing the replacement policy forwards the statement to the insurer whose policy is being replaced.

(4) Upon a request of the policyholder, an insurer shall suspend the benefits and premiums of the Medicare supplement policy for the period in which the policyholder indicates that *he or she has* ~~they have~~ applied for and been determined to be entitled to Medicaid. The period of suspension shall not exceed 24 months. If the policyholder loses entitlement to Medicaid and the policyholder provides notice within 90 days after the loss of entitlement, the policy shall be automatically reinstated as of the termination of Medicaid entitlement.

Section 29. Effective October 1, 1992, section 627.6745, Florida Statutes, is amended to read:

627.6745 Loss ratio standards; public rate hearings.—

(1) Medicare supplement policies shall return *the following* to policyholders in the form of aggregate benefits under the policy, *with respect to* ~~as for~~ the *lifetime of the policy* ~~entire period for which rates are computed to provide coverage~~, on the basis of *earned premiums and on the basis of* incurred claims experience~~,~~ or, ~~incurred health care expenses~~ if coverage is provided by a health maintenance organization based on service rather than reimbursement, *incurred health care expenses,* ~~and earned premiums for such period~~ and in accordance with accepted actuarial principles and practices:

(a) At least 75 percent of the aggregate amount of premiums earned in the case of group policies.~~; and~~

(b) For individual policies issued or renewed prior to July 1, 1989, at least 60 percent of the aggregate amount of premiums earned and for individual policies issued on or after July 1, 1989, at least 65 percent of the aggregate amount of premiums earned. For the purposes of this section, policies issued as a result of solicitations of individuals through the mail or by mass media advertising shall be deemed to be individual policies.

(2) *Each* ~~Every~~ entity providing Medicare supplement policies or certificates in this state shall file annually its rates, rating schedules, and supporting documentation demonstrating that it is in compliance with the applicable loss ratio standards of this *code* ~~state~~. *The filing* ~~All filings~~ of rates and rating schedules shall demonstrate that the actual and expected losses in relation to premiums comply with the requirements of this section.

(3) For the purposes of this section, *a policy form complies* ~~policy forms shall be deemed to comply~~ with the loss ratio standards if:

(a) For the most recent year, the ratio of the incurred losses to earned premiums for policies or certificates which have been in force for 3 years or more is greater than or equal to the applicable percentages contained in this section; and

(b) The expected losses in relation to premiums over the *lifetime of the policy* ~~entire period for which the policy is rated~~ comply with the requirements of this section.

An expected third-year loss ratio *that* ~~which~~ is greater than or equal to the applicable percentage *must* ~~shall~~ be demonstrated for policies or certificates in force less than 3 years. Loss ratios shall be calculated in accordance with a uniform methodology, including uniform reporting standards specified by the National Association of Insurance Commissioners pursuant to the Omnibus Budget Reconciliation Act of 1990 (Pub. L. No. 101-508).

(4) *Each* ~~Every~~ insurer providing Medicare supplement insurance to residents of this state shall annually submit to the department information on actual loss ratios on forms prescribed by the National Association of Insurance Commissioners pursuant to the Omnibus Budget Reconciliation Act of 1990 (Pub. L. No. 101-508).

(5) *Each* ~~Every~~ insurer providing Medicare supplement insurance to residents of this state shall provide a proportional refund, or a credit against future premiums of a proportional amount, based on premiums paid~~,~~ or *based on* the amount of premiums received necessary to assure that the loss ratio (net of any refunds or credits) complies with the loss ratio requirements. Such refunds or credits shall be applied to each type of policy by policy form number, and shall not apply for the first 2 years of a policy. The refund or credit shall be made to each policyholder insured under the policy as of the last day of the year involved. The refund or credit shall include interest from the end of the policy year involved until the date of the refund or credit at a rate that is not less than the average rate of interest for 13-week Treasury notes. Refunds or credits against premiums due shall be made no later than the third quarter of the succeeding policy year.

(6) *Each* ~~Every~~ insurer providing Medicare supplement insurance to residents of this state shall maintain and make available to interested persons a copy of each Medicare supplement policy, its most recent premium, and its loss ratios for the most recent 3-year period.

(7) The department shall adopt a written policy statement regarding the holding of public hearings prior to approval of any premium increases for Medicare supplement insurance policies.

Section 30. Effective October 1, 1992, section 627.9407, Florida Statutes, is amended to read:

627.9407 Disclosure, advertising, and performance standards for long-term care insurance.—

(1) STANDARDS.—The department shall adopt rules that include standards for full and fair disclosure setting forth the manner, content, and required disclosures of the sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, continuation or conversion, pro-

bationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions, and definitions of terms.

(2) ADVERTISING.—The department shall adopt rules setting forth standards for advertising, marketing, and sale of long-term care policies in order to protect applicants from unfair or deceptive sales or enrollment practices. An insurer shall file with the department any long-term care insurance advertising material intended for use in this state at least 30 days before the date of use of the advertisement in this state. Within 30 days after the date of receipt of the advertising material, the department shall review the material and shall disapprove any advertisement if, in the opinion of the department, such advertisement violates any of the provisions of this part or of part X of chapter 626 or any rule of the department. The department may disapprove an advertisement at any time and enter an immediate order requiring that the use of the advertisement be discontinued if it determines that the advertisement violates any of the provisions of this part or of part X of chapter 626 or any rule of the department.

(3) RESTRICTIONS.—*A* ~~No~~ long-term care insurance policy may *not*:

(a) Be canceled, nonrenewed, or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificateholder; ~~provided,~~ however, ~~that~~ the department may authorize nonrenewal for an insurer on a statewide basis on terms and conditions determined to be necessary by the department to protect the interests of the insureds, if the insurer demonstrates that renewal will jeopardize the insurer's solvency or that substantial and unexpected loss experience cannot reasonably be mitigated or remedied.

(b) Contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same *insurer* ~~company~~, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder.

(c) Restrict its coverage to care only in a nursing home licensed pursuant to part I of chapter 400 or provide significantly more coverage for such care than coverage for lower levels of care. The department shall adopt rules defining what constitutes significantly more coverage in nursing homes licensed pursuant to part I of chapter 400 than for lower levels of care.

(d) Provide coverage for less than 24 consecutive months for nursing home care for each covered person.

(e) Contain an elimination period in excess of 180 days. As used in this paragraph, the term "elimination period" means the number of days at the beginning of a period of confinement for which no benefits are payable.

(4) PREEXISTING CONDITION.—

(a) *A* ~~No~~ long-term care insurance policy or certificate, other than a policy or certificate ~~thereunder~~ issued to a group *referred to* ~~as defined~~ in s. 627.9405(1)(a), *may not* ~~shall~~ use a definition of "preexisting condition" which is more restrictive than the following: "Preexisting condition" means the existence of symptoms which would cause an ordinarily prudent person to seek diagnosis, care, or treatment, or a condition for which medical advice or treatment was recommended by or received from a provider of health care services within 6 months preceding the effective date of coverage of an insured person.

(b) *A* ~~No~~ long-term care insurance policy or certificate, other than a policy or certificate ~~thereunder~~ issued to a group *referred to* ~~as defined~~ in s. 627.9405(1)(a), may *not* exclude coverage for a loss or confinement which is the result of a preexisting condition unless such loss or confinement begins within 6 months following the effective date of coverage of an insured person.

(c) The department may extend the limitation periods set forth in paragraphs (a) and (b) as to specific age group categories in specific policy forms upon findings that the extension is in the best interest of the public.

(d) The definition of "preexisting condition" *specified in* ~~pursuant to~~ paragraph (a) does not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant, and, on the basis of the answers on that application, from underwriting in accordance with that insurer's established underwriting standards. Unless otherwise provided in the policy or certificate, a preexisting condition, regardless of whether it is disclosed on the application, need not be covered until the waiting period described in paragraph (b) expires. *A* ~~No~~ long-term care insurance policy or certificate may *not* exclude or use waivers or riders of any kind to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions beyond the waiting period described in paragraph (b).

(5) PRIOR INSTITUTIONALIZATION.—

(a) A long-term care insurance policy may not be delivered or issued for delivery in this state if the policy:

1. Conditions eligibility for any benefits on a prior hospitalization requirement;

2. Conditions eligibility for benefits provided in an institutional care setting on the receipt of a higher level of institutional care; or

3. Conditions eligibility for any benefits other than waiver of premium, postconfinement, post-acute-care, or recuperative benefits on a prior institutionalization requirement.

(b)1. A long-term care insurance policy containing postconfinement, post-acute-care, or recuperative benefits must clearly specify, in a separate paragraph of the policy or certificate entitled "Limitations or Conditions on Eligibility for Benefits," the applicable limitations or conditions, including any required number of days of confinement.

2. A long-term care insurance policy or rider that conditions eligibility for noninstitutional benefits on the prior receipt of institutional care may not require a prior institutional stay of more than 30 days.

~~(a) No long-term care insurance policy which provides benefits only following institutionalization shall condition such benefits upon a length of stay in a facility for a period of time longer than 3 days.~~

~~(b) No long-term care insurance policy which provides benefits only following institutionalization shall condition such benefits upon admission to a facility for the same or related conditions within a period of less than 30 days after discharge from the institution.~~

~~(c) An entity that advertises, markets, or solicits a long-term care insurance policy in this state which provides benefits only following institutionalization shall also offer to each policyholder, as part of the application, a policy which does not condition benefits upon following institutionalization, subject to an appropriate additional premium, if any.~~

(6) LOSS-RATIO *AND RESERVE* STANDARDS.—The department shall adopt rules establishing loss-ratio *and reserve* standards for long-term care insurance policies. *The rules must contain,* ~~provided that~~ a specific reference to long-term care insurance policies ~~is contained in the rule~~. Such loss-ratio *and reserve standards shall be established at levels at which benefits are reasonable in relation to premiums and that provide* ~~calculated in a manner which provides~~ for adequate reserving of the long-term care insurance risk.

(7) RATE STRUCTURE.—A long-term care insurance policy may not be issued if the premiums to be charged are calculated to increase based solely on the age of the insured.

(8)~~(7)~~ RIGHT TO RETURN; FREE LOOK.—*An* individual long-term care insurance *policyholder has* ~~policyholders shall have~~ the right to return the policy within 30 days *after* ~~of~~ its delivery and to have the premium refunded if, after examination of the policy, the policyholder is not satisfied for any reason. *An* individual long-term care insurance *policy must* ~~policies shall~~ have a notice prominently printed on the first page of the policy or attached thereto stating in substance that the policyholder *has* ~~shall have~~ the right to return the policy within 30 days *after* ~~of~~ its delivery and to have the premium refunded directly to the policyholder if, after examination of the policy, the policyholder is not satisfied for any reason.

(9)~~(8)~~ STAMPED AS "LONG-TERM CARE INSURANCE POLICY"; NOTICE TO BUYER.—*A* ~~All~~ long-term care insurance *policy must* ~~policies shall~~ contain a stamp prominently displayed on the first page of the policy that the policy has been approved as a "Long-Term Care Insurance Policy" meeting the requirements of Florida law. In addition, the following statement shall be prominently displayed on the first page of the policy: "Notice to Buyer: This policy may not cover all of the costs associated with long-term care which may be incurred by the buyer during the period of coverage. The buyer is advised to periodically review this policy in relation to the changes in the cost of long-term care."

(10)~~(9)~~ OUTLINE OF COVERAGE.—An outline of coverage shall be delivered to an applicant for an individual long-term care insurance policy at the time of application for an individual policy. In the case of direct response solicitations, the insurer shall deliver the outline of coverage upon the applicant's request, but regardless of request shall make such delivery no later than at the time of policy delivery. Such outline of coverage shall include:

(a) A description of the principal benefits and coverage provided in the policy;

(b) A statement of the principal exclusions, reductions, and limitations contained in the policy;

(c) If the policy is not expected to cover 100 percent of the cost of services for which coverage is provided, a statement clearly describing any such limitation;

(d) A statement of the renewal provisions, including any reservation in the policy of a right to change premiums;

(e) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions; and

(f) A statement that the policy has been approved as a long-term care insurance policy meeting the requirements of Florida law.

(11)~~(10)~~ CERTIFICATE.—A certificate issued pursuant to a group long-term care insurance policy, which policy is delivered or issued for delivery in this state, shall include:

(a) A description of the principal benefits and coverage provided in the policy;

(b) A statement of the principal exclusions, reductions, and limitations contained in the policy; and

(c) A statement that the description of principal benefits is a summary of the policy and that the group master policy should be consulted to determine governing contractual provisions.

Section 31. Effective October 1, 1992, section 627.94071, Florida Statutes, is created to read:

627.94071 Minimum standards for home health care benefits.—A long-term care insurance policy, certificate, or rider that contains a home health care benefit must meet or exceed the minimum standards specified in this section. The policy, certificate, or rider may not exclude benefits by any of the following means:

(1) Providing that home health care cannot be covered unless the insured or claimant would, without the home health care, require skilled care in a skilled nursing facility.

(2) Requiring that the insured or claimant first or simultaneously receive nursing or therapeutic services in a home setting or community setting before home health care services are covered.

(3) Limiting eligible services to services provided by registered nurses or licensed practical nurses.

(4) Requiring that a nurse or therapist provide services covered by the policy that can be provided by a home health aide or by another licensed or certified home care worker acting within the scope of his or her license or certification.

Section 32. Effective October 1, 1992, section 627.94072, Florida Statutes, is created to read:

627.94072 Mandatory offers.—

(1)(a) An insurer that offers a long-term care insurance policy, certificate, or rider in this state must offer, in addition to any other inflation protection, the option to purchase a policy that provides that benefit levels increase with benefit maximums or reasonable durations, to account for reasonably anticipated increases in the costs of services covered by the policy. The inflation protection option required by this paragraph must be no less favorable to the policyholder than one of the following:

1. A provision that increases benefits annually at a rate of not less than 5 percent, compounded annually.

2. A provision that guarantees to the insured person the right to periodically increase benefit levels without providing evidence of insurability or health status, if the option for the preceding period has not been declined. The total amount of benefits provided under this option must be equal to or greater than the existing benefit level increased by 5 percent compounded annually for the period beginning with the purchase of the existing benefits and ending with the year in which the offer is accepted.

3. A provision that covers a specified percentage of actual or reasonable charges and does not include a specified indemnity amount or limit.

(b) The following information must be included in or with the outline of coverage:

1. A graphic comparison of the benefit levels of a policy that increases benefits over the policy period and a policy that does not increase benefits, showing benefit levels over a period of at least 20 years.

2. Any premium increases or additional premiums required for automatic or optional benefit increases. If the amount of premium increases or additional premiums depends on the age of the applicant at the time of the increase, the insurer must also disclose the amount of the increased premiums or additional premiums for benefit increases that would be required of the applicant at the ages of 75 and 85 years.

The insurer may use a reasonable hypothetical or a graphic demonstration for the purposes of the disclosures required by this paragraph.

(2) An insurer that offers a long-term care insurance policy, certificate, or rider in this state must offer a nonforfeiture protection provision providing reduced paid-up insurance, cash surrender values which may include return of premiums, extended term, or any other benefits approved by the department if all or part of a premium is not paid. Nonforfeiture benefits must be computed in an actuarially sound manner, using a methodology that has been filed with and approved by the department. At the time of lapse, or upon request, the insurer must disclose to the insured the insured's then-accrued nonforfeiture values. At the time the policy is issued, the insurer must provide to the policyholder schedules demonstrating estimated values of nonforfeiture benefits; however, such schedules must state that the estimated values are not to be construed as guaranteed nonforfeiture values.

(3) With respect to group policies, other than policies issued to groups specified in s. 627.555, s. 627.653, or s. 627.654, the insurer must make the offers required by subsections (1) and (2) to each proposed certificateholder, except that the insurer must make the offers to the policyholder in the case of a continuing care contract under chapter 651.

(4) This section does not apply to life insurance policies or riders containing accelerated long-term care benefits.

Section 33. *Notwithstanding s. 1.04, Florida Statutes, the provisions of the Regulatory Sunset Act or of any other provision of law which provides for review and repeal in accordance with section 11.61, Florida Statutes, and any other law enacted at the 1992 Regular Session of the Legislature, and except as otherwise specifically provided herein, sections 627.4106. 627.4134, 627.602, 627.6055, 627.641, 627.6415, 627.6418, 627.6515, 627 6575, 627.6578, 627.6613, 627.6615, 627.662, 627.6675, 627.673, 627.6736, 627.674, 627 6741, 627.6742, 627.6744, 627.6745, and 627.9407, Florida Statutes, shall not stand repealed on October 1, 1992, and shall continue in full force and effect as amended herein.*

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, lines 22-24, strike all of said lines and insert: amending ss. 627.4106, 627.602, 627.641, 627 6415, 627.6418, 627.6515, 627.6575, 627.6578, 627.6613, 627.6615, 627.662, 627.6675, 627.673, 627.6736, 627.674, 627.6741, 627.6742, 627.6744, 627.6745, and 627.9407, F.S.; amending and renumbering ss. 627.4134 and 627.6055, F.S.; creating ss. 627.4237, 627.6472, 627.6473, 627.6561, 627.6562, 627.6563, 627.94071, and 627.94072, F.S.; revising provisions relating to small group health insurance rates and restrictions, scope and format of health insurance policies, continuation of coverage for handicapped children, coverage for newborn children, coverage for adopted children, coverage for mammograms, preferred provider organizations, out-of-state group health insurance, applicability of certain provisions to group health insurance, conversion on termination of eligibility, designation as a Medicare supplement policy, filing requirements for out-of-state group Medicare

supplement policies, minimum standards for Medicare supplement policies, compensation arrangements, recommended purchase and excessive insurance, and disclosure, advertising, and performance standards for long-term care insurance; providing requirements relating to definitions of total disability, definitions of sickness disability or disability due to sickness, exclusive provider organizations, combined preferred provider organization-exclusive provider organization contracts, preexisting conditions, dependent coverage, definitions of full-time employment, minimum standards for home health care benefits in long-term care policies, and mandatory offers in connection with long-term care policies; saving ss. 627.4106, 627.4134, 627.602, 627.6055, 627.641, 627.6415, 627.6418, 627.6515, 627.6575, 627.6578, 627.6613, 627.6615, 627.662, 627.6675, 627.673, 627.6736, 627.674, 627.6741, 627.6742, 627.6744, 627.6745, and 627.9407, F.S., from Sunset repeal; requiring the

House Amendment 1 (with Title Amendment) to House Amendment 1—On page 79, line 12, after "*627.6675,*" insert: *627.668,*

And the title is amended as follows:

On page 80, line 23, after "627.6675," insert: 627.668,

House Amendment 2 (with Title Amendment)—On page 47, line 10, strike "This" and insert: Except as otherwise provided herein, this

And the title is amended as follows:

On page 2, line 16, strike "an effective date" and insert: effective dates

House Amendment 3 (with Title Amendment)—On page 40, line 13, through page 47, line 4, strike all of said lines and renumber subsequent sections.

And the title is amended as follows:

On page 1, line 24, through page 2, line 15, strike all of said lines and insert: to a certain time period; providing

House Amendment 4 (with Title Amendment)—On page 2, between lines 19 and 20, insert:

Section 1. Effective July 1, 1992, section 20.42, Florida Statutes, is created to read:

20.42 Agency for Health Care Administration.—There is created the Agency for Health Care Administration within the Department of Professional Regulation. The agency shall be a separate budget entity, and the director of the agency shall be the agency head for all purposes. The agency shall not be subject to control, supervision, or direction by the Department of Professional Regulation in any manner, including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters.

(1) DIRECTOR OF HEALTH CARE ADMINISTRATION.—The head of the agency is the Director of Health Care Administration, who shall be appointed by the Governor. The director shall serve at the pleasure of and report to the Governor.

(2) ORGANIZATION OF THE AGENCY.—The agency shall be organized as follows:

(a) Effective July 1, 1993, the Division of Health Quality Assurance, which shall be responsible for: facility licensure and inspection; certificate of need; the Board of Medicine, created under chapter 458; the Board of Osteopathic Medical Examiners, created under chapter 459; the Board of Acupuncture, created under chapter 457; the Board of Chiropractic, created under chapter 460; the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under chapter 491; the Board of Dentistry, created under chapter 466; the Board of Optometry, created under chapter 463; the Board of Pharmacy, created under chapter 465; the Board of Podiatric Medicine, created under chapter 461; the Board of Nursing, created under chapter 464; the Board of Psychological Examiners, created under chapter 490; the Board of Speech-Language Pathology and Audiology, created under chapter 468; the Board of Nursing Home Administrators, created under part II of chapter 468; occupational therapy, as regulated under part III of chapter 468; respiratory therapy, as regulated under part V of chapter 468; physical therapy, as regulated under chapter 486; and the Board of Opticianry, created under part I of chapter 484.

(b) The Division of Health Policy and Planning, which shall be responsible for the State Center for Health Statistics, the development of The Florida Health Plan, and research and analysis.

(c) Effective July 1, 1993, the Division of State Health Purchasing, which shall be responsible for supervising the purchase of health care by: Medicaid; the Florida Health Access Program; the Pooled Purchasing Cooperative; and State Employee Health Insurance.

(d) The Health Care Board, which shall be responsible for hospital budget review, nursing home financial analysis, and special studies as assigned by the secretary or the Legislature.

(e) The Division of Administrative Services, which shall be responsible for revenue management, budget, personnel, and general services.

(3) DEPUTY DIRECTOR FOR HEALTH QUALITY ASSURANCE.—The director shall appoint a Deputy Director for Health Quality Assurance who shall serve at the pleasure of, and be directly responsible to, the director. The Deputy Director for Health Quality Assurance shall be responsible for the Division of Health Quality Assurance.

(4) DEPUTY DIRECTOR FOR HEALTH POLICY AND PLANNING.—The director shall appoint a Deputy Director for Health Policy and Planning who shall serve at the pleasure of, and be directly responsible to, the director. The Deputy Director for Health Policy and Planning shall be responsible for the Division of Health Policy and Planning and the Division of State Health Purchasing.

(5) HEALTH CARE BOARD.—The Health Care Board shall be composed of 11 members appointed by the Governor, subject to confirmation by the Senate. The members of the board shall biennially elect a chairperson and a vice chairperson from its membership. The board shall be responsible for hospital budget review, nursing home financial review and analysis, and special studies requested by the Governor, the Legislature, or the director.

(6) DEPUTY DIRECTOR OF ADMINISTRATIVE SERVICES.—The director shall appoint a Deputy Director of Administrative Services who shall serve at the pleasure of, and be directly responsible to, the director. The deputy director shall be responsible for the Division of Administrative Services.

Section 2. Effective July 1, 1992, section 408.0015, Florida Statutes, is created to read:

408.0015 Short title.—Sections 408.0015-408.604 may be cited as the "Health Care Reform Act of 1992."

Section 3. Effective July 1, 1992, section 408.002, Florida Statutes, is created to read:

408.002 Legislative findings and intent.—

(1) The Legislature finds that Florida's health care delivery system requires major reform. Health care costs are increasing at an unacceptably high rate and access to health care services is declining. At least 2.5 million Floridians are uninsured and many more of our citizens are underinsured, discovering that the insurance they have purchased is often not enough when illness occurs. The Legislature recognizes that unemployed, part-time, and seasonal workers are commonly excluded from employer-based health insurance coverage.

(2) Therefore, it is the intent of the Legislature to create The Florida Health Plan, the purpose of which is to reform our health care delivery system through providing access to basic health services for all Floridians, reforming our health insurance system, limiting health care cost increases to manageable levels, restructuring health regulation, and establishing a comprehensive health care data base. The Legislature intends that The Florida Health Plan include specific goals and timetables for ensuring access to basic affordable health care, cost containment, insurance reform, and a comprehensive health data base. Further, the Legislature intends that the plan include an affordable basic health benefit package in order to increase the ability of state residents to purchase health care coverage.

(3) In recognizing the importance of limiting health care cost increases to the success of The Florida Health Plan, the Legislature intends the plan contain a comprehensive cost containment program, including a measurable target for the reduction in health care inflation, a state annual health expenditure report, practice parameters, resource utilization reviews, Medicaid buy-in, and pooled purchasing initiatives.

Further, the Legislature proposes that the cost containment program portion of The Florida Health Plan include reform in the areas of enhanced health care market place competition and improved regulatory programs for market entry, reimbursement mechanisms, administrative efficiencies, and facility and professional licensing.

(4) The Legislature encourages health care providers, health care purchasers, and the public to participate in a voluntary health care cost control and health care access program. Through participation in such program, the Legislature intends to determine the degree to which participation by state government is required to reform the health care system.

(5) Finally, the Legislature finds that the distribution of health care responsibilities among multiple state agencies has added excessive costs to the health care delivery system. In order to reduce administrative costs and to improve the state's efficiency in addressing the health care crisis, it is the intent of the Legislature to consolidate health care financing, data collection, and regulatory functions into a single state agency. The Legislature intends that this single state agency serve the Governor and the Legislature in all health-related matters.

Section 4. Effective July 1, 1992, section 408.003, Florida Statutes, is created to read:

408.003 Health Care Board; appointment of members; terms of office.—

(1) Effective July 1, 1992, and beginning with terms starting on that date, the Health Care Board established pursuant to s. 20.42 shall be composed of 11 members appointed by the Governor, subject to confirmation by the Senate. Four members shall be providers of health care, including one physician licensed under chapter 458 or chapter 459, who shall have professional experience in an ambulatory setting, one representative of nursing homes, and two representatives of hospitals, including one representative of the for-profit hospitals and one representative of the not-for-profit hospitals. Three members shall be representatives of businesses and industries in this state, including one that has fewer than 25 employees. One member shall be a representative from the insurance industry. Three members shall be consumers, one of whom shall represent a major consumer organization. No consumer member shall currently be or in the past have been employed by or affiliated with any provider of health care services. All members of the board shall be permanent residents of the state and at least one member shall be 60 years of age or older. The Governor shall appoint two members who are not health care providers to the board, who shall serve as alternates for a 2-year period prior to being appointed as regular voting members. An alternate member may only vote in the absence of a regular member.

(2) Each appointment shall be for a 3-year term, except that the initial appointments of two consumers, one representative of businesses and industries, and the nursing home representative shall be for a term ending on September 30, 1993; the initial appointments of the physician, the representative of the insurance industry, one representative of hospitals, and one representative of businesses and industries shall be for a term ending on September 30, 1994; and the initial appointments of one consumer, one representative of businesses and industries, and one representative of hospitals shall be for a term ending on September 30, 1995. No member is eligible for appointment for more than two full consecutive terms. A vacancy on the board shall be filled within 60 days from the date on which the vacancy occurs, and the appointment shall be made for the remainder of the unexpired term.

Section 5. Effective July 1, 1992, section 408.004, Florida Statutes, is created to read:

408.004 The Florida Health Plan.—The Florida Health Plan is hereby created.

Section 6. Effective July 1, 1992, section 408.005, Florida Statutes, is created to read:

408.005 Legislative findings and intent.—

(1) The Legislature finds that health care inflation, a deteriorating health care delivery system, reduced state revenues, changing demographics, and the erosion of private health insurance have converged to create a crisis of reduced access to health services for the poor and the uninsured. The Legislature recognizes that the problem of the health access crisis cannot be solved with the simple expansion of existing programs, but requires major reform of the health care delivery system.

(2) It is the intent of the Legislature to create The Florida Health Plan in order to provide a vehicle for health reform. The Florida Health Plan shall represent a comprehensive approach to health care reform and shall be composed of multiple strategies. The Legislature intends that The Florida Health Plan address specific goals related to access to basic health services, insurance reforms, data collection and analysis, cost containment, and reforms in regulatory programs that are provided for in this chapter.

Section 7. Effective July 1, 1992, section 408.006, Florida Statutes, is created to read:

408.006 The Florida Health Plan; goals; report.—The Legislature hereby establishes primary goals and strategies to guide the development of The Florida Health Plan These goals and strategies include:

(1) ACCESS TO HEALTH CARE SERVICES.—Access to health care is an increasing problem for many Floridians, especially for women and young children, part-time employees, employees of small businesses, and the unemployed. The failure of our health care system to be accessible to all residents is not only unacceptable to the Legislature for humanitarian reasons, but also because it results in inappropriate and far more costly use of health resources, a less productive work force, and a less effective educational system. Therefore, the Legislature establishes the following health access goal for The Florida Health Plan: All Floridians shall be ensured access to a basic health care benefit package as determined by the Legislature, by December 31, 1994.

(a) To ensure achievement of The Florida Health Plan's health access goal, the agency shall submit to the Legislature interim recommendations for the implementation of The Florida Health Plan health access goal on or before December 31, 1992, and final recommendations on or before December 31, 1993. At a minimum, recommendations shall include proposals for:

1. Increasing health care coverage through the development of a basic health care benefit package that provides basic health services to all residents of the state, regardless of health condition, age, sex, race, geographic location, employment, or economic status.

2. Ensuring that an appropriate number and distribution of health care facilities and health manpower are available throughout the state by January 1, 1996.

3. Providing fair reimbursement to health care providers in a timely and uncomplicated manner.

(b) In developing its recommendations, the agency shall consider the following:

1. The role state and local government should assume in the provision of health services, including level of service, sources of funding, and delivery system models. By December 31, 1994, state and local governments, in cooperation with the private sector, shall ensure that all of the unemployed, low-income citizens of the state have access to the basic health benefit package.

2. The role employers should assume, including whether employer mandates are needed to ensure access and the form such mandates should take. The plan shall ensure that, by December 31, 1994, employees and their dependents have, at a level acceptable to the Legislature, coverage of the basic health care benefit package or employers shall be mandated to provide such coverage. However, in no event shall the Legislature consider any system of employer-mandated coverage unless the Legislature finds that the cost containment goal has been met and mandated coverage is still necessary. The implementing legislation shall consider the potential impact on employment levels and shall provide a mechanism through appeal to the agency for an exemption to mandated coverage upon a showing of hardship.

3. The role and responsibilities which each individual should assume in obtaining access to health care.

4. Maximizing federal funding of publicly funded health insurance coverages.

5. Ensuring coverage for persons who are unable to obtain or afford health insurance coverage because of chronic or acute illnesses.

6. Ensuring accessible health care services in rural and other medically underserved areas.

(c) At the time the recommendations are submitted to the Legislature, the agency shall provide the Legislature with a specific proposal to improve access to health care that should be implemented in the event that full access to basic health services has not been obtained for all residents of the state by December 31, 1994.

(2) COST CONTAINMENT.—Despite numerous efforts by the Legislature for at least the last decade to curb health spending, health care costs continue to increase at an unacceptable rate. The increase in health care costs is of concern to the Legislature, not only because increasing costs threaten the ability of the private sector and state and local governments to pay for health care, but also because rapid cost escalations threaten the ability of Florida business to compete in national and international markets. Therefore, the Legislature directs the agency to recommend to the Legislature a cost containment goal, and the means to achieve it, that is based upon an annual rate of increase in the basic health benefit package that will enable such package to remain affordable to businesses and their employees.

(b) To reach The Florida Health Plan's cost containment goal, the agency shall submit to the Legislature interim recommendations for The Florida Health Plan cost containment goal on or before December 31, 1992, and final recommendations on or before December 31, 1993. The agency's recommendations shall consider the following principles and strategies:

1. The state shall promote accessibility of primary and preventive care and control the proliferation of tertiary care.

2. Because resources are limited, health care priorities shall be established. High priority shall be given to those programs that have best been shown to produce good outcomes, to include incentive structures which will respond to the needs of Floridians for good health care value, and to provide a healthy start for the state's youngest residents.

3. Practice parameters which are scientifically sound should be adopted to ensure the appropriate utilization of services.

4. Analytical techniques which address variations in health care delivery among providers and from region to region shall be used, which may include small area analysis and practice parameters.

5. Resource utilization systems that are capable of taking into account resources consumed in the delivery of care for patients with similar diagnoses and outcomes produced in the treatment of like cases should be researched and refined for consideration.

6. The state employee health insurance program shall ensure an appropriate distribution and utilization of affordable, efficient, and effective high technology care.

7. Consolidating the administration of state-funded, state-administered, or state-sponsored health insurance programs.

8. Proposals for a public and private health insurance payer mechanism designed to simplify provider billing, reduce administrative overhead costs, and maximize government and third-party purchasing power.

9. Recommending comprehensive changes in the system for handling medical negligence disputes that will ensure a more efficient and equitable method for determining damages and compensating injured parties.

(3) INSURANCE REFORMS.—The Legislature finds that almost half of the uninsured are at or near poverty, requiring insurance reforms that significantly lower costs. Almost three-quarters of the uninsured are employed or are dependents of employees, and half of these uninsured workers are employed by small businesses. These findings make the expansion of employer-based health care coverage options a priority. Therefore, the Legislature establishes the following insurance reform goal for The Florida Health Plan: On or before July 1, 1994, the state shall institute reforms in private health insurance that shall ensure that employed and unemployed residents have access to basic health insurance coverage.

(a) To ensure the achievement of The Florida Health Plan's insurance reform goal, the agency shall submit to the Legislature interim recommendations for the implementation of The Florida Health Plan insurance goal on or before December 31, 1992, and final recommendations on or before December 31, 1993.

(b) In developing recommendations for insurance reforms, the agency shall consider strategies that:

1. Maximize the number of employed persons and their dependents who are enrolled in employer-sponsored health insurance plans. Coverage should be made available to entire employer groups and not exclude individuals who present high medical risks.

2. Rely on private providers for the delivery of health services.

3. Ensure that health insurance coverage for a state resident continues regardless of changes in employers.

4. Provide that employer groups and individuals are not canceled at renewal time because of high claims costs.

5. Require insurers to accept all health risks with appropriate protection for extraordinary risks.

6. Ensure that all residents participate in a public or private health insurance plan.

7. Ensure that all residents contribute, based on their ability to pay, to the financing of their health insurance coverage.

8. Provide basic health insurance benefits that promote healthier lifestyles, require persons to assume greater responsibility for their health, and provide early diagnosis and treatment to avoid later and more costly medical interventions.

9. Provide for uniform billing, payment, and service documentation requirements.

10. Require employers receiving government contracts and grants to offer health care coverage to all employees.

11. Implement managed care in public and private health insurance plans.

12. Reform private health insurance practices to ensure coverage for employees and their dependents, regardless of their health status and employer size, such as proposals for adopting community ratings for employers of all sizes, prohibiting the exclusion of preexisting conditions, and guaranteeing acceptance and continuation of employee groups.

(4) HEALTH REGULATION.—

(a) The Legislature finds that a competitive market place is lacking in some areas of health care, and, therefore, an appropriate level of regulation is necessary in order to ensure the quality, affordability, and availability of health care services. Further, the Legislature finds that existing health regulatory programs are not well coordinated, lack clear goals and objectives, contain many archaic administrative rules, are too administratively complex, and require redesign in order to meet the needs of a rapidly evolving health care system. By placing all health regulatory programs into a single state agency, the Legislature intends to begin the process of streamlining and making more cost effective the regulatory process. In order to complete the task, the Legislature establishes the following health regulation goal: By December 31, 1994, health regulatory programs shall be redesigned and modernized, with an emphasis on efficiency, administrative simplicity, coordination, and protection of the public.

(b) To ensure the achievement of The Florida Health Plan's health regulation goal, the agency shall submit to the Legislature interim recommendations for achieving the goal on or before December 31, 1992, and final recommendations on or before December 31, 1993. Included in the recommendations shall be proposals to:

1. Create a consistent theme for all regulatory programs, including the establishment of clear goals and objectives for each regulatory program.

2. Review of all existing administrative rules for the purpose of eliminating archaic or excessively costly rules.

3. Simplify regulatory programs to ensure that administrative complexity is the minimum necessary to guarantee due process.

4. Eliminate laws and rules which serve to protect economic interests of health professionals or health providers, at the expense of the public.

5. Provide for a uniform health regulatory program through the elimination of loopholes and exemptions created for special interest groups.

6. Redesign market entry controls to provide for uniformity across all health care providers, to limit regulation only to those areas which

require regulation due to limited market needs and high capitalization costs, and provide review standards for other services and technologies which do not restrict market entry but, rather, create incentives for high quality providers to offer these services in ways which meet community needs while discouraging inappropriate utilization and development.

7. Provide an appropriate level of regulation in areas where market forces have been unsuccessful in constraining rapidly escalating costs.

(5) DATA COLLECTION, RESEARCH, AND ANALYSIS.—

(a) The Legislature finds that it is difficult to evaluate the effectiveness of access, cost containment, regulation, and insurance reform strategies without Florida-specific empirical evidence. The collection and analysis of data improves the state's ability to identify major health care issues and to develop a comprehensive health policy for the state. Therefore, the Legislature establishes the following goal for data collection and analysis for The Florida Health Plan: By July 1, 1994, there shall be established an integrated data collection and analysis system that includes data from all health care providers, facilities, and insurers and that will permit assessments of cost effectiveness, quality of care, and variations in practice parameters.

(b) To ensure the achievement of The Florida Health Plan's goal for data collection, the agency shall submit to the Legislature interim recommendations for the implementation of The Florida Health Plan's data collection goal on or before December 31, 1992, and final recommendations on or before December 31, 1993. Recommendations shall give consideration to:

1. Establishing a comprehensive, integrated system of data from health care providers, facilities, and insurers.

2. Cataloging existing health care data maintained by local, state, and federal agencies, universities, and private organizations.

3. Publishing an annual state health expenditure report to the Legislature.

Section 8. (1) Legislative intent; insurance reform.—It is the intent of the Legislature that insurance reforms contained in the Employee Health Care Access Act as passed by the Legislature during the 1992 Legislative Session be included in The Florida Health Plan.

(2) This section shall take effect July 1, 1992.

Section 9. Effective July 1, 1992, paragraph (c) of subsection (5) of section 20.19, Florida Statutes, as amended by chapter 91-158, Laws of Florida, is hereby repealed.

Section 10. Except as otherwise provided in this act, all powers, duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Assistant Secretary for Regulation and Health Facilities of the Department of Health and Rehabilitative Services are transferred by a type three transfer, as defined in s. 20.06(3), Florida Statutes, to the Agency for Health Care Administration. Such transfer shall take effect July 1, 1992. Any rules promulgated by or for the Assistant Secretary for Regulation and Health Facilities are included in such transfer.

Section 11. (1) In editing manuscript for the next edition of the official Florida Statutes, the Statutory Revision Division of the Joint Legislative Management Committee shall change "Department of Health and Rehabilitative Services" to "Agency for Health Care Administration," and "Secretary of Health and Rehabilitative Services" to "Director of Health Care Administration," wherever the terms appear:

(1) With respect to the regulation of the specified health facilities, as consistent with the intent and purposes of this act, in the following subdivisions of the Florida Statutes:

(a) Section 381.6021, organ and tissue procurement organizations.

(b) Sections 383.30-383.335, birth centers.

(c) Chapter 390, abortion clinics.

(d) Part II of chapter 391, prescribed pediatric extended care centers.

(e) Sections 393.067-393.0678, intermediate care facilities for the developmentally disabled.

(f) Section 394.875, crisis stabilization units and residential treatment facilities.

(g) Chapter 395, hospitals, mental health institutions, and ambulatory surgical centers.

(h) Parts I-VI of chapter 400, nursing homes, adult congregate living facilities, home health agencies, adult day care centers, hospices, and adult foster homes.

(i) Parts I-III of chapter 483, clinical laboratories, multiphasic health testing centers, and cholesterol screening centers.

(j) Part III of chapter 641, health maintenance organizations and prepaid health clinics.

(2) With respect to the regulation of the specified health care professions, as consistent with the intent and purposes of this act, in the following subdivisions of the Florida Statutes:

(a) Chapter 467, midwifery.

(b) Part I of chapter 483, clinical laboratory personnel.

(3) With respect to other regulatory responsibilities, as consistent with the intent and purposes of this act, in the following subdivisions of the Florida Statutes: sections 154.304(7), 196.1975(2), 205.1965, 381.6022 through 381.6024, 408.05, 415.107(2)(a), 766.105(2)(c)2., and 766.105(2)(d)2.

(2) This section shall take effect July 1, 1992.

Section 12. Effective July 1, 1992, subsection (11) of section 381.004, Florida Statutes, is amended to read:

381.004 Testing for human immunodeficiency virus.—

(11) TESTING AS A CONDITION OF TREATMENT OR ADMISSION.—

(a) It is unlawful for any facility the operation of which, or for any person engaged in an occupation the practice of which, requires a license by *the Agency for Health Care Administration,* the Department of Health and Rehabilitative Services, or the Department of Professional Regulation, to require any person to take or submit to a human immunodeficiency virus-related test as a condition of admission to any such facility or as a condition of purchasing or obtaining any service or product for which the license is required. This subsection shall not be construed to prohibit any physician in good faith from declining to provide a particular treatment requested by a patient if the appropriateness of that treatment can only be determined through a human immunodeficiency virus-related test.

(b) The *Agency for Health Care Administration, the* Department of Health and Rehabilitative Services, and the Department of Professional Regulation shall adopt rules implementing this *subsection* ~~section~~.

(c) Any violation of this *subsection* ~~section~~ or the rules implementing it shall be punishable as provided in subsection (6).

Section 13. Except as otherwise provided in this act, all powers, duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the State Center for Health Statistics of the Department of Health and Rehabilitative Services are transferred by a type one transfer, as defined in s. 20.06(1), Florida Statutes, to the Agency for Health Care Administration and assigned to the Division of Health Policy and Planning of the agency, as created by this act. Such transfer shall take effect on July 1, 1992. Any rules promulgated by or for the center are included in such transfer.

Section 14. Effective July 1, 1992, section 381.0401, Florida Statutes, is renumbered as section 408.05, Florida Statutes, and paragraphs (c), (d), and (g) of subsection (3), paragraph (d) of subsection (5), and paragraphs (a) and (b) of subsection (9) of said section are amended to read:

408.05 ~~381.0401~~ State Center for Health Statistics.—

(3) COMPREHENSIVE HEALTH INFORMATION SYSTEM.—In order to produce comparable and uniform health information and statistics, the *agency* ~~department~~ shall perform the following functions:

(c) Review the statistical activities of the Department *of Health and Rehabilitative Services* to assure that they are consistent with the comprehensive health information system.

(d) Develop written agreements with local, state, and federal agencies for the sharing of health-care-related data or using the facilities and services of such agencies. State agencies, local health councils, and other agencies under contract with the Department *of Health and Rehabilitative Services* shall assist the center in obtaining, compiling, and transferring health-care-related data maintained by state and local agencies. Written agreements must specify the types, methods, and periodicity of data exchanges and specify the types of data that will be transferred to the center.

(g) Establish minimum health-care-related data sets which are necessary on a continuing basis to fulfill the collection requirements of the center and which shall be used by state agencies in collecting and compiling health-care-related data. The *agency* ~~department~~ shall periodically review ongoing health care data collections of the Department *of Health and Rehabilitative Services* and other state agencies to determine if the collections are being conducted in accordance with the established minimum sets of data.

(5) PUBLICATIONS; REPORTS; SPECIAL STUDIES.—The center shall provide for the widespread dissemination of data which it collects and analyzes. The center shall have the following publication, reporting, and special study functions:

(d) The *agency* ~~department~~ shall prepare and furnish a status report on the establishment of the center by April 1, *1993* ~~1989~~, to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report shall include an inventory of health data available in this state, implementation plans and progress made in implementing the functions assigned to the center, and recommendations for further legislation or resources needed to fulfill legislative intent with regard to the center, particularly with regard to establishing a statewide comprehensive health information system The center shall thereafter be responsible for publishing and disseminating an annual report on the center's activities.

(9) STATE COMPREHENSIVE HEALTH INFORMATION SYSTEM ADVISORY COUNCIL.—

(a) There is established in the *agency* ~~department~~ the State Comprehensive Health Information System Advisory Council to assist the center in reviewing the comprehensive health information system and to recommend improvements for such system. The council shall consist of the following members:

1. An employee of the Executive Office of the Governor, to be appointed by the Governor.

2. An employee of the Department of Insurance, to be appointed by the Insurance Commissioner.

3. An employee of the Department of Education, to be appointed by the Commissioner of Education.

4. Ten persons, to be appointed by the *Director of Health Care Administration* ~~Secretary of the Department of Health and Rehabilitative Services~~, representing other state and local agencies, state universities, the Florida Association of Business/Health Coalitions, local health councils, professional health-care-related associations, consumers, and purchasers.

(b) Each member of the council shall be appointed to serve for a term of 4 years from the date of his appointment, except that a vacancy shall be filled by appointment for the remainder of the term and except that:

1. Three of the members initially appointed by the *Director of Health Care Administration* ~~Secretary of the Department of Health and Rehabilitative Services~~ shall each be appointed for a term of 3 years.

2. Two of the members initially appointed by the *Director of Health Care Administration* ~~Secretary of the Department of Health and Rehabilitative Services~~ shall each be appointed for a term of 2 years.

3. Two of the members initially appointed by the *Director of Health Care Administration* ~~Secretary of the Department of Health and Rehabilitative Services~~ shall each be appointed for a term of 1 year.

Section 15. Effective July 1, 1992, sections 381.701 through 381.715, Florida Statutes, are renumbered as sections 408.031 through 408.045, Florida Statutes, respectively.

Section 16. Effective July 1, 1992, section 381.702, Florida Statutes, is renumbered as section 408.032, Florida Statutes, and the introductory paragraph and subsections (4) and (5) of said section are amended to read:

408.032 ~~381.702~~ Definitions.—As used in ss. *408.031-408.045* ~~381.701-381.715~~, the term:

(4) "Department" means the *Agency for Health Care Administration* ~~Department of Health and Rehabilitative Services~~.

(5) "District" means a service district of the Department *of Health and Rehabilitative Services* as established in s. 20.19(7).

Section 17. Effective July 1, 1992, section 381.703, Florida Statutes, is renumbered as section 408.033, Florida Statutes, and paragraph (b) of subsection (1) and the introductory paragraph of subsection (2) of said section are amended to read:

408.033 ~~381.703~~ Local and state health planning.—

(1) LOCAL HEALTH COUNCILS.—

(b) Each local health council shall:

1. Develop a district health plan which is consistent with the objectives and strategies in the state health plan, but which shall permit each local health council to develop strategies and set priorities for implementation based on its unique local health needs. The district health plan must contain preferences for health services' and facilities' development which must be considered by the department in its review of certificate-of-need applications. The district health plan shall be submitted to the department and updated periodically. The district health plans shall use a uniform format and be submitted to the department according to a schedule developed by the department in conjunction with the Statewide Health Council and the local health councils. The schedule must provide for coordination between the development of the state health plan and the district health plans and for the development of district health plans by major sections over a multiyear period. The elements of a district plan which are necessary to the review of certificate-of-need applications for proposed projects within the district shall be adopted by the department as a part of its rules.

2. Advise the ~~district administrator of the~~ department on health care issues and resource allocations.

3. Promote public awareness of community health needs, emphasizing health promotion and cost-effective health service selection.

4. Collect data and conduct analyses and studies related to health care needs of the district, including the needs of medically indigent persons, and assist the department and other state agencies in carrying out data collection activities that relate to the functions in this subsection.

5. Monitor the onsite construction progress, if any, of certificate-of-need approved projects and report council findings to the department on forms provided by the department.

6. Advise and assist regional planning councils within each district with the development of the health element of the comprehensive regional policy plan to address the health goals and policies in the State Comprehensive Plan.

7. Advise and assist local governments within each district on the development of an optional health plan element of the comprehensive plan provided in chapter 163, to assure compatibility with the health goals and policies in the State Comprehensive Plan and district health plan. To facilitate the implementation of this section, the local health council shall annually provide the local governments in its service area, upon request, with:

a. A copy and appropriate updates of the district health plan;

b. A report of hospital and nursing home utilization statistics for facilities within the local government jurisdiction; and

c. Applicable department rules and calculated need methodologies for health facilities and services regulated under s. 381.704 for the district served by the local health council.

8. Monitor and evaluate the adequacy, appropriateness, and effectiveness, within the district, of local, state, federal, and private funds distributed to meet the needs of the medically indigent and other underserved population groups.

9. In conjunction with the Department of Health and Rehabilitative Services and Statewide Health Council, plan for services at the local level for persons infected with the human immunodeficiency virus.

10. Provide technical assistance to encourage and support activities by providers, purchasers, consumers, and local, regional, and state agencies in meeting the health care goals, objectives, and policies adopted by the local health council.

11. Provide the department with data required by rule for the review of certificate-of-need applications and the projection of need for health services and facilities in the district.

(2) STATEWIDE HEALTH COUNCIL.—The Statewide Health Council is hereby established as a state-level comprehensive health planning and policy advisory board. For administrative purposes, the council shall be located within the department. The Statewide Health Council shall be composed of: the State Health Officer *and*~~, the Deputy Secretary for Programs,~~ the Assistant Secretary for Medicaid *of the Department of Health and Rehabilitative Services; the Deputy Director for Health Policy and Planning and the Deputy Director for Health Quality Assurance*~~, and the Assistant Secretary for Regulation and Health Facilities~~ of the department; the ~~executive~~ director of the Health Care ~~Cost Containment~~ Board; the Insurance Commissioner or his designee; the Vice Chancellor for Health Affairs of the Board of Regents; three chairmen of regional planning councils, selected by the regional planning councils; five chairmen of local health councils, selected by the local health councils; four members appointed by the Governor, one of whom is a consumer over 60 years of age, one of whom is a representative of organized labor, one of whom is a physician, and one of whom represents the nursing home industry; five members appointed by the President of the Senate, one of whom is a representative of the insurance industry in this state, one of whom is the chief executive officer of a business with more than 300 employees in this state, one of whom represents the hospital industry, one of whom is a primary care physician, and one of whom is a nurse, and five members appointed by the Speaker of the House of Representatives, one of whom is a consumer who represents a minority group in this state, one of whom represents the home health care industry in this state, one of whom is an allied health care professional, one of whom is the chief executive officer of a business with fewer than 25 employees in this state, and one of whom represents a county social services program that provides health care services to the indigent. Appointed members of the council shall serve for 2-year terms commencing October 1 of each even-numbered year. The council shall elect a president from among the members who are not state employees. The Statewide Health Council shall:

Section 18. Effective July 1, 1992, section 381.715, Florida Statutes, is renumbered as section 408.045, Florida Statutes, and subsection (4) of said section is amended to read:

408.045 ~~381.715~~ Certificate of need; competitive sealed proposals.—

(4) The procedures provided for under this section are exempt from the batching cycle requirements ~~of s. 381.494(5)~~ and the public hearing requirement of s. *408.039* ~~381.494(6)~~.

Section 19. Effective July 1, 1992, section 381.7155, Florida Statutes, is renumbered as section 408.0455, Florida Statutes, and amended to read:

408.0455 ~~381.7155~~ Effect of ss. *408.031-408.045* ~~381.701-381.715 as enacted by chapter 87-92, Laws of Florida; rules~~; health councils and plans; pending proceedings.—

(1) Nothing contained in ss. *408.031-408.045* ~~381.701-381.715~~ is intended to repeal or modify any of the existing rules of the Department of Health and Rehabilitative Services, *which shall remain in effect and shall be enforceable by the Agency for Health Care Administration;* the existing composition of the local health councils and the Statewide Health Council~~;~~ or the state health plan~~;~~ or any of the local district health plans, unless, and only to the extent that, there is a direct conflict with the provisions of ss. *408.031-408.045* ~~381.701-381.715~~.

(2) The rules of the Department of Health and Rehabilitative Services in effect on July 1, 1987, which implement the provisions of ss. 381.493-381.499, shall remain in effect and shall be enforceable by the *Agency for Health Care Administration* ~~department~~ until such rules are repealed or amended by the *Agency for Health Care Administration* ~~department~~, and no judicial or administrative proceeding pending on July 1, 1987, shall be abated as a result of the provisions of ss. *408.031-408.043(1) and (2); s. 408.044; or s. 408.045* ~~381.701-381.713(1), (2), (3); s. 381.714; or s. 381.715~~.

Section 20. All certificates of need valid on July 1, 1992, shall remain in full force and effect. On and after July 1, 1992, applications for certificates of need shall be made in accordance with the provisions of this chapter.

Section 21. Effective July 1, 1992, subsections (1) and (20) of section 394.455, Florida Statutes, are amended to read:

394.455 Definitions.—As used in this part, unless the context clearly requires otherwise, the term:

(1) "Hospital" means a public or private hospital or institution or part thereof licensed by the *Agency for Health Care Administration* ~~Department of Health and Rehabilitative Services~~ and equipped to provide inpatient care and treatment facilities or any hospital under the supervision of the *agency* ~~department~~.

(20) "Mental health personnel" includes all program directors, professional clinicians, staff members, and volunteers working in public or private mental health programs and facilities who have direct contact with unmarried patients under the age of 18 years. Students in the health care professions who are interning in a mental health facility licensed under chapter 395, where the primary purpose of the facility is not the treatment of minors, shall be exempt from the fingerprinting and screening requirements, provided they are under actual physical presence supervision of a licensed health care professional. Mental health personnel working in a facility licensed under chapter 395 who have less than 15 hours per week of direct contact with such patients or who are health care professionals licensed by the *Agency for Health Care Administration* ~~Department of Professional Regulation~~ or a board thereunder are exempt from the fingerprinting and screening requirements, except for those persons in mental health facilities where the primary purpose of the facility is the treatment of minors. A volunteer who assists on an intermittent basis for less than 40 hours per month is not included in the term "personnel" for the purposes of screening, if the volunteer is under direct and constant supervision by persons who meet the screening requirements of s. 394.457(6).

Section 22. Effective July 1, 1992, paragraphs (c), (e), and (f) of subsection (3) and subsection (4) of section 395.017, Florida Statutes, are amended to read:

395.017 Patient and personnel records; copies; examination.—

(3) Patient records shall be confidential and shall not be disclosed without the consent of the person to whom they pertain, but appropriate disclosure may be made without such consent to:

(b) Hospital personnel only for internal hospital administrative purposes associated with the treatment.

(c) The *Agency for Health Care Administration, for purposes of* health care cost containment ~~Board~~.

(e) The *Agency for Health Care Administration or the* Department of Professional Regulation upon subpoena issued pursuant to s. 455.223, but the records obtained thereby shall be used solely for the purpose of *the Agency for Health Care Administration or* the Department of Professional Regulation and the appropriate professional board in its investigation, prosecution, and appeal of disciplinary proceedings. If the *Agency for Health Care Administration or the* Department of Professional Regulation requests copies of such records, the facility shall charge no more than its actual copying costs, including reasonable staff time The records shall be sealed and shall not be available to the public pursuant to s. 119.07(1) or any other statute providing access to records, nor shall they be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the *Agency for Health Care Administration, the* Department of Professional Regulation, or the appropriate regulatory board. However, the *Agency for Health Care Administration or the* Department of Professional Regulation shall make available, upon written request by a practitioner against whom probable cause has been found, any such records which form the basis of the determination of probable cause.

(f) The Department *of Health and Rehabilitative Services* or its agent, for the purpose of establishing and maintaining a trauma registry and for the purpose of ensuring that hospitals and trauma centers are in

compliance with the standards and rules established pursuant to ss. 395.031, 395.032, 395.035, and 395.036, and for the purpose of monitoring patient outcome at hospitals and trauma centers which provide trauma care services.

(4) The Department *of Health and Rehabilitative Services* may examine patient records of a licensed facility for the purpose of epidemiological investigations, provided that the unauthorized release of information by agents of the Department *of Health and Rehabilitative Services* which would identify an individual patient constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 23. Effective July 1, 1992, subsections (4), (6), and (8) and paragraphs (b) and (c) of subsection (5) of section 395.041, Florida Statutes, are amended to read:

395.041 Internal risk management program.—

(4) The *Agency for Health Care Administration* ~~Department of Health and Rehabilitative Services~~ shall, after consulting with the Department of Insurance, promulgate rules governing the establishment of such internal risk management programs to meet the needs of individual establishments. The Department of Insurance shall assist the *Agency for Health Care Administration* ~~Department of Health and Rehabilitative Services~~ in preparing such rules. Each internal risk management program shall include the use of incident reports to be filed with an individual of responsibility who is competent in risk management techniques in the employ of each establishment, such as an insurance coordinator, or who is retained by said establishment as a consultant. Said individual shall have free access to all establishment medical records, and the rules promulgated by the *Agency for Health Care Administration* ~~Department of Health and Rehabilitative Services~~ shall so provide. The incident reports shall be considered to be a part of the workpapers of the attorney defending the establishment in litigation relating thereto and shall be subject to discovery, but shall not be admissible as evidence in court, nor shall any person filing an incident report be subject to civil suit by virtue of such incident report. As a part of each internal risk management program, the incident reports shall be utilized to develop categories of incidents which identify problem areas. Once identified, procedures shall be adjusted to correct said problem areas.

(5)

(b) The information reported to the *Agency for Health Care Administration* ~~department~~ pursuant to paragraph (a) which relates to persons licensed under chapter 458, chapter 459, chapter 461, or chapter 466 shall *be reviewed by the agency* ~~also be reported to the Department of Professional Regulation on a quarterly basis~~. The *Agency for Health Care Administration shall* ~~Department of Professional Regulation shall review the information and~~ determine whether any of the incidents potentially involved conduct by a licensee that is subject to disciplinary action, in which case the provisions of s. 455.225 shall apply.

(c) The report submitted to the *Agency for Health Care Administration* ~~department~~ shall also contain the name of the risk manager of the facility, a copy of its policy and procedures which govern the measures taken by the facility and its risk manager to reduce the risk of injuries and adverse or untoward incidents, and the results of such measures. The ~~quarterly~~ reports shall be held confidential and shall not be available to the public pursuant to s. 119.07(1) or any other law providing access to public records, nor be discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the *Agency for Health Care Administration* ~~department, the Department of Professional Regulation,~~ and the appropriate regulatory board. The ~~quarterly~~ reports shall not be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the *Agency for Health Care Administration* ~~department, the Department of Professional Regulation,~~ or the appropriate regulatory board. However, the *Agency for Health Care Administration* ~~Department of Professional Regulation~~ shall make available, upon written request by a practitioner against whom probable cause has been found, any such records which form the basis of the determination of probable cause.

(6) If an adverse or untoward incident, whether occurring in the facility or arising from health care prior to admission in the facility, results in:

(a) The death of a patient;

(b) Severe brain or spinal damage to a patient;

(c) A surgical procedure being performed on the wrong patient; or

(d) A surgical procedure unrelated to the patient's diagnosis or medical needs being performed on any patient,

the facility shall report this incident to the *Agency for Health Care Administration* ~~department~~ within 15 calendar days of its occurrence. The *Agency for Health Care Administration* ~~department~~ may require an additional, final report. ~~Reports under this subsection shall be sent immediately by the department to the Department of Professional Regulation whenever they involve a health care provider licensed under chapter 458, chapter 459, chapter 461, or chapter 466.~~ These reports shall not be available to the public pursuant to s. 119.07(1) or any other law providing access to public records, nor be discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the *Agency for Health Care Administration* ~~department, the Department of Professional Regulation,~~ and the appropriate regulatory board, nor shall they be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the *Agency for Health Care Administration* ~~Department of Professional Regulation~~ or the appropriate regulatory board. However, the *Agency for Health Care Administration* ~~Department of Professional Regulation~~ shall make available, upon written request by a practitioner against whom probable cause has been found, any such records which form the basis of the determination of probable cause. The *Agency for Health Care Administration* ~~department~~ may investigate, as it deems appropriate, any such incident and prescribe measures that must or may be taken in response to the incident. The *Agency for Health Care Administration* ~~Department of Professional Regulation~~ shall review each incident and determine whether it potentially involved conduct by the licensee that is subject to disciplinary action, in which case the provisions of s. 455.225 shall apply.

(8) The *Agency for Health Care Administration* ~~department and, upon subpoena issued pursuant to s. 455.223, the Department of Professional Regulation~~ shall have access to all facility records necessary to carry out the provisions of this section. The records obtained are not available to the public under s. 119.07(1), nor shall they be discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the *Agency for Health Care Administration* ~~department, the Department of Professional Regulation,~~ and the appropriate regulatory board, nor shall records obtained pursuant to s. 455.223 be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the *Agency for Health Care Administration* ~~Department of Professional Regulation~~ or the appropriate regulatory board. However, the *Agency for Health Care Administration* ~~Department of Professional Regulation~~ shall make available, upon written request by a practitioner against whom probable cause has been found, any such records which form the basis of the determination of probable cause, except that, with respect to medical review committee records, the provisions of s. 766.101 shall control.

Section 24. Effective July 1, 1992, subsection (8) of section 396.032, Florida Statutes, is amended to read:

396.032 Definitions.—For the purposes of this chapter:

(8) "Treatment resource personnel" includes all program directors, staff, and volunteers, including foster parents, working in a treatment resource who have direct contact with unmarried clients under the age of 18 years. For purposes of screening as required in s. 396.0425, the term includes any member of a foster family or any person other than a client residing with a foster family if such family member or person residing with the foster family is over 12 years of age and has any direct contact with the alcoholic. Students in the health care professions who are interning in a treatment resource licensed under chapter 395 where the primary purpose of the treatment resource is not the treatment of unmarried minors shall be exempt from the fingerprinting and screening requirements, provided such students are under actual physical presence supervision of a licensed health care professional. Treatment resource personnel working in a treatment resource licensed under chapter 395 who have less than 15 hours per week direct contact with such unmarried minors or who are health care professionals licensed by the *Agency for Health Care Administration* ~~Department of Professional Regulation~~ or a board thereunder are exempt from the fingerprinting and screening requirements, except for those treatment resource personnel in a treatment resource where the primary purpose of the resource is treatment of unmarried minors. Members of the foster family, or persons residing with the foster family, who are between the ages of 12 years and 18 years shall

not be required to be fingerprinted, but shall be screened for delinquency records. A volunteer who assists on an intermittent basis for less than 40 hours per month is not included in the term "treatment resource personnel" for the purposes of screening if the volunteer is under direct and constant supervision by persons who meet the screening requirements of ss. 396.042 and 396.0425.

Section 25. Effective July 1, 1992, subsection (8) of section 397.021, Florida Statutes, is amended to read:

397.021 Definitions.—When used in this chapter, unless the context otherwise requires, the term:

(8) "Treatment resource personnel" includes all program directors, staff, and volunteers, including foster parents, working in a treatment resource who have direct contact with unmarried clients under the age of 18 years. Students in the health care professions who are interning in a treatment resource licensed under chapter 395, where the primary purpose of the treatment resource is not the treatment of unmarried minors, shall be exempt from the fingerprinting and screening requirements, provided they are under actual physical presence supervision of a licensed health care professional. Treatment resource personnel working in a treatment resource licensed under chapter 395, who have less than 15 hours per week direct contact with such unmarried minors or who are health care professionals licensed by the *Agency for Health Care Administration* ~~Department of Professional Regulation~~ or a board thereunder, are exempt from the fingerprinting and screening requirements except for those treatment resource personnel in a treatment resource where the primary purpose of the resource is the treatment of unmarried minors. For purposes of screening as required in s. 397.0715, the term includes any member of a foster family or person other than a client residing with a foster family if such family member or person residing with the foster family is over 12 years of age and has any direct contact with the drug abuser. Members of the foster family, or persons residing with the foster family, who are between the ages of 12 years and 18 years shall not be required to be fingerprinted, but shall be screened for delinquency records. A volunteer who assists on an intermittent basis for less than 40 hours per month is not included in the term "treatment resource personnel" for the purposes of screening, if the volunteer is under direct and constant supervision by persons who meet the personnel requirements of s. 397.0715.

Section 26. Effective July 1, 1992, paragraph (d) of subsection (2), paragraph (f) of subsection (3), subsection (4), and paragraph (b) of subsection (5) of section 400.304, Florida Statutes, are amended to read:

400.304 Establishment of a State Nursing Home and Long-Term Care Facility Ombudsman Council; duties; membership.—

(2) In order to ensure that the ombudsman program has the objectivity and independence required to qualify it for funding under the federal Older Americans Act, the State Unit on Aging of the Department of Health and Rehabilitative Services shall contract with the Department of Elderly Affairs for the operation of an Office of the State Long-Term Care Ombudsman to carry out the long-term care ombudsman program and advise the state and district councils. The contract shall be limited to provisions which assure compliance with and carry out the intent of the Older Americans Act. The State Unit on Aging shall:

(d) Submit annually to the Legislature, at least 30 days prior to the convening of the regular session of the Legislature, a report of the status of the contract with the Department of Elderly Affairs, including a statement regarding any problems in the contractual arrangement; an assessment of the success of the ombudsman program during the preceding year; the degree of compliance by the program with the Older Americans Act; and an assessment of the level of cooperation between the Department of Health and Rehabilitative Services, *the Agency for Health Care Administration,* and the ombudsman program regarding shared responsibilities, including, but not limited to, access to records and actions taken on behalf of residents of long-term care facilities. The report shall be submitted in conjunction with the report submitted by the state ombudsman council required by this section.

(3) The state ombudsman council:

(f) Shall prepare an annual report to the President of the Senate, the Speaker of the House of Representatives, minority leaders of the House and Senate, chairpersons of appropriate House and Senate committees, and the Governor containing an appraisal of the problems of nursing home and long-term care facility residents, recommendations for improving nursing home and long-term care facility care and treatment, and an analysis of the success of the ombudsman program during the preceding year which should address, at a minimum, the relationship between the ombudsman program, the Department of Elderly Affairs, *the Agency for Health Care Administration,* and the Department of Health and Rehabilitative Services and an assessment of how successfully the ombudsman program has carried out its responsibilities under the Older Americans Act. The annual report shall be submitted on or before 30 days prior to the convening of the regular session of the Legislature.

(4) In performing the duties specified in state and federal law, the ombudsman councils shall be independent of the *Agency for Health Care Administration, the* Department of Health and Rehabilitative Services, and the Department of Elderly Affairs. However, *the agency,* the departments, and the councils shall cooperate fully in the discharge of their responsibilities for identifying and correcting deficiencies in nursing homes and other long-term care facilities. The state ombudsman council shall make a report to the Governor, the Speaker of the House of Representatives, and the President of the Senate at any time the council judges that organizational, ~~or~~ departmental, *or agency* policy issues threaten the continued independence of the state or district councils in performing their duties.

(5) The state ombudsman council shall be composed of 12 members appointed by the Governor. The council shall solicit nominations from appropriate professional organizations, consumer groups representing older or disabled persons and long-term care advocacy groups, and shall submit a list of nominees to the Governor for consideration.

(b) In no case may the medical director of a nursing home or a long-term care facility or an employee of *the Agency for Health Care Administration,* the Department of Health and Rehabilitative Services, or the Department of Elderly Affairs serve as a member or as an ex officio member of the council. Except for the nursing home administrator, adult congregate living facility owner or operator, medical or osteopathic physician, licensed pharmacist, registered dietitian, and registered nurse, each member of the state ombudsman council shall certify to having no association with a nursing home or long-term care facility for reward or profit.

Section 27. Effective July 1, 1992, subsections (1) and (4) of section 400.307, Florida Statutes, are amended to read:

400.307 District nursing home and long-term care facility ombudsman councils; duties; membership.—

(1) There shall be at least one nursing home and long-term care facility ombudsman council in each of the districts of the Department *of Health and Rehabilitative Services,* which shall function under the direction of the state ombudsman council.

(4) Each district ombudsman council shall be composed of no less than 15 members and no more than 20 members from the district, to include the following: one medical or osteopathic physician whose practice includes or has included a substantial number of geriatric patients and who may have limited practice in a long-term care facility; one registered nurse who has geriatric experience, if possible; one nursing home administrator; one owner or operator of an adult congregate living facility; one licensed pharmacist; one registered dietitian; at least five nursing home residents or representative consumer advocates for nursing home residents; at least two long-term care facility residents or representative consumer advocates for long-term care facility residents; one attorney; and one professional social worker. In no case shall the medical director of a nursing home or a long-term care facility or an employee of *the Agency for Health Care Administration,* the Department of Health and Rehabilitative Services, or the Department of Elderly Affairs serve as a member or as an ex officio member of a council. Except for the nursing home administrator, adult congregate living facility owner or operator, medical or osteopathic physician, licensed pharmacist, registered dietitian, and registered nurse, each member of the council shall certify to having no association with a nursing home or long-term care facility for reward or profit. Any member who has an affiliation with a nursing home, adult congregate living facility, or adult foster home may not participate in any investigation or inspection of any facility with which he has such affiliation.

Section 28. Effective July 1, 1992, subsection (2) of section 400.401, Florida Statutes, is amended to read:

400.401 Short title; purpose.—

(2) The purpose of this act is to promote the availability of appropriate services for elderly and disabled persons in the least restrictive and most homelike environment, to encourage the development of facilities which promote the dignity, individuality, privacy, and decisionmaking ability of such persons, to provide for the health, safety, and welfare of residents of adult congregate living facilities in the state, to promote continued improvement of such facilities, to encourage the development of innovative and affordable facilities particularly for persons with low to moderate incomes, to ensure that all agencies of the state cooperate in the protection of such residents, and to ensure that needed economic, social, mental health, health, and leisure services are made available to residents of such facilities through the efforts of the *Agency for Health Care Administration, the* Department of Health and Rehabilitative Services, adult congregate living facilities, and other community agencies. To the maximum extent possible, appropriate community-based programs shall be available to state-supported residents to augment the services provided in adult congregate living facilities. The Legislature recognizes that adult congregate living facilities are an important part of the continuum of long-term care in the state. In support of the goal of aging in place, the Legislature further recognizes that adult congregate living facilities should be operated and regulated as residential environments with supportive services and not as medical or nursing facilities. The services available in these facilities, either directly or through contract or agreement, are intended to help residents remain as independent as possible in order that premature nursing home or institutional placement may be avoided. Regulations governing these facilities shall be sufficiently flexible to allow facilities to adopt policies which enable residents to age in place when resources are available to meet their needs and accommodate their preferences.

Section 29. Effective July 1, 1992, subsections (2) and (3) of section 400.408, Florida Statutes, are amended to read:

400.408 Referral of person for residency to unlicensed facility; penalty; verification of licensure status.—

(2) In at least one office in each district of the Department *of Health and Rehabilitative Services*, the *Agency for Health Care Administration* ~~department~~ shall maintain a list of licensed facilities within that district and shall update the list at least monthly.

(3) At least annually, the *Agency for Health Care Administration* ~~department~~ shall notify, in trade publications as defined by rule, physicians licensed pursuant to chapter 458, osteopathic physicians licensed pursuant to chapter 459, hospitals licensed pursuant to part I of chapter 395, and nursing home facilities licensed pursuant to part I of this chapter, and employees of the *Agency for Health Care Administration or the Department of Health and Rehabilitative Services* ~~department~~ having a responsibility for referring persons for residency, that it is unlawful to knowingly refer a person for residency to an unlicensed adult congregate living facility and shall notify them of the penalty for violating such prohibition. Further, the notice must direct each noticed facility and individual to contact the appropriate *agency* ~~departmental~~ office in order to verify the licensure status of any facility prior to referring any person for residency. Each notice must include the name, telephone number, and mailing address of the appropriate office to contact.

Section 30. Effective July 1, 1992, section 400.623, Florida Statutes, is amended to read:

400.623 Recruitment.—The *Agency for Health Care Administration* ~~department~~ shall recruit and license an appropriate number of adult foster homes to serve the ~~department's~~ clients *of the Department of Health and Rehabilitative Services*. When a licensed adult foster home accepts more than one resident not placed in the home by the Department *of Health and Rehabilitative Services*, the *Agency for Health Care Administration* ~~department~~ shall cancel the license issued pursuant to this section and require the home to make application for licensure as an adult congregate living facility in accordance with the provisions of part II of this chapter.

Section 31. Effective July 1, 1992, the introductory paragraph of subsection (2) of section 624.215, Florida Statutes, is amended to read:

624.215 Proposals for legislation which mandates health benefit coverage; review by Legislature.—

(2) MANDATED HEALTH COVERAGE; REPORT TO *AGENCY FOR HEALTH CARE ADMINISTRATION AND* LEGISLATIVE COMMITTEES; GUIDELINES FOR ASSESSING IMPACT.—Every person or organization seeking consideration of a legislative proposal which would mandate a health coverage or the offering of a health coverage by an insurance carrier, health care service contractor, or health maintenance organization as a component of individual or group policies, shall submit to *the Agency for Health Care Administration and the* legislative committees having jurisdiction a report which assesses the social and financial impacts of the proposed coverage. Guidelines for assessing the impact of a proposed mandated or mandatorily offered health coverage, to the extent that information is available, shall include:

Section 32. Effective July 1, 1993, subsections (2), (3), (4), and (5) of section 20.30, Florida Statutes, are amended to read:

20.30 Department of Professional Regulation.—There is created a Department of Professional Regulation.

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

(a) Division of Examination and Licensure.

(b) Division of Professions.

~~(c) Division of Medical Quality Assurance.~~

~~1. The director of the division shall be appointed by the Secretary of Professional Regulation.~~

~~2. The division shall concentrate sufficient resources and efforts on the investigation and discipline of physicians in violation of the unprofessional conduct provisions of the applicable practice acts as are necessary to meet the challenge of identifying those physicians who are not providing adequate medical care in order to take forceful corrective measures to assure quality medical care throughout the state.~~

~~3. The division shall coordinate closely with the Office of Health Planning and Regulation in the Department of Health and Rehabilitative Services to ensure that the state's regulation of health care facilities and the physicians who practice therein is consistent and offers adequate protection to the public.~~

~~4. The division shall establish and maintain a disciplinary training program for division staff and board members designed to ensure the proper and appropriate administration of medical quality assurance. The program shall provide for initial and periodic training in the grounds for disciplinary action, the actions which may be taken, changes in any relevant law, sanctions which are most appropriate for specified types of unprofessional conduct, guidelines for the conduct of hearings, and any other matters which the division shall determine may be necessary or useful.~~

(c)~~(d)~~ Division of Real Estate.

1. The director of the division shall be appointed by the Secretary of Professional Regulation, subject to approval by a majority of the Florida Real Estate Commission.

2. The offices of the Division of Real Estate shall be located in Orlando.

(d)~~(e)~~ Division of Regulation.

(e)~~(f)~~ Division of Administration.

(3) There shall be a director of the Division of Examination and Licensure, a director of the Division of Professions, ~~a director of the Division of Medical Quality Assurance,~~ a director of the Division of Regulation, a director of the Division of Real Estate, and a director of the Division of Administration. Each division director shall directly administer his division and shall be responsible to the secretary of the department.

(4) The following boards are established within the Department of Professional Regulation, Division of Professions:

(a) Board of Accountancy, created under chapter 473.

(b) Board of Architecture and Interior Design, created under part I of chapter 481.

(c) Board of Auctioneers, created under part VI of chapter 468.

(d) Barbers' Board, created under chapter 476.

(e) Construction Industry Licensing Board, created under part I of chapter 489.

(f) Board of Cosmetology, created under chapter 477.

(g) Electrical Contractors' Licensing Board, created under part II of chapter 489.

(h) Board of Professional Engineers, created under chapter 471.

(i) Board of Funeral Directors and Embalmers, created under chapter 470.

(j) Board of Professional Geologists, created under chapter 492.

(k) Board of Hearing Aid Specialists, created under part II of chapter 484.

(l) Board of Professional Land Surveyors, created under chapter 472.

(m) Board of Landscape Architecture, created under part II of chapter 481.

(n) Board of Massage, created under chapter 480.

~~(o) Board of Nursing Home Administrators, created under part II of chapter 468.~~

~~(p) Board of Opticianry, created under part I of chapter 484.~~

(o)~~(q)~~ Board of Pilot Commissioners, created under chapter 310.

(p) Board of Veterinary Medicine, created under chapter 474.

~~(5) The following boards are established within the Department of Professional Regulation, Division of Medical Quality Assurance:~~

~~(a) Board of Medicine, created under chapter 458.~~

~~(b) Board of Osteopathic Medical Examiners, created under chapter 459.~~

~~(c) Board of Acupuncture, created under chapter 457.~~

~~(d) Board of Chiropractic, created under chapter 460.~~

~~(e) Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under chapter 491.~~

~~(f) Board of Dentistry, created under chapter 466.~~

~~(g) Board of Nursing, created under chapter 464.~~

~~(h) Board of Optometry, created under chapter 463.~~

~~(i) Board of Pharmacy, created under chapter 465.~~

~~(j) Board of Physical Therapy Practice, created under chapter 486.~~

~~(k) Board of Podiatric Medicine, created under chapter 461.~~

~~(l) Board of Psychological Examiners, created under chapter 490.~~

~~(m) Board of Veterinary Medicine, created under chapter 474.~~

~~(n) Board of Speech Language Pathology and Audiology, created under part I of chapter 468.~~

Section 33. *Except as otherwise provided in this act, all powers, duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Division of Medical Quality Assurance of the Department of Professional Regulation, and, except as otherwise provided in this act, the boards established thereunder, are transferred by a type one transfer, as defined in s. 20.06(1), Florida Statutes, to the Agency for Health Care Administration and assigned to the Division of Health Quality Assurance of the agency, as created by this act. Such transfer shall take effect July 1, 1993. Any rules promulgated by or for the division or boards are included in such transfer.*

Section 34. (1) Except as otherwise specified in this act, in editing manuscript for the next edition of the official Florida Statutes, the Statutory Revision Division of the Joint Legislative Management Committee shall change "Department of Professional Regulation" to "Agency for Health Care Administration," and "Division of Medical Quality Assurance" to "Division of Health Quality Assurance," wherever the terms appear:

(a) With respect to regulation of the specified health care professions, as consistent with the intent and purposes of this act, in the following subdivisions of the Florida Statutes:

1. Chapter 457, acupuncture.

2. Chapter 458, medicine.

3. Chapter 459, osteopathic medicine.

4. Chapter 460, chiropractic.

5. Chapter 461, podiatric medicine.

6. Chapter 463, optometry.

7. Chapter 464, nursing.

8. Chapter 465, pharmacy.

9. Chapter 466, dentistry, dental hygiene, and dental laboratories.

10. Parts I-III and V of chapter 468, speech-language pathology and audiology, nursing home administration, occupational therapy, and respiratory therapy.

11. Part I of chapter 484, opticianry.

12. Chapter 486, physical therapy.

13. Chapter 490, psychology.

14. Chapter 491, clinical social work, marriage and family therapy, and mental health counseling.

(b) With respect to responsibilities related to such regulation, as consistent with the intent and purposes of this act, in the following subdivisions of the Florida Statutes: sections 154.04, 212.08(7)(o), 240.4075, 395.0115, 395.103, 455.2224, 455.2416, 455.247, 455.28, 745.52, 766.101, 766.106, 766.113, 766.206, 766.305, 766.308, and 766.314.

(2) This section shall take effect July 1, 1993.

Section 35. Effective July 1, 1993, section 455.20, Florida Statutes, is amended to read:

455.20 Definition of "board".—As used in this part, the term "board" means any board or commission within the Department of Professional Regulation *or the Agency for Health Care Administration*, including the Florida Real Estate Commission.

Section 36. Subsections (1), (3), and (4) of section 455.201, Florida Statutes, are amended to read:

455.201 Professions and occupations regulated by Department of Professional Regulation *or Agency for Health Care Administration*; legislative intent.—

(1) It is the intent of the Legislature that persons desiring to engage in any lawful profession regulated by the Department of Professional Regulation *or the Agency for Health Care Administration* shall be entitled to do so as a matter of right if otherwise qualified.

(3) No board within the Department of Professional Regulation *or the Agency for Health Care Administration* shall create unreasonably restrictive and extraordinary standards that deter qualified persons from entering the various professions. No board shall take any action which tends to create or maintain an economic condition that unreasonably restricts competition, except as specifically provided by law.

(4) It is the further legislative intent that the use of the term "profession" with respect to those activities licensed and regulated by the Department of Professional Regulation *or the Agency for Health Care Administration* shall not be deemed to mean that such activities are not occupations for other purposes in state or federal law; and, accordingly, the term "profession" shall also mean "occupation."

Section 37. Effective July 1, 1993, section 455.203, Florida Statutes, is amended to read:

455.203 Department of Professional Regulation; *Agency for Health Care Administration;* powers and duties.—The Department of Professional Regulation *and the Agency for Health Care Administration, for the boards under their respective jurisdictions,* shall:

(1) Adopt rules establishing a procedure for the biennial renewal of licenses; provided, however, the department *or the Agency for Health Care Administration* may issue up to a 3-year license to selected licensees notwithstanding any other provisions of law to the contrary. Fees for such renewal shall not exceed the fee caps for individual professions on an annualized basis as authorized by law.

(2) Appoint the executive director of each board ~~within the department~~, subject to the approval of the board.

(3) With the advice of the boards, submit a biennial budget to the Legislature at a time and in the manner provided by law.

(4) Develop a training program for persons newly appointed to membership on any board. The program shall familiarize such persons with the substantive and procedural laws and rules which relate to the regulation of the appropriate profession and with the structure of the department *or the Agency for Health Care Administration.*

(5) Adopt all rules necessary to administer this chapter.

(6) Establish by rules procedures by which the department *and the Agency for Health Care Administration* shall use the expert or technical advice of the board for the purposes of investigation, inspection, evaluation of applications, and other duties of the department.

(7) Require all proceedings of any board or panel thereof ~~within the department~~ and all formal or informal proceedings conducted by *either* the department *or the Agency for Health Care Administration* or a hearing officer with respect to licensing or discipline to be electronically recorded in a manner sufficient to assure the accurate transcription of all matters so recorded.

(8) Select only those investigators, or consultants who undertake investigations, who meet criteria established by the rules of the respective boards.

(9) Cause peer review of certain health care providers to be performed, as provided for in s. 460.4104.

Section 38. Effective July 1, 1993, section 455.205, Florida Statutes, is amended to read:

455.205 Contacting boards through department *or agency.*—Each board *under the jurisdiction of the Department of Professional Regulation* may be contacted through the headquarters of the Department of Professional Regulation in the City of Tallahassee or at any regional office of the department. *Each board under the jurisdiction of the Agency for Health Care Administration may be contacted through the headquarters of the Agency for Health Care Administration in the City of Tallahassee.*

Section 39. Effective July 1, 1993, subsection (1) of section 455.207, Florida Statutes, is amended to read:

455.207 Boards; organization; meetings; compensation and travel expenses.—

(1) Each board within the Department of Professional Regulation *and each board within the Agency for Health Care Administration* shall comply with the provisions of this section.

Section 40. Effective July 1, 1993, section 455.208, Florida Statutes, is amended to read:

455.208 Publication of information.—The Department *of Professional Regulation, the Agency for Health Care Administration,* and the boards shall have the authority to advise licensees periodically, through the publication of a newsletter, about information that the Department *of Professional Regulation, the Agency for Health Care Administration,* or the board determines is of interest to the industry.

Section 41. Effective July 1, 1993, subsection (2) of section 455.209, Florida Statutes, is amended to read:

455.209 Accountability and liability of board members.—

(2) Each board member and each past board member serving on a probable cause panel shall be exempt from civil liability for any act or omission when acting in his official capacity, and the Department *of Professional Regulation or the Agency for Health Care Administration, as appropriate,* or the Department of Legal Affairs shall defend any such member in any action against any board or member of a board arising from any such act or omission. In providing such defense, the department, *the agency,* or the Department of Legal Affairs may employ or utilize the legal services of outside counsel.

Section 42. Effective July 1, 1993, section 455.211, Florida Statutes, is amended to read:

455.211 Board rules; final agency action; challenges.—

(1) The Secretary of ~~the Department~~ *Professional Regulation* shall have standing to challenge any rule or proposed rule of a board *under its jurisdiction* pursuant to ss. 120.54 and 120.56. *The Director of Health Care Administration shall have standing to challenge any rule or proposed rule of any board under its jurisdiction, pursuant to ss. 120.54 and 120.56.* In addition to challenges for any invalid exercise of delegated legislative authority, the hearing officer, upon such a challenge by the Secretary *of Professional Regulation or the Director of Health Care Administration,* may declare all or part of a rule or proposed rule invalid if it:

(a) Does not protect the public from any significant and discernible harm or damages;

(b) Unreasonably restricts competition or the availability of professional services in the state or in a significant part of the state; or

(c) Unnecessarily increases the cost of professional services without a corresponding or equivalent public benefit.

However, there shall not be created a presumption of the existence of any of the conditions cited in this subsection in the event that the rule or proposed rule is challenged.

(2) In addition, either the Secretary *of Professional Regulation, the Director of Health Care Administration,* or the board shall be a substantially interested party for purposes of s. 120.54(5). The board may, as an adversely affected party, initiate and maintain an action pursuant to s. 120.68 challenging the final agency action.

Section 43. Effective July 1, 1993, subsections (6) and (7) of section 455.213, Florida Statutes, as amended by chapters 91-137 and 91-220, Laws of Florida, are hereby repealed.

Section 44. Effective July 1, 1993, section 455.214, Florida Statutes, is created to read:

455.214 Agency for Health Care Administration; general licensing provisions.—

(1) Any person desiring to be licensed in a profession within the jurisdiction of the Agency for Health Care Administration shall apply to the agency in writing to take the licensure examination. The application shall be made on a form prepared and furnished by the agency and shall be supplemented as needed to reflect any material change in any circumstance or condition stated in the application which takes place between the initial filing of the application and the final grant or denial of the license and which might affect the decision of the agency.

(2) Before the issuance of any license, the Agency for Health Care Administration may charge an initial license fee as determined by rule of the applicable board or, if no such board exists, by rule of the agency. Upon receipt of the appropriate license fee, the agency shall issue a license to any person certified by the appropriate board, or its designee, as having met the licensure requirements imposed by law or rule.

(3) When any hearing officer conducts a hearing pursuant to the provisions of chapter 120 with respect to the issuance of a license by the Agency for Health Care Administration, the hearing officer shall submit his recommended order to the appropriate board, which shall thereupon issue a final order. The applicant for licensure may appeal the final order of the board in accordance with the provisions of chapter 120.

(4) A privilege against civil liability is hereby granted to any witness for any information furnished by the witness in any proceeding pursuant to this section, unless the witness acted in bad faith or with malice in providing such information.

(5) As a condition of renewal of a license, the Board of Medical Examiners, the Board of Osteopathic Medical Examiners, the Board of Chiropractic, and the Board of Podiatric Medicine shall each require licensees which they respectively regulate to periodically demonstrate their professional competency by completing at least 40 hours of continuing educa-

tion every 2 years, of which at least 5 hours shall concern risk management. Criteria for, and content of, continuing education courses shall be approved by the respective boards. The respective boards shall consider equivalent national or state educational courses, including those offered by a medical society or specialty organization, to fulfill part or all of the requirements of this subsection. The respective boards shall adopt rules to implement the provisions of this subsection.

(6) The respective boards within the jurisdiction of the Agency for Health Care Administration may adopt rules to provide for the use of approved video cassette courses, not to exceed 5 hours per subject, to fulfill the continuing education requirements of the professions they regulate. Such rules shall provide for prior board approval of the criteria for and content of such courses and shall provide for a video cassette course validation form to be signed by the vendor and the licensee and submitted to the Agency for Health Care Administration, along with the license renewal application, for continuing education credit.

Section 45. Effective July 1, 1993, section 455.215, Florida Statutes, is amended to read:

455.215 Board intervention in licensing proceedings.—In any proceeding regarding the issuance of a license to an applicant, the appropriate board may intervene in such proceeding on behalf of either the applicant, ~~or~~ the Department *of Professional Regulation, or the Agency for Health Care Administration, as appropriate.*

Section 46. Effective July 1, 1993, section 455.2173, Florida Statutes, is created to read:

455.2173 Agency for Health Care Administration; examinations.—

(1)(a) The Agency for Health Care Administration shall provide services for the preparation and administration of all examinations. The agency shall ensure that the examinations adequately and reliably measure an applicant's ability to practice the profession regulated by the agency and shall seek the advice of the appropriate board in the preparation and administration of the examinations. After an examination has been administered, the board may reject any question which does not reliably measure the general areas of competency specified in the rules of the board. The agency shall use professional testing services to prepare, administer, grade, and evaluate the examinations, when such services are available and approved by the board.

(b) To the extent not otherwise specified by statute, the board or, when there is no board, the Agency for Health Care Administration, shall by rule specify the general areas of competency to be covered by each examination, the relative weight to be assigned in grading each area tested, and the score necessary to achieve a passing grade. If a practical examination is deemed to be necessary, the rules shall specify the criteria by which examiners are to be selected, the grading criteria to be used by the examiner, the relative weight to be assigned in grading each criterion, and the score necessary to achieve a passing grade. When a mandatory standardization exercise for a practical examination is required by law, the board may conduct such exercise. Therefore, board members may serve as examiners at a practical examination with the consent of the board.

(c) The Agency for Health Care Administration shall use any national examination which is available and which is approved by the board. The name and number of a candidate may be provided to a national contractor for the limited purpose of preparing the grade tape and information to be returned to the board or agency. The agency may delegate to the board the duty to provide and administer the examination.

(d) Each board or, when there is no board, the Agency for Health Care Administration shall adopt rules regarding the security and monitoring of examinations. The agency shall implement those rules adopted by the respective boards.

(2) The board or, when there is no board, the Agency for Health Care Administration shall adopt rules providing for reexamination of any applicants who have failed the examination. If both a written and a practical examination are given, an applicant shall be required to retake only the portion of the examination on which he failed to achieve a passing grade, if he successfully passes that portion within a reasonable time of his passing the other portion. The board or, when there is no board, the agency shall make available an examination review procedure for applicants and charge an examination review fee not to exceed $75 per review. Unless prohibited or limited by rules implementing security or access guidelines of national examinations, the applicant is entitled to review his examination questions, answers, papers, grades, and grading key. An applicant may waive in writing the confidentiality of his examination grades.

(3) The Agency for Health Care Administration shall make an accurate record of each applicant's examination questions, answers, papers, grades, and grading key. The agency shall keep such record for a period of not less than 2 years immediately following the examination, and such record shall thereafter be maintained or destroyed as provided in chapters 119 and 267.

(4) Notwithstanding the provisions of ss. 119.07 and 286.011, meetings and records of meetings of any member of the Agency for Health Care Administration or of any board within the agency held for the exclusive purpose of creating or reviewing licensure examination questions or proposed examination questions are confidential and exempt from the provisions of ss. 119.07(1) and 286 011. However, this exemption shall not affect the right of any person to review an examination as provided in subsection (2). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 47. Effective July 1, 1993, section 455.2175, Florida Statutes, is amended to read:

455.2175 Penalty for theft or reproduction of an examination.—In addition to, or in lieu of, any other discipline imposed pursuant to s. 455.227, the theft of an examination in whole or in part or the act of reproducing or copying any examination administered by the Department *of Professional Regulation or the Agency for Health Care Administration*, whether said examination is reproduced or copied in part or in whole and by any means, shall constitute a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 48. Effective July 1, 1993, section 455.218, Florida Statutes, is amended to read:

455.218 Foreign-trained professionals; special examination and licensure provisions.—

(1) *Within their respective jurisdictions, the Agency for Health Care Administration and* the Department of Professional Regulation shall, by rule, provide procedures under which exiled professionals may be examined for licensure within each practice act. A person shall be eligible for such examination if he:

(a) Immigrated to the United States after leaving his home country because of political reasons, provided such country is located in the Western Hemisphere and lacks diplomatic relations with the United States;

(b) Applies to the Department *of Professional Regulation or the Agency for Health Care Administration, as appropriate,* and submits a fee;

(c) Was a Florida resident immediately preceding his application for licensure;

(d) Demonstrates to the Department *of Professional Regulation or the Agency for Health Care Administration*, through submission of documentation verified by his respective professional association in exile, that he was graduated with an appropriate professional or occupational degree from a college or university; however, the Department *of Professional Regulation or the Agency for Health Care Administration* may not require receipt of any documentation from the Republic of Cuba as a condition of eligibility under this section;

(e) Lawfully practiced his profession for at least 3 years;

(f) Prior to 1980, successfully completed an approved course of study pursuant to chapters 74-105 and 75-177, Laws of Florida; and

(g) Presents a certificate demonstrating the successful completion of a continuing education program which provides the applicant with a course of study which will prepare him for the examination offered under subsection (2). The department *and the Agency for Health Care Administration* shall develop rules for the approval of such programs *for their respective boards.*

(2) Upon request of a person who meets the requirements of subsection (1) and submits an examination fee, the Department *of Professional Regulation or the Agency for Health Care Administration, for their respective boards,* shall provide a written practical examination which

tests his current ability to practice his profession competently in accordance with the actual practice of his profession. Evidence of meeting the requirements of subsection (1) shall be treated by the Department *of Professional Regulation or the Agency for Health Care Administration* as evidence of the applicant's preparation in the academic and preprofessional fundamentals necessary for successful professional practice, and the applicant shall not be examined by the Department *of Professional Regulation or the Agency for Health Care Administration* on such fundamentals.

(3) The fees charged for the examinations offered under subsection (2) shall be established by the department *and the Agency for Health Care Administration, for their respective boards,* by rule and shall be sufficient to develop or to contract for the development of the examination and its administration, grading, and grade reviews.

(4) The Department *of Professional Regulation and the Agency for Health Care Administration* shall license any applicant *within their respective boards* who meets the requirements of subsections (1) and (2). All licenses so issued are subject to the administrative requirements of this chapter and the respective practice act under which the license is issued. Each applicant so licensed is subject to all provisions of this chapter and the respective practice act under which his license was issued.

(5) Upon a request by an applicant otherwise qualified under this section, the examinations offered under subsection (2) may be given in the applicant's native language, provided that any translation costs are borne by the applicant.

(6) The department *and the Agency for Health Care Administration, for their respective boards,* shall not issue an initial license to, or renew a license of, any applicant or licensee who is under investigation in any jurisdiction for an action which would constitute a violation of this chapter or the professional practice acts administered by the department *or agency* and the boards until such time as the investigation is complete, at which time the provisions of the professional practice acts shall apply.

Section 49. Effective July 1, 1993, section 455.220, Florida Statutes, is created to read:

455.220 Fees; receipts; disposition for boards within the Agency for Health Care Administration.—

(1) Each board within the jurisdiction of the Agency for Health Care Administration shall determine by rule the amount of licensing fees for its profession, based upon estimates by the agency of the revenue required to implement this part and the provisions of law with respect to the regulation of professions by the agency and any board within the agency.

(2) All moneys collected by the Agency for Health Care Administration from fees or fines or from costs awarded to the agency by a court shall be paid into the Health Care Trust Fund. The Legislature shall appropriate funds from this trust fund sufficient to carry out the provisions of this part and the provisions of law with respect to professions regulated by the Agency for Health Care Administration and any board within the agency.

Section 50. Effective July 1, 1993, section 455 2205, Florida Statutes, is created to read:

455.2205 Health Care Trust Fund; moneys to be deposited therein.—

(1) There is hereby created in the State Treasury a special fund to be designated as the Health Care Trust Fund which shall be used in the operation of the Agency for Health Care Administration in the performance of the various functions and duties required of it by law.

(2) All fees, license fees, and other charges collected by the agency shall be deposited in the State Treasury to the credit of the Health Care Trust Fund, to be used in the operation of the agency as authorized by the Legislature. However, penalties and interest assessed and collected by the agency shall not be deposited in the trust fund but shall be deposited in the General Revenue Fund. The Health Care Trust Fund shall be subject to the service charge imposed pursuant to chapter 215.

(3) The agency shall maintain separate revenue accounts in the Health Care Trust Fund for every profession regulated by the agency. The agency shall, to the extent practicable, provide for the proportionate allocation among the accounts of expenses incurred by the agency in the performance of its duties with respect to each regulated profession. The agency shall provide each board with an annual report of revenue and allocated expenses related to the regulation of that profession, and these reports shall be used by the board to determine the amount of licensing fees for each profession regulated by the agency.

(4) All other moneys in the Health Care Trust Fund shall be for the use of the agency in the performance of its functions and duties as provided by law, subject to the fiscal and budgetary provisions of general law.

Section 51. Effective July 1, 1993, section 455.221, Florida Statutes, is amended to read:

455.221 Legal and investigative services.—

(1) The Department of Legal Affairs shall provide legal services to each board within the Department of Professional Regulation *or the Agency for Health Care Administration,* but the primary responsibility of the Department of Legal Affairs shall be to represent the interests of the citizens of the state by vigorously counseling the boards with respect to their obligations under the laws of the state. Subject to the prior approval of the Attorney General, any board may retain independent legal counsel to provide legal advice to the board on a specific matter. Fees and costs of such counsel *by the Department of Legal Affairs or independent legal counsel approved by the Attorney General* shall be paid from the Professional Regulation Trust Fund *or the Health Care Trust Fund, as appropriate.*

(2) The Department of Professional Regulation *or the Agency for Health Care Administration* may employ or utilize the legal services of outside counsel and the investigative services of outside personnel. However, no attorney employed or utilized by the Department *of Professional Regulation or the Agency for Health Care Administration* shall prosecute a matter and provide legal services to the board with respect to the same matter.

Section 52. Effective July 1, 1993, section 455.223, Florida Statutes, is amended to read:

455.223 Power to administer oaths, take depositions, and issue subpoenas.—For the purpose of any investigation or proceeding conducted by the Department *of Professional Regulation or the Agency for Health Care Administration,* the department *or the agency* shall have the power to administer oaths, take depositions, make inspections when authorized by statute, issue subpoenas which shall be supported by affidavit, serve subpoenas and other process, and compel the attendance of witnesses and the production of books, papers, documents, and other evidence. The Department *of Professional Regulation or the Agency for Health Care Administration* shall exercise this power on its own initiative or whenever requested by a board or the probable cause panel of any board. Challenges to, and enforcement of, the subpoenas and orders shall be handled as provided in s. 120 58.

Section 53. Effective July 1, 1993, section 455.224, Florida Statutes, is amended to read:

455.224 Authority to issue citations.—

(1) Notwithstanding the provisions of s. 455.225, the board, or the department *or the Agency for Health Care Administration* when there is no board, shall adopt rules to permit the issuance of citations. The citation shall be issued to the subject and shall contain the subject's name and address, his license number if applicable, a brief factual statement, the sections of the law allegedly violated, and the penalty imposed. The citation must clearly state that the subject may choose, in lieu of accepting the citation, to follow the procedure under s 455.225. If the subject disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the subject does not dispute the matter in the citation with the department *or the agency, whichever has jurisdiction,* within 30 days after the citation is served, the citation shall become a final order of the board. The penalty shall be a fine or other conditions as established by rule.

(2) The board, or the department *or the agency* when there is no board, shall adopt rules designating violations for which a citation may be issued. Such rules shall designate as citation violations those violations for which there is no substantial threat to the public health, safety, and welfare. Such rules may also designate as citation violations those violations which, in the board's disciplinary guideline rules, are punishable by a letter of guidance. However, if there is any substantial threat to the public health, safety, and welfare, such potential for harm must be removed prior to the issuance of the letter of guidance.

(3) The Department *of Professional Regulation or the Agency for Health Care Administration* shall be entitled to recover the costs of investigation, in addition to any penalty provided according to board, ~~or~~ department, *or agency* rule, as part of the penalty levied pursuant to the citation.

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

(5) Service of a citation may be made by certified mail at the last known business address or residence address of the subject.

(6) *Within their respective jurisdictions, the Department of Professional Regulation and the Agency for Health Care Administration have* ~~The department has~~ exclusive authority to, and shall adopt rules to, designate those violations for which the licensee is subject to the issuance of a citation and designate the penalties for those violations if any board fails to incorporate this section into rules by January 1, 1992.

Section 54. Effective July 1, 1993, section 455.225, Florida Statutes, is amended to read:

455 225 Disciplinary proceedings.—*Disciplinary proceedings for each board shall be within the jurisdiction of the Department of Professional Regulation or the Agency for Health Care Administration, as appropriate.*

(1) The Department *of Professional Regulation or the Agency for Health Care Administration, for the boards under their respective jurisdictions,* shall cause to be investigated any complaint which is filed before it if the complaint is in writing, signed by the complainant, and legally sufficient. A complaint is legally sufficient if it contains ultimate facts which show that a violation of this chapter, of any of the practice acts relating to the professions regulated by the department *or the agency*, or of any rule promulgated by the department, *the agency,* or a regulatory board in the department *or the agency* has occurred Prior to finding legal sufficiency, the department *or the agency* may require supporting information or documentation as necessary to determine legal sufficiency. The department *or the agency* may investigate or continue to investigate, and the department, *the agency, or* ~~and~~ the appropriate regulatory board may take appropriate final action on, a complaint even though the original complainant withdraws it or otherwise indicates his desire not to cause the complaint to be investigated or prosecuted to completion. The department *or the agency* may investigate an anonymous complaint if the complaint is in writing and is legally sufficient, if the alleged violation of law or rules is substantial, and if the department *or the agency* has reason to believe, after preliminary inquiry, that the alleged violations in the complaint are true. The department *or the agency* may investigate a complaint made by a confidential informant if the complaint is legally sufficient, if the alleged violation of law or rule is substantial, and if the department *or the agency* has reason to believe, after preliminary inquiry, that the allegations of the complainant are true. Unless a complaint has been filed with the department *or the agency*, or the department *or the agency* has been specifically authorized by statute, the department *or the agency* may not initiate an investigation unless it has reasonable cause to believe that a licensee or a group of licensees has violated a Florida statute, a rule of the department, *a rule of the agency,* or a rule of a board. Except as provided in ss. 458.331(9), 459.015(9), 460.413(5), and 461.013(6), when an investigation of any person is undertaken, the department *or the agency* shall promptly furnish to the person or his attorney a copy of the complaint or document which resulted in the initiation of the investigation. The person may submit a written response to the information contained in such complaint or document within 20 days after service to the person of the complaint or document. The person's written response shall be considered by the probable cause panel. However, if the secretary, or the secretary's designee, and the chairman of the respective board or the chairman of its probable cause panel agree in writing that such notification would be detrimental to the investigation, the department *or the agency* may withhold notification. The department *or the agency* may conduct an investigation without notification to any person if the act under investigation is a criminal offense. The department *or the agency* may delegate, by rule, its investigative function regarding a given practice act to the regulatory board having regulatory power over the practice.

(2) The Department *of Professional Regulation and the Agency for Health Care Administration* shall expeditiously investigate complaints. When its investigation is complete and legally sufficient, the department *or the agency* shall prepare and submit to the probable cause panel of the appropriate regulatory board the investigative report of the department *or the agency*. The report shall contain the investigative findings and the recommendations of the department *or the agency* concerning the existence of probable cause. At any time after legal sufficiency is found, the department *or the agency* may dismiss any case, or any part thereof, if the department *or the agency* determines that there is insufficient evidence to support the prosecution of allegations contained therein. The department *or the agency* shall provide a detailed report to the appropriate probable cause panel prior to dismissal of any case or part thereof, and to the subject of the complaint after dismissal of any case or part thereof, under this section. Such report is confidential and exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. The probable cause panel shall have access, upon request, to the investigative files pertaining to a case prior to dismissal of such case. If the department *or the agency* dismisses a case, the probable cause panel may retain independent legal counsel, employ investigators, and continue the investigation and prosecution of the case as it deems necessary.

(3) As an alternative to the provisions of subsections (1) and (2), when a complaint is received, the department *or the agency* may provide a licensee with a notice of noncompliance for an initial offense of a minor violation. Each board, or the department *or the agency* if there is no board, shall establish by rule those minor violations under this provision that do not endanger the public health, safety, and welfare and which do not demonstrate a serious inability to practice the profession. Failure of a licensee to take action in correcting the violation within 15 days after notice may result in the institution of regular disciplinary proceedings.

(4) The determination as to whether probable cause exists shall be made by majority vote of a probable cause panel of the board, or by the Department *of Professional Regulation or the Agency for Health Care Administration*, as appropriate. Each regulatory board shall provide, by rule, that the determination of probable cause shall be made by a panel of its members or by the department *or the agency*. The panel, if any, shall be composed of board members, but not more than one of the panel members may be a lay member. All proceedings of the panel are exempt from the provisions of s. 286.011 until probable cause has been found to exist by the panel or until the subject of the investigation waives his privilege of confidentiality. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. In aid of its duty to determine the existence of probable cause, the probable cause panel may make a reasonable request, and upon such request the department *or the agency* shall provide such additional investigative information as is necessary to the determination of probable cause. A request for additional investigative information shall be made within 15 days from the date of receipt by the probable cause panel of the investigative report of the department *or the agency*. The probable cause panel or the department *or the agency*, as may be appropriate, shall make its determination of probable cause within 30 days after receipt by it of the final investigative report of the department *or the agency*. The secretary may grant extensions of the 15-day and the 30-day time limits. If the probable cause panel does not find probable cause within the 30-day time limit, as may be extended, or if the probable cause panel finds no probable cause, the department *or the agency* may determine, within 10 days after the panel fails to determine probable cause or 10 days after the time limit has elapsed, that probable cause exists. If the probable cause panel finds that probable cause exists, it shall direct the department *or the agency* to send the licensee a letter of guidance or to file a formal complaint against the licensee. The department *or the agency* shall follow the directions of the probable cause panel regarding the filing of a formal complaint. If directed to do so, the department *or the agency* shall file a formal complaint against the regulated professional or subject of the investigation and prosecute that complaint pursuant to the provisions of chapter 120. However, the department *or the agency* may decide not to prosecute the complaint if it finds that probable cause had been improvidently found by the panel. In such cases, the department *or the agency* shall refer the matter to the board. The board may then file a formal complaint and prosecute the complaint pursuant to the provisions of chapter 120. The department *or the agency* shall also refer to the board any investigation or disciplinary proceeding not before the Division of Administrative Hearings pursuant to chapter 120 or otherwise completed by the department *or the agency* within 1 year of the filing of a complaint. A probable cause panel or a board may retain independent legal counsel, employ investigators, and continue the investigation as it deems necessary; all costs thereof shall be paid from the *Health Care Trust Fund or the* Professional Regulation Trust Fund, *as appropriate*. All proceedings of the probable cause panel shall be exempt from the provisions of s. 120 53(1)(d).

(5) A formal hearing before a hearing officer from the Division of Administrative Hearings of the Department of Administration shall be held pursuant to chapter 120 if there are any disputed issues of material fact. The hearing officer shall issue a recommended order pursuant to chapter 120. If any party raises an issue of disputed fact during an informal hearing, the hearing shall be terminated and a formal hearing pursuant to chapter 120 shall be held.

(6) The appropriate board, with those members of the panel, if any, who reviewed the investigation pursuant to subsection (4) being excused, shall determine and issue the final order in each disciplinary case. Such order shall constitute final agency action. Any consent order or agreed settlement shall be subject to the approval of the department *or the agency*.

(7) The Department *of Professional Regulation or the Agency for Health Care Administration, as appropriate,* shall have standing to seek judicial review of any final order of the board, pursuant to s. 120.68.

(8) Any proceeding for the purpose of summary suspension of a license, or for the restriction of the license, of a regulated professional pursuant to s. 120.60(8) shall be conducted by the Secretary *of Professional Regulation* or his designee, *or the Director of Health Care Administration or his designee, as appropriate,* who shall issue the final summary order.

(9) The Department *of Professional Regulation or the Agency for Health Care Administration, as appropriate,* shall periodically notify the person who filed the complaint of the status of the investigation, whether probable cause has been found, and the status of any civil action or administrative proceeding or appeal.

(10) The complaint and all information obtained pursuant to the investigation by the Department *of Professional Regulation or the Agency for Health Care Administration* shall be confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department *or the agency*, or until the regulated professional or subject of the investigation waives his privilege of confidentiality, whichever occurs first. Upon completion of the investigation, the department *or the agency* shall, upon written request, forward a copy of the ~~department's~~ investigative file to the subject, who may file a written response to the information contained in the investigative file. Such response must be filed within 20 days, unless an extension of time has been granted by the department *or the agency*. Nothing in this subsection shall be construed to prohibit the Department *of Professional Regulation or the Agency for Health Care Administration* from providing such information to any law enforcement agency or to any other regulatory agency. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(11) A privilege against civil liability is hereby granted to any complainant or any witness with regard to information furnished with respect to any investigation or proceeding pursuant to this act, unless the complainant or witness acted in bad faith or with malice in providing such information.

(12)(a) No person who reports in any capacity, whether or not required by law, information to the Division of *Health* ~~Medical~~ Quality Assurance *of the Agency for Health Care Administration* with regard to the incompetence, impairment, or unprofessional conduct of any health care provider licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, or chapter 466 shall be held liable in any civil action for reporting against such health care provider if such person acts without intentional fraud or malice.

(b) No facility licensed under chapter 395, health maintenance organization certificated under part I of chapter 641, physician licensed under chapter 458, or osteopathic physician licensed under chapter 459 shall discharge, threaten to discharge, intimidate, or coerce any employee or staff member by reason of such employee's or staff member's report to the division about a physician licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466 who may be guilty of incompetence, impairment, or unprofessional conduct so long as such report is given without intentional fraud or malice.

(c) In any civil suit brought outside the protections of paragraphs (a) and (b), where intentional fraud or malice is alleged, the person alleging intentional fraud or malice shall be liable for all court costs and for the other party's reasonable attorney's fees if intentional fraud or malice is not proved.

Section 55. Effective July 1, 1993, paragraph (b) of subsection (1) and subsection (3) of section 455.227, Florida Statutes, are amended to read:

455.227 Grounds for discipline; penalties; enforcement.—

(1) The board shall have the power to revoke, suspend, or deny the renewal of the license, or to reprimand, censure, or otherwise discipline a licensee, if the board finds that:

(b) The licensee has intentionally violated any rule adopted by the board, ~~or~~ the Department *of Professional Regulation, or the Agency for Health Care Administration, as appropriate*;

(3) In addition to, or in lieu of, any other remedy or criminal prosecution, the Department *of Professional Regulation or the Agency for Health Care Administration, as appropriate,* may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any of the provisions of this part, or any provisions of law with respect to professions regulated by the department *or the agency,* and any board therein, or the rules adopted pursuant thereto.

Section 56. Effective July 1, 1993, subsection (4) of section 455.2273, Florida Statutes, is amended to read:

455.2273 Disciplinary guidelines.—

(4) The Department *of Professional Regulation or the Agency for Health Care Administration, as appropriate,* shall review such disciplinary guidelines for compliance with the legislative intent as set forth herein and may also challenge such rules pursuant to s. 455.211.

Section 57. Effective July 1, 1993, section 455.2275, Florida Statutes, is amended to read:

455.2275 Penalty for giving false information.—In addition to, or in lieu of, any other discipline imposed pursuant to s. 455.227, the act of knowingly giving false information in the course of applying for or obtaining a license, permit, registration, or certificate from the Department *of Professional Regulation or the Agency for Health Care Administration,* or any board *thereunder* ~~within the department~~, with intent to mislead a public servant in the performance of his official duties, or the act of attempting to obtain or obtaining a license, permit, registration, or certificate from *either* the department *or the agency*, or any board *thereunder,* ~~within the department~~ to practice a profession by knowingly misleading statements or knowing misrepresentations constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 58. Effective July 1, 1993, section 455.228, Florida Statutes, is amended to read:

455.228 Unlicensed practice of a profession; cease and desist notice; civil penalty; enforcement.—

(1) When the Department *of Professional Regulation or the Agency for Health Care Administration* has probable cause to believe that any person not licensed by the department *or the agency,* or the appropriate regulatory board within the department *or the agency,* has violated any provision of this chapter or any statute that relates to the practice of a profession regulated by the department *or the agency*, or any rule adopted pursuant thereto, the department *or the agency* may issue and deliver to such person a notice to cease and desist from such violation. In addition, the department *or the agency* may issue and deliver a notice to cease and desist to any person who aids and abets the unlicensed practice of a profession by employing such unlicensed person. For the purpose of enforcing a cease and desist order, the department *or the agency* may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any provisions of such order. In addition to the foregoing remedies, the department *or the agency* may impose an administrative penalty not to exceed $5,000 per incident, pursuant to the provisions of chapter 120. If the department *or the agency* is required to seek enforcement of the agency order for a penalty pursuant to s. 120.58, it shall be entitled to collect its attorney's fees and costs, together with any cost of collection.

(2) In addition to or in lieu of any remedy provided in subsection (1), the department *or the agency* may seek the imposition of a civil penalty through the circuit court for any violation for which the department *or the agency* may issue a notice to cease and desist under subsection (1). The civil penalty shall be no less than $500 and no more than $5,000 for

each offense. The court may also award to the prevailing party court costs and reasonable attorney fees and, in the event the department *or the agency* prevails, may also award reasonable costs of investigation.

(3) The provisions of this section only apply to the professional practice acts administered by the Department of Professional Regulation *or the Agency for the Health Care Administration.*

Section 59. Effective July 1, 1993, section 455.2285, Florida Statutes, is amended to read:

455.2285 Annual report concerning administrative complaints and disciplinary actions.—The Department of Professional Regulation *and the Agency for Health Care Administration are each* ~~is~~ directed to prepare and submit a report to the President of the Senate and Speaker of the House of Representatives by January 1 of each year, beginning in *1993* ~~1985~~. In addition to any other information the Legislature may require, the report shall include statistics and relevant information, profession by profession, detailing:

(1) The number of complaints received and investigated.

(2) The number of findings of probable cause made.

(3) The number of findings of no probable cause made.

(4) The number of administrative complaints filed.

(5) The disposition of all administrative complaints.

(6) A description of disciplinary actions taken.

(7) The status of the development and implementation of rules providing for disciplinary guidelines pursuant to s. 455.2273, including recommendations for statutory changes necessary for such development or implementation.

Section 60. Effective July 1, 1993, section 455.229, Florida Statutes, is amended to read:

455.229 Public inspection of information required from applicants; exceptions; examination hearing.—

(1) All information required by the Department *of Professional Regulation or the Agency for Health Care Administration* of any applicant shall be a public record and shall be open to public inspection pursuant to s. 119.07, except financial information, examination questions, answers, papers, grades, and grading keys, which are confidential and exempt from s. 119.07(1) and shall not be discussed with or made accessible to anyone except members of the board, the Department *of Professional Regulation or the Agency for Health Care Administration,* and ~~its~~ staff *thereof,* who have a bona fide need to know such information. Any information supplied to the Department *of Professional Regulation or the Agency for Health Care Administration,* by any other agency which is exempt from the provisions of chapter 119 or is confidential shall remain exempt or confidential pursuant to applicable law while in the custody of the department *or the agency.* These exemptions are subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(2) The Department *of Professional Regulation or the Agency for Health Care Administration* shall establish by rule the procedure by which an applicant, and his attorney, may review examination questions and answers. Examination questions and answers are not subject to discovery but may be introduced into evidence and considered only in camera in any administrative proceeding under chapter 120. If an administrative hearing is held, the department *or the agency* shall provide challenged examination questions and answers to the hearing officer. The examination questions and answers provided at the hearing are confidential and exempt from s. 119.07(1), unless invalidated by the hearing officer. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(3) Unless an applicant notifies the department *or the agency* at least 5 days prior to an examination hearing of the applicant's inability to attend, or unless an applicant can demonstrate an extreme emergency for failing to attend, the department *or the agency* may require an applicant who defaults to pay reasonable attorney's fees, costs, and court costs of the department *or the agency* for the examination hearing.

Section 61. Effective July 1, 1993, section 455.232, Florida Statutes, is amended to read:

455.232 Disclosure of confidential information.—

(1) No officer, employee, or person under contract with the Department *of Professional Regulation or the Agency for Health Care Administration,* or any board therein, shall convey knowledge or information to any person who is not lawfully entitled to such knowledge or information about any public meeting or public record, which at the time such knowledge or information is conveyed is exempt from the provisions of s. 119.01, s. 119.07(1), or s. 286.011.

(2) Any person who willfully violates any provision of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and shall be removed from office, employment, or the contractual relationship.

Section 62. Effective July 1, 1993, subsections (2) and (3) of section 455.241, Florida Statutes, are amended to read:

455.241 Patient records; report or copies of records to be furnished.—

(2) Except as otherwise provided in s. 440.13(2), such records may not be furnished to, and the medical condition of a patient may not be discussed with, any person other than the patient or his legal representative or other health care providers involved in the care or treatment of the patient, except upon written authorization of the patient. However, such records may be furnished without written authorization to any person, firm, or corporation which has procured or furnished such examination or treatment with the patient's consent or when compulsory physical examination is made pursuant to Rule 1.360, Florida Rules of Civil Procedure, in which case copies of the medical records shall be furnished to both the defendant and the plaintiff. Such records may be furnished in any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the patient or his legal representative by the party seeking such records. Except in a medical negligence action when a health care provider is or reasonably expects to be named as a defendant, information disclosed to a health care practitioner by a patient in the course of the care and treatment of such patient is confidential and may be disclosed only to other health care providers involved in the care or treatment of the patient, or if permitted by written authorization from the patient or compelled by subpoena at a deposition, evidentiary hearing, or trial for which proper notice has been given. The Department of Professional Regulation *or the Agency for Health Care Administration, as appropriate,* may obtain patient records pursuant to a subpoena without written authorization from the patient if the Department *of Professional Regulation or the Agency for Health Care Administration* and the probable cause panel of the appropriate board, if any, find reasonable cause to believe that a practitioner has excessively or inappropriately prescribed any controlled substance specified in chapter 893 in violation of s. 458.331(1)(q), s. 459.015(1)(u), s. 461.013(1)(p), s. 462.14(1)(q), s. 466.028(1)(q), or s. 474.214(1)(y), (z), (bb), or (ff) or that a practitioner has practiced his profession below that level of care, skill, and treatment required as defined by s. 458.331(1)(t), s. 459.015(1)(y), s. 460.413(1)(s), s. 461.013(1)(t), s. 462.14(1)(t), s. 463.016(1)(n), s. 464.018(1)(h), s. 466.028(1)(y), or s. 474.214(1)(o) or (r); provided, however, the patient record obtained by the department *or the agency* pursuant to this subsection shall be used solely for the purpose of the department *or the agency* and *the appropriate regulatory* board in disciplinary proceedings. The record shall otherwise be confidential and exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Nothing in this section shall be construed to limit the assertion of the psychotherapist-patient privilege under s. 90.503 in regard to records of treatment for mental or nervous disorders by a medical practitioner licensed pursuant to chapter 458 or chapter 459 who has primarily diagnosed and treated mental and nervous disorders for a period of not less than 3 years, inclusive of psychiatric residency. However, the practitioner shall release records of treatment for medical conditions even if the practitioner has also treated the patient for mental or nervous disorders. If the department *or the agency* has found reasonable cause under this section and the psychotherapist-patient privilege is asserted, the department *or the agency* may petition the circuit court for an in camera review of the records by expert medical practitioners appointed by the court to determine if the records or any part thereof are protected under the psychotherapist-patient privilege.

(3) All patient records obtained by the Department of Professional Regulation *or the Agency for Health Care Administration* and any other documents maintained by the department *or the agency* which identify the patient by name are confidential and exempt from s. 119.07(1) and shall be used solely for the purpose of the Department of Professional Regulation *or the Agency for Health Care Administration* and the

appropriate regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The records shall not be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the Department of Professional Regulation *or the Agency for Health Care Administration* or the appropriate regulatory board. These exemptions are subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 63. Effective July 1, 1993, section 455.243, Florida Statutes, is amended to read:

455.243 Authority to inspect.—In addition to the authority specified in s. 465.017, duly authorized agents and employees of the Department *of Professional Regulation and the Agency for Health Care Administration* shall have the power to inspect in a lawful manner at all reasonable hours:

(1) Any pharmacy; or

(2) Any establishment at which the services of a licensed practitioner authorized to prescribe controlled substances specified in chapter 893 are offered,

for the purpose of determining if any of the provisions of chapter 458, chapter 459, chapter 461, chapter 466, or chapter 474 or any rule promulgated thereunder is being violated; or for the purpose of securing such other evidence as may be needed for administrative prosecution under chapter 458, chapter 459, chapter 461, chapter 466, or chapter 474.

Section 64. Effective July 1, 1993, section 455.245, Florida Statutes, is amended to read:

455.245 Health care practitioners; immediate suspension of license for certain convictions.—

(1) As used in this section, the term "health care practitioner" means any person licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, chapter 466, chapter 474, or chapter 486.

(2) The Department *of Professional Regulation or the Agency for Health Care Administration* shall issue an emergency order suspending the license of any health care practitioner convicted of a felony under chapter 893 or under 21 U.S.C. ss. 801-970. The emergency order shall remain in effect until the licensing board enters an order setting the emergency suspension aside.

(3) If the board has previously found any physician or osteopathic physician in violation of the provisions of s. 458.331(1)(t) or s. 459.015(1)(y), in regard to his treatment of three or more patients, and the probable cause panel of the board finds probable cause of an additional violation of that section, then the *Director of Health Care Administration* ~~Secretary~~ shall review the matter to determine if an emergency suspension or restriction order is warranted. Nothing in this section shall be construed so as to limit the ~~secretary's~~ authority *of the Secretary of Professional Regulation or the Director of Health Care Administration* to issue an emergency order.

Section 65. Effective July 1, 1993, section 455.26, Florida Statutes, is amended to read:

455.26 Impaired Practitioners Committee; duties.—

(1) There is created the Impaired Practitioners Committee to be composed of one representative from each practice licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 464, chapter 465, chapter 466, chapter 474, chapter 490, or chapter 491, to be appointed by the board under which the practitioner is licensed, and of one addictionologist, one lay member having an appropriate background in the area of impairment, and a representative of the *Agency for Health Care Administration* ~~Department~~, each to be appointed by the *Director of Health Care Administration, and of one representative of the Department of Professional Regulation appointed by the* Secretary of Professional Regulation. Section 455.207 applies to the activities of the committee.

(2) The committee shall:

(a) Establish policies and guidelines to be used in approving treatment providers for preventive and rehabilitative programs directed to impaired practitioners;

(b) Act as liaison between approved treatment providers and the Department *of Professional Regulation and the Agency for Health Care Administration*;

(c) Advise the department *and the agency* on the continuation and expansion of treatment programs for impaired practitioners; and

(d) Disseminate information concerning the impairment program.

Section 66. Effective July 1, 1992, section 408.01, Florida Statutes, is created to read:

408.01 Voluntary private health insurance coverage and insurance cost containment.—

(1) The agency shall promote the availability and affordability of health insurance for employers and their employees through pooled health care purchasing arrangements, pooled insuring arrangements for small-sized employers, and other reforms, such as managed care, that aid employers in offering health insurance coverage to their employees. The agency shall submit proposed legislation and resource requirements to the Governor and the Legislature by December 31, 1992, to fully implement this section.

(2) For the period of July 1, 1992, through December 31, 1994, a voluntary private health insurance coverage program shall encourage each employer to offer basic health insurance to its employees and their dependents. The agency shall establish, by rule, annual health insurance coverage targets, including targets relative to the percentage of employees and their dependents covered and percentage of employers offering coverage by firm size and industry sector.

(3) From July 1, 1992, through December 31, 1994, a voluntary cost containment program shall encourage employers, insurer, providers, and consumers to substantially reduce the rate of health care cost inflation. This program includes using voluntary price controls, reduced administrative overhead, volume discounting, and other measures to reduce the cost of health care. The agency shall establish, by rule, annual cost containment targets which will provide a benchmark against which participants in the voluntary plan can measure the effectiveness of their specific efforts.

(4) If voluntary targets are not met, substantially increasing the health insurance coverage of employees and their dependents and reducing the rate of health care costs, the agency may impose other strategies to ensure access to health care that have been approved by the Legislature.

(5) In order to promote the development of employer-based health insurance options, the agency shall:

(a) Identify and evaluate incentives, including tax credits, to encourage employers to voluntarily purchase health insurance, join a multiple employer trust, or contribute to a state pool that purchases a private basic benefit health insurance plan for employees.

(b) Identify and evaluate potential cost containment and quality measures, such as prevention, education, utilization review, and practice parameters.

(c) Identify and evaluate incentives to stimulate private health insurance companies to seek out employers for the purpose of providing them with affordable basic benefit coverage.

(6) Prior to the 1993 Regular Session of the Legislature, the agency shall submit to the Legislature the information enumerated in subsection (5) and such other information as may be necessary for the state to provide incentives, including tax incentives, for the purpose of encouraging employers to purchase health insurance, join a multiple health insurance trust, or contribute to a state pool to purchase health insurance for their employees.

(7) The agency shall establish an advisory council of employers, providers, insurers, and consumers to aid in establishing the voluntary private health insurance coverage and cost containment program and to consider administrative and legislative reforms that will assist the private sector in meeting coverage and cost containment targets.

Section 67. Effective July 1, 1992, section 408.02, Florida Statutes, is created to read:

408.02 Practice parameters.—The agency, in conjunction with the Florida Medical Assocation, the Florida Chiropractic Association, the Florida Podiatric Medical Association, and other medical organizations, shall guide the adoption and implementation of scientifically sound medical practice parameters for their respective practices in the state to eliminate unwarranted variations in the delivery of health care.

(1) The agency shall utilize reliable methodologies that integrate relevant research findings. Appropriate clinical expertise shall be used to develop practice parameters.

(a) The practice parameters shall be comprehensive, but shall provide guidance for the proper management of specific clinical situations.

(b) The agency shall provide for periodic reviews and revisions, where suitable, to ensure that practice parameters are based on the latest scientific findings.

(c) The adoption of practice parameters for services provided by diagnostic imaging centers and radiation services shall be considered a priority by the agency.

(2) The agency shall provide for wide distribution of the parameters to practicing physicians and other interested parties.

(3) The Department of Health and Rehabilitative Services is authorized to use the practice parameters adopted pursuant to this chapter in the utilization review of Medicaid and primary care services for the purpose of determining the effects of practice parameters on the quality of medical care and cost containment.

(4) The agency shall establish a demonstration project which will evaluate the effectiveness of practice parameters with regard to the costs of defensive medicine and professional liability insurance.

(5) Under the demonstration project, the Board of Medicine shall create an advisory committee. The advisory committee must complete the adoption of nationally developed practice parameters and risk management no later than January 1, 1993.

(a) The practice parameters must define appropriate clinical indications and methods of treatment.

(b) The practice parameters must establish standards of practice designed both to avoid liability claims altogether and to increase the defensibility of liability claims when they occur, thereby eliminating the need of physicians who use the parameters to practice unnecessary defensive medicine.

(c) The Board of Medicine shall review the practice parameters and adopt them by rule.

(d) Physicians selected by the agency may elect to:

1. Participate in the demonstration project.

2. Practice in compliance with the practice parameters, beginning not later than June 1, 1993.

(e) A participating physician who is subsequently named as a defendant in a cause of action accruing on or after June 1, 1993, but before October 1, 1998, may introduce evidence of compliance with the practice parameters as an affirmative defense to a liability claim.

(6) Practice parameters that have been adopted pursuant to this section shall be used in conjunction with the basic health care benefit package developed pursuant to this chapter.

Section 68. Effective July 1, 1992, section 408.061, Florida Statutes, is created to read:

408.061 Data collection; uniform systems of financial reporting; information relating to physician charges; confidentiality of patient records; immunity.—

(1) The agency may require the submission by health care facilities, health care providers, and health insurers of data necessary to carry out the agency's duties. Data to be collected and subsequently released to the public under this section shall be developed by the agency with the assistance of technical advisory panels including representatives of affected entities, consumers, purchasers, and such other interested parties as may be determined by the agency. Data from health care facilities, providers, or insurers shall not include specific provider contract reimbursement information and such data shall be considered proprietary. However, such specific provider reimbursement data shall be reasonably available for onsite inspection necessary to carry out the agency's regulatory duties. Any such data obtained by the agency as a result of onsite inspections may not be used by the state for purposes of direct provider contracting and shall not be disclosed to the public.

(a) Such data from health care facilities may include, but are not limited to, case-mix data, patient admission or discharge data with patient and provider-specific identifiers included, actual charge data by diagnostic groups, financial data, accounting data, operating expenses, expenses incurred for rendering services to patients who cannot or do not pay, interest charges, depreciation expenses based on the expected useful life of the property and equipment involved, and demographic data. Data may be obtained from documents such as, but not limited to: leases, contracts, debt instruments, itemized patient bills, medical record abstracts, and related diagnostic information.

(b) Such data from health care providers may include, but are not limited to, Medicare and Medicaid participation, types of services offered to patients, amount of revenue and expenses of the health care provider, and such other data which are reasonably necessary to study utilization patterns. The identity of the health care provider who submits any data to the agency under this section which is proprietary business information shall remain confidential and exempt from the provisions of s. 119.07(1). Such proprietary business information may be used in published analysis and reports or otherwise made available for public disclosure in such manner as to preserve the confidentiality of the identity of the provider. However, this exemption shall not limit the use of such data when such data is being used for investigation or enforcement purposes under the provisions of s. 455.225. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(c) Such data from health insurers may include, but are not limited to, claims, premium, administration, and financial information.

(d) A requirement to submit data shall be adopted by rule if the submission of data is being required of all members of any type of health care facility, health care provider, or health insurer. The adoption of rules shall include the development of definitional parameters for proprietary information. The identity of the health care facility or insurer who submits any data to the agency under this section which is proprietary business information shall remain confidential and exempt from the provisions of s. 119.07(1). Such proprietary business information may be used in published analysis and reports or otherwise made available for public disclosure in such manner as to preserve the confidentiality of the identity of the facility or insurer. Rules are not required, however, for the submission of data for a special study mandated by the Legislature or when information is being requested for a single health care facility, health care provider, or health insurer.

(2) The agency shall, by rule, after consulting with appropriate professional and governmental advisory bodies and holding public hearings and considering existing and proposed systems of accounting and reporting utilized by health care facilities, specify a uniform system of financial reporting for each type of facility based on a uniform chart of accounts developed after considering any chart of accounts developed by the national association for such facilities and generally accepted accounting principles. Such systems shall, to the extent feasible, use existing accounting systems and shall minimize the paperwork required of facilities. This provision shall not be construed to authorize the agency to require health care facilities to adopt a uniform accounting system As a part of such uniform system of financial reporting, the agency may require the filing of any information relating to the cost to the provider and the charge to the consumer of any service provided in such facility, except the cost of a physician's services which is billed independently of the facility.

(3) When more than one licensed facility is operated by the reporting organization, the information required by this section shall be reported for each facility separately.

(4)(a) Within 120 days after the end of its fiscal year, each health care facility shall file with the agency, on forms adopted by the agency and based on the uniform system of financial reporting, its actual financial experience for that fiscal year, including expenditures, revenues, and statistical measures. Such data may be based on internal financial reports which are certified to be complete and accurate by the provider. However, hospitals' actual financial experience shall be their audited actual experience.

(b) Each nursing home shall also submit a schedule of the charges in effect at the beginning of the fiscal year and any changes that were made during the fiscal year. A nursing home which is certified under Title XIX of the Social Security Act and files annual Medicaid cost reports may substitute copies of such reports and any Medicaid audits to the agency in lieu of a report and audit required under this subsection. For such facilities, the agency may require only information in compliance with this chapter that is not contained in the Medicaid cost report. Facilities that are certified under Title XVIII but not Title XIX of the Social Security Act must submit a report as developed by the agency. This report shall be substantially the same as the Medicaid cost report and shall not require any more information than is contained in the Medicare cost report unless that information is required of all nursing homes. The audit under Title XVIII shall satisfy the audit requirement under this subsection.

(5) In addition to information submitted in accordance with subsection (4), each nursing home shall track and file with the agency, on a form adopted by the agency, data related to each resident's admission, discharge, or conversion to Medicaid; health and functional status; plan of care; and other information pertinent to the resident's placement in a nursing home.

(6) Any nursing home which assesses residents a separate charge for personal laundry services shall submit to the agency data on the monthly charge for such services, excluding dry cleaning. For facilities that charge based on the amount of laundry, the most recent schedule of charges and the average monthly charge shall be submitted to the agency.

(7) The agency may require other reports based on the uniform system of financial reporting necessary to accomplish the purposes of this chapter.

(8) A patient record obtained by the agency, which record contains the name, residence or business address, telephone number, social security or other identifying number, or photograph of any person or the spouse, relative, or guardian of such person or which record is patient-specific or otherwise identifies the patient, either directly or indirectly, is confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(9) No health care facility, health care provider, health insurer, or other reporting entity or its employees or agents shall be held liable for civil damages nor subject to criminal penalties either for the reporting of patient data to the board or for the release of such data by the board as authorized by the chapter.

(10) The agency shall be the primary source for collection and dissemination of health care data. No other agency of state government may gather data from a health care provider licensed or regulated under this chapter without first determining if the data is currently being collected by the agency and affirmatively demonstrating that it would be more cost effective for an agency of state government other than the agency to gather the health care data. The secretary shall ensure that health care data collected by the divisions within the agency is coordinated. It is the express intent of the Legislature that all health care data be collected by a single source within the agency and that other divisions within the agency, and all other agencies of state government, obtain data for analysis, regulation, and public dissemination purposes from that single source.

(11) The agency shall cooperate with local health councils and the state health planning agency with regard to health care data collection and dissemination and shall cooperate with state agencies in any efforts to establish an integrated health care data base.

(12) It is the policy of this state that philanthropic support for health care should be encouraged and expanded, especially in support of experimental and innovative efforts to improve the health care delivery system.

(13) For purposes of determining reasonable costs of services furnished by health care facilities, unrestricted grants, gifts, and income from endowments shall not be deducted from any operating costs of such health care facilities, and, in addition, the following items shall not be deducted from any operating costs of such health care facilities:

(a) An unrestricted grant or gift, or income from such a grant or gift, which is not available for use as operating funds because of its designation by the health care facility's governing board.

(b) A grant or similar payment which is made by a governmental entity and which is not available, under the terms of the grant or payment, for use as operating funds.

(c) The sale or mortgage of any real estate or other capital assets of the health care facility which the health care facility acquired through a gift or grant and which is not available for use as operating funds under the terms of the gift or grant or because of its designation by the health care facility's governing board, except for recovery of the appropriate share of gains and losses realized from the disposal of depreciable assets.

(14) Except as otherwise provided in this section, all reports filed under this section shall be open to public inspection.

Section 69. Effective July 1, 1992, section 408.062, Florida Statutes, is created to read:

408.062 Research, analyses, studies, and reports.—

(1) The agency shall have the authority to conduct research, analyses, and studies relating to health care costs and access to and quality of health care services as access and quality are affected by changes in health care costs. Such research, analyses, and studies shall include, but not be limited to, research and analysis relating to:

(a) The financial status of any health care facility or facilities subject to the provisions of this chapter.

(b) The impact of uncompensated charity care on health care facilities and health care providers.

(c) The state's role in assisting to fund indigent care.

(d) The availability and affordability of health insurance for small businesses.

(e) Total health care expenditures in the state according to the sources of payment and the type of expenditure.

(f) The quality of health services, using techniques such as small area analysis, severity adjustments, and risk-adjusted mortality rates.

(g) The development of an alternative uniform system of financial reporting of gross revenues per adjusted admission, based on the American Institute of Certified Public Accounts' Hospital Audit and Accounting Guide, which also measures the services provided by a hospital to charity, medically indigent, and other underinsured patients. Recommendations for the development of an alternative uniform system of financial reporting shall be submitted to the Legislature by July 1, 1993.

(h) The development of physician payment systems which are capable of taking into account the amount of resources consumed and the outcomes produced in the delivery of care.

(i) The impact of subacute admissions on hospital revenues and expenses for purposes of calculating adjusted admissions as defined in s. 408.07.

(2) The board shall evaluate data from nursing home financial reports and shall document and monitor:

(a) Total revenues, annual change in revenues, and revenues by source and classification, including contributions for a patient's care from the patient's resources and from the family and contributions not directed toward any specific patient's care.

(b) Average patient charges by geographic region, payor, and type of facility ownership.

(c) Profit margins by geographic region and type of facility ownership.

(d) Amount of charity care provided by geographic region and type of facility ownership.

(e) Patient days by payer category.

(f) Experience related to Medicaid conversion as reported under s. 408.061.

(g) Other information pertaining to nursing home revenues and expenditures.

The findings of the board shall be included in an annual report to the Governor and Legislature by January 1 each year.

(3) The agency may assess annually the caesarean section rate in Florida hospitals using the analysis methodology that the agency determines most appropriate. To assist the agency in determining the impact of this chapter on Florida hospitals' caesarean section rates, each provider hospital, as defined in s. 383.336, shall notify the agency of the date of implementation of the practice parameters and the date of the first meeting of the hospital peer review board created pursuant to this chapter. The agency shall use these dates in monitoring any change in provider hospital caesarean section rates. An annual report based on this monitoring and assessment shall be submitted to the Governor, the Speaker of the House of Representatives, and the President of the Senate by the agency, with the first annual report due January 1, 1993.

(4) The agency may also prepare such summaries and compilations or other supplementary reports based on the information analyzed by the agency under this section, as will advance the purposes of this chapter.

(5) The board is directed to research hospital financial and nonfinancial data in order to determine the need for establishing a category of inpatient hospital patients defined as medically indigent. For purposes of this section, a medically indigent patient is an individual who is admitted as an inpatient to a hospital, who is not classified as a Medicare beneficiary, a Medicaid recipient, or a charity care patient, but who has insufficient financial resources to pay for needed medical care. In its determination of the need for establishing a category of medically indigent patients, the board shall consider the creation of income and asset levels that would establish a person as medically indigent. The board shall submit a report and recommendations to the Governor and the Legislature on the establishment of a category of medically indigent inpatient hospital patients on or before January 1, 1994. If the board recommends the establishment of a category of medically indigent patients, it shall provide a specific recommendation for the eligibility determination process to be used in classifying a patient as medically indigent.

Section 70. Effective July 1, 1992, section 408.063, Florida Statutes, is created to read:

408.063 Dissemination of health care information.—

(1) The agency, relying on data collected pursuant to this chapter, shall establish a reliable, timely, and consistent information system which distributes information and serves as the basis for the board's public education programs. The agency shall seek advice from consumers, health care purchasers, health care providers, health care facilities, health insurers, and local health councils in the development and implementation of its information system. Whenever appropriate, the agency shall use the local health councils for the dissemination of information and education of the public.

(2) The agency shall publish and disseminate information to the public which will enhance informed decisionmaking in the selection of health care providers, facilities, and services. Such publications may identify average charges for specified services, lengths of stay associated with established diagnostic groups, readmission rates, mortality rates, recommended guidelines for selection and use of health care providers, health care facilities, and health care services, and such other information as the agency deems appropriate.

(3) The agency shall educate consumers and health care purchasers by conducting or sponsoring seminars and other educational programs at locations throughout the state.

(4) The agency shall serve as a clearinghouse for information concerning:

(a) Innovations in the delivery of health care services and the enhancement of competition in the health care market.

(b) Federal and state legislative initiatives affecting the private health care delivery system and governmental health care programs.

(c) Health promotion, illness prevention, and wellness in the work setting.

(5) The agency shall publish annually a comprehensive report of state health expenditures. The report shall identify:

(a) The contribution of health care dollars made by all payers.

(b) The dollars expended by type of health care service in Florida.

(6) The staff of the agency may conduct or sponsor consumer information and education seminars at locations throughout the state and may hold public hearings to solicit consumer concerns or complaints relating to health care costs and make recommendations to the agency for study, action, or investigation.

Section 71. Effective July 1, 1992, section 408.07, Florida Statutes, is created to read:

408.07 Definitions.—As used in this chapter, the term:

(1) "Accepted" means that the board has found that a report or data submitted by a health care facility or a health care provider contains all schedules and data required by the board and has been prepared in the format specified by the board, and otherwise conforms to applicable rule or Florida Hospital Uniform Reporting System manual requirements regarding reports in effect at the time such report was submitted, and the data are mathematically reasonable and accurate.

(2) "Adjusted admission" means the sum of acute and intensive care admissions divided by the ratio of inpatient revenues generated from acute, intensive, ambulatory, and ancillary patient services to gross revenues. If a hospital reports only subacute admissions, then "adjusted admission" means the sum of subacute admissions divided by the ratio of total inpatient revenues to gross revenues.

(3) "Agency" means the Agency for Health Care Administration.

(4) "Alcohol or chemical dependency treatment center" means an organization licensed under chapter 396 or chapter 397.

(5) "Ambulatory care center" means an organization which employs or contracts with licensed health care professionals to provide diagnosis or treatment services predominantly on a walk-in basis and the organization holds itself out as providing care on a walk-in basis. Such an organization is not an ambulatory care center if it is wholly owned and operated by five or fewer health care providers.

(6) "Ambulatory surgical center" means a facility licensed as an ambulatory surgical center under chapter 395.

(7) "Applicable rate of increase" means the maximum allowable rate of increase (MARI) when applied to gross revenue per adjusted admission, unless the board has approved a different rate of increase, in which case the board-approved rate of increase shall apply.

(8) "Audited actual data" means information contained within financial statements examined by an independent, Florida-licensed, certified public accountant in accordance with generally accepted auditing standards, but does not include data within a financial statement about which the certified public accountant does not express an opinion or issues a disclaimer.

(9) "Banked points" means the percentage points earned by a hospital when the actual rate of increase in gross and net revenue per adjusted admission (GRAA) is less than the maximum allowable rate of increase (MARI).

(10) "Birth center" means an organization licensed under s. 383.305.

(11) "Board" means the Health Care Board established under s. 408.003.

(12) "Budget" means the projections by the hospital, for a specified future time period, of expenditures and revenues, with supporting statistical indicators, or a budget letter verified by the board pursuant to s. 408.072(3)(a).

(13) "Cardiac catheterization laboratory" means a freestanding facility which employs or contracts with licensed health care professionals to provide diagnostic or therapeutic services for cardiac conditions such as cardiac catheterization or balloon angioplasty.

(14) "Case mix" means a calculated index for each health care facility or health care provider, based on patient data, reflecting the relative costliness of the mix of cases to that facility or provider compared to a state or national mix of cases.

(15) "Clinical laboratory" means a facility licensed under s. 483.091, excluding: any hospital laboratory defined under s. 483.041(7); any clinical laboratory operated by the state or a political subdivision of the state; any blood or tissue bank where the majority of revenues are received from the sale of blood or tissue and where blood, plasma, or tissue is procured

from volunteer donors and donated, processed, stored, or distributed on a nonprofit basis; and any clinical laboratory which is wholly owned and operated by physicians who are licensed pursuant to chapter 458 or chapter 459 and who practice in the same group practice, and at which no clinical laboratory work is performed for patients referred by any health care provider who is not a member of that same group practice.

(16) "Comprehensive rehabilitative hospital" or rehabilitative hospital" means a hospital licensed by the Agency for Health Care Administration as a specialty hospital as defined in s. 395.002; provided that the hospital provides a program of comprehensive medical rehabilitative services and is designed, equipped, organized, and operated solely to deliver comprehensive medical rehabilitative services, and further provided that all licensed beds in the hospital are classified as "comprehensive rehabilitative beds" pursuant to s. 395.003(4), and are not classified as "general beds."

(17) "Consumer" means any person other than a person who administers health activities, is a member of the governing body of a health care facility, provides health services, has a fiduciary interest in a health facility or other health agency or its affiliated entities, or has a material financial interest in the rendering of health services.

(18) "Continuing care facility" means a facility licensed under chapter 651.

(19) "Cross-subsidization" means that the revenues from one type of hospital service are sufficiently higher than the costs of providing such service as to offset some of the costs of providing another type of service in the hospital. Cross-subsidization results from the lack of a direct relationship between charges and the costs of providing a particular hospital service or type of service.

(20) "Deductions from gross revenue" or "deductions from revenue" means reductions from gross revenue resulting from inability to collect payment of charges. For hospitals, such reductions include contractual adjustments; uncompensated care; administrative, courtesy, and policy discounts and adjustments; and other such revenue deductions, but also includes the offset of restricted donations and grants for indigent care.

(21) "Diagnostic imaging center" means a freestanding outpatient facility that provides specialized services for the diagnosis of a disease by examination and also provides radiological services. Such a facility is not a diagnostic imaging center if it is wholly owned and operated by physicians who are licensed pursuant to chapter 458 or chapter 459 and who practice in the same group practice and no diagnostic imaging work is performed at such facility for patients referred by any health care provider who is not a member of that same group practice.

(22) "FHURS" means the Florida Hospital Uniform Reporting System developed by the board.

(23) "Freestanding" means that a health facility bills and receives revenue which is not directly subject to the hospital assessment for the Public Medical Assistance Trust Fund as described in s. 395.101.

(24) "Freestanding radiation therapy center" means a facility where treatment is provided through the use of radiation therapy machines that are registered under s. 404.22 and the provisions of the Florida Administrative Code implementing s. 404.22. Such a facility is not a freestanding radiation therapy center if it is wholly owned and operated by physicians licensed pursuant to chapter 458 or chapter 459 who practice within the specialty of diagnostic or therapeutic radiology.

(25) "GRAA" means gross revenue per adjusted admission.

(26) "Gross revenue" means the sum of daily hospital service charges, ambulatory service charges, ancillary service charges, and other operating revenue. Gross revenues do not include contributions, donations, legacies, or bequests made to a hospital without restriction by the donors.

(27) "Health care facility" means an ambulatory surgical center, a hospice, a nursing home, a hospital, a diagnostic imaging center, a freestanding or hospital-based therapy center, a clinical laboratory, a home health agency, a cardiac catheterization laboratory, a medical equipment supplier, an alcohol or chemical dependency treatment center, a physical rehabilitation center, a lithotripsy center, an ambulatory care center, a birth center, or a nursing home component licensed under chapter 400 within a continuing care facility licensed under chapter 651.

(28) "Health care provider" means a health care professional licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 463, chapter 464, chapter 465, chapter 466, part I, III, IV, V, or X of chapter 468, chapter 483, chapter 484, chapter 486, chapter 490, or chapter 491.

(29) "Health care purchaser" means an employer in the state, other than a health care facility, health insurer, or health care provider, who provides health care coverage for his employees.

(30) "Health insurer" means any insurance company authorized to transact health insurance in the state, any insurance company authorized to transact health insurance or casualty insurance in the state that is offering a minimum premium plan or stop-loss coverage for any person or entity providing health care benefits, any self-insurance plan as defined in s. 624.031, any health maintenance organization authorized to transact business in the state pursuant to part I of chapter 641, any prepaid health clinic authorized to transact business in the state pursuant to part II of chapter 641, any multiple-employer welfare arrangement authorized to transact business in the state pursuant to ss. 624.436-624.45, or any fraternal benefit society providing health benefits to its members as authorized pursuant to chapter 632.

(31) "Home health agency" means an organization licensed under part III of chapter 400.

(32) "Hospice" means an organization licensed under part V of chapter 400.

(33) "Hospital" means a health care institution *licensed by the Agency for Health Care Administration as a hospital under chapter 395.*

(34) "Lithotripsy center" means a freestanding facility which employs or contracts with licensed health care professionals to provide diagnosis or treatment services using electro-hydraulic shock waves.

(35) "Local health council" means the agency defined in s. 381.703.

(36) "Market basket index" means the Florida hospital input price index (FHIPI), which is a statewide market basket index used to measure inflation in hospital input prices weighted for the Florida-specific experience which uses multistate regional and state-specific price measures, when available. The index shall be constructed in the same manner as the index employed by the Secretary of the United States Department of Health and Human Services for determining the inflation in hospital input prices for purposes of Medicare reimbursement.

(37) "Maximum allowable rate of increase" or "MARI" means the maximum rate at which a hospital is normally expected to increase its average gross revenues per adjusted admission for a given period. The board, using the most recent audited actual data for each hospital, shall calculate the MARI for each hospital as follows: the projected rate of increase in the market basket index shall be divided by a number which is determined by subtracting the sum of one-half of the proportion of Medicare days plus one-half of the proportion of CHAMPUS days plus the proportion of Medicaid days plus 1.5 times the proportion of charity care days from the number one. The formula to be employed by the board to calculate the MARI shall take the following form:

$$\text{MARI} = \left(\frac{\text{FHIPI}}{1-[(\text{Me} \times 0.5) + (\text{Cp} \times 0.5) + \text{Md} + (\text{Cc} \times 1.5)]} \right)$$

where:

MARI = maximum allowable rate of increase applied to gross revenue.

FHIPI = Florida hospital input price index, which shall be the projected rate of change in the market basket index.

Me = proportion of Medicare days, including when available and reported to the board Medicare HMO days, to total days.

Cp = proportion of Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) days to total days.

Md = proportion of Medicaid days, including when available and reported to the board Medicaid HMO days, to total days.

Cc = proportion of charity care days to total days with a 50-percent offset for restricted grants for charity care and unrestricted grants from local governments.

(38) "Medical equipment supplier" means an organization which provides medical equipment and supplies used by health care providers and health care facilities in the diagnosis or treatment of disease.

(39) "Net revenue" means gross revenue minus deductions from revenue.

(40) "New hospital" means a hospital in its initial year of operation as a licensed hospital and does not include any facility which has been in existence as a licensed hospital, regardless of changes in ownership, for over 1 calendar year.

(41) "Nursing home" means a facility licensed under s. 400.062, but does not include a facility licensed under chapter 651.

(42) "Operating expenses" means total expenses excluding income taxes.

(43) "Other operating revenue" means all revenue generated from hospital operations other than revenue directly associated with patient care.

(44) "Physical rehabilitation center" means an organization which employs or contracts with health care professionals licensed under part I or part III of chapter 468 or chapter 486 to provide speech, occupational, or physical therapy services on an outpatient or ambulatory basis.

(45) "Prospective payment arrangement" means a financial agreement negotiated between a hospital and an insurer, health maintenance organization, preferred provider organization, or other third-party payer which contains, at a minimum, the elements provided for in s. 408.50.

(46) "Rate of return" means the financial indicators used to determine or demonstrate reasonableness of the financial requirements of a hospital. Such indicators shall include, but not be limited to: return on assets, return on equity, total margin, and debt service coverage.

(47) "Rural hospital" means an acute care hospital licensed under chapter 395, with 85 licensed beds or less, which has an emergency room and is located in an area defined as rural by the United States Census, and which is:

(a) The sole provider within a county with a population density of no greater than 100 persons per square mile;

(b) An acute care hospital, in a county with a population density of no greater than 100 persons per square mile, which is at least 30 minutes of travel time, on normally traveled roads under normal traffic conditions, from another acute care hospital within the same county; or

(c) A hospital supported by a tax district or subdistrict whose boundaries encompass a population of 100 persons or less per square mile.

(48) "Special study" means a nonrecurring data-gathering and analysis effort designed to aid the Agency for Health Care Administration in meeting its responsibilities pursuant to this chapter.

(49) "Teaching hospital" means any hospital formally affiliated with an accredited medical school that exhibits activity in the area of medical education as reflected by at least seven different resident physician specialties and the presence of 100 or more resident physicians.

Section 72. Effective July 1, 1992, section 408.072, Florida Statutes, is created to read:

408.072 Review of hospital budgets.—

(1) At least 90 days prior to the beginning of its fiscal year, each hospital requesting a rate of increase in gross revenue per adjusted admission in excess of the maximum allowable rate of increase for the hospital's next fiscal year, or each hospital utilizing banked percentage points pursuant to paragraph (3)(b), (c), or (d) and requesting a rate of increase in excess of the maximum allowable rate of increase plus the available banked percentage points, shall be subject to detailed budget review and shall file with the board, on forms adopted by the board and based on the uniform system of financial reporting:

(a) Its budget for the next fiscal year, including projected expenditures, projected revenues, and statistical measures necessary for the board to evaluate these projections. Any hospital, the final budget of which requires public review and approval, may submit its budget prior to public review and approval and shall subsequently file any amendments adopted during the public review process at least 45 days prior to the beginning of the fiscal year of the hospital.

(b) Its actual experience for the first 6 months of its current fiscal year, including actual expenditures, actual revenues, and statistical measures necessary for the board to evaluate the actual experience.

(c) Its estimated experience for the last 6 months of its current fiscal year, including estimated expenditures, estimated revenues, and statistical measures necessary for the board to evaluate these estimates.

(d) Information necessary for the board to evaluate the effectiveness of current services and the justification of the hospital for increased costs to continue current services, improve existing services, and provide new services.

(e) Its schedule of projected rates which will be implemented to generate projected revenues.

(2) The projected budget shall be deemed approved unless it is disapproved by the board within 90 days after filing, except that where the hospital requests a hearing, the 90 days shall be tolled until 20 days after the board's receipt of the recommended order from the Division of Administrative Hearings of the Department of Administration. Upon agreement by the board and the hospital, the 90-day period may be waived or extended. As part of the review process conducted by the board, the board may approve, disapprove, or disapprove in part the projected budget. Once submitted and reviewed by the board, a detailed budget shall not be withdrawn by a hospital unless the increase approved by the board is greater than the maximum allowable rate of increase, the gross revenue per adjusted admission, or the net revenue per adjusted admission.

(3)(a) Except for hospitals filing a budget pursuant to subsection (1), each hospital, at least 90 days prior to the commencement of its next fiscal year, shall file with the board a certified statement, hereafter known as the "budget letter," acknowledging its applicable maximum allowable rate of increase (MARI) in gross and net revenue per adjusted admission. Calculations shall be performed by the hospital using the methodology specified in s. 408.07. Through the budget letter, the hospital shall affirm that the hospital shall not exceed its applicable maximum allowable rate of increase in gross and net revenue per adjusted admission. However, the board shall have 30 days from receipt of the budget letter to determine if the applicable maximum allowable rates of increase submitted by the hospital are within the levels calculated pursuant to this section. If the board determines that the maximum allowable rates of increase submitted by the hospital are not within the levels calculated by the board, then the budget letter shall be rejected.

(b) If a hospital's gross revenues per adjusted admission, as determined by its audited actual experience in any one year, increases at a percentage rate less than the maximum allowable rate of increase or board-approved rate of increase, whichever is lower, the hospital may carry forward the difference and earn up to a cumulative maximum for both gross and net revenues of 3 "banked" percentage points which may be banked to be used in the future. In no case shall a hospital that exceeds its maximum gross revenue per adjusted admission earn banked points.

(c) If a hospital's net revenue per adjusted admission, as determined by its audited actual experience in any one year, increases at a percentage rate less than the maximum allowable rate of increase or the board-approved rate of change, whichever is lower, the hospital may carry forward the difference and earn up to a cumulative maximum for both gross and net revenues of 3 "banked" percentage points which may be banked to be used in the future.

(d) Earned banked percentage points may be added to the hospital's maximum allowable rate of increase. Such points may be used in the current fiscal year if a budget amendment would have been required to keep the hospital out of a penalty situation. A hospital shall be required to use gross revenue banked percentage points before submitting a budget for detailed review or before submitting a request for a budget amendment. Banked points shall not be transferable from one facility to another and shall only be used by a hospital which earns them as a separately licensed facility. Banked points utilized in budget letters, budget amendments, and detailed budget reviews in the current fiscal year to keep a hospital out of a penalty situation shall not be available for mitigation of penalties pursuant to s. 408.08. The board shall adopt rules which specify procedures for hospitals to bank and use any percentage points as authorized under this section.

(4) For purposes of budget review and comparison and to assist in making determinations pursuant to subsection (8), the board shall:

(a) Establish groupings of hospitals according to characteristics, including, but not limited to, a measure of the nature and range of services provided, teaching hospital status, number of medical specialties represented on the hospital staff, percentage of Medicare inpatient days, average daily census, geographical differences, and case mix. The rule shall provide for the establishment of not more than 15 general groups and for the establishment of additional specialty groups as needed. However, no group shall contain fewer than five hospitals.

(b) Establish statistical indicators per adjusted admission to serve as measures of comparison based on the most recent audited actual experience filed pursuant to s. 408.061(4)(a) for the hospitals in each group. The statistical indicators shall include, but not be limited to, gross revenue, net revenue, and operating expenditures.

(c) For each budget filed pursuant to subsection (1) and amendments filed pursuant to subsection (6), the hospital's most recent audited actual report shall be used as the base for review and comparison purposes.

(5) The board shall review each budget filed pursuant to subsection (1) and amendments filed pursuant to subsection (6) to determine whether the gross revenue per adjusted admission or the net revenue per adjusted admission contained in the budget or amendment is just, reasonable, and not excessive. In making such determination, the board shall consider and the hospital may use the following criteria in the following priority with paragraph (a) the highest priority and paragraph (i) the lowest priority:

(a) The ability of the hospital to earn a reasonable rate of return based on reasonable and justifiable costs.

(b) The impact of patient days attributable to the medically indigent.

(c) The impact of patient days reimbursed by Medicaid.

(d) The impact of patient days reimbursed by Medicare.

(e) The research and educational services provided by the hospital if it is a teaching hospital.

(f) The cost and efficiency of providing the current and proposed services. The cost of proposed services may not be included until these services or facilities have been approved by the designated state agency.

(g) The change in hospital costs as measured by changes in the severity of illness, including changes in the case mix. For psychiatric and other hospitals that would be reimbursed under a prospective payment system by the Federal Government, the impact on hospital costs associated with changes in the average length of stay of patients and, when available, case mix shall be considered.

(h) The accuracy of previous budget submissions compared to the actual experience of the hospital.

(i) For psychiatric hospitals, the impact on hospital gross revenues associated with changes in the average length of stay of patients, changes in admissions to hospital units, and changes in admissions to specific services and, when available, case mix.

(6) After a hospital budget is approved, approved as amended, or disapproved for a given fiscal year, no amendment to such budget shall be made except in accordance with the following procedures:

(a) A request by a hospital to amend its budget shall be filed in writing with supporting documents no later than 90 days before the end of the hospital's fiscal year. The budget amendment shall be deemed approved unless it is disapproved or disapproved in part by the board within 90 days after the filing, except that where the hospital requests a hearing, the 90 days shall be tolled until 20 days after the board's receipt of the recommended order from the Division of Administrative Hearings of the Department of Administration. Upon agreement by the board and the hospital, the 90-day period may be waived or extended.

(b) If approved by the board as part of a budget amendment, the following items shall be applied retroactively for the entire budget year of the hospital:

1. Changes in cost due to changes in case mix, including changes in the severity of illness.

2. Unforeseen and unforeseeable changes in malpractice insurance premiums, prior year Medicare cost report settlements, and retroactive changes in Medicare reimbursement methodology.

(7) The board shall disapprove any budget or amendment or part thereof as excessive that contains a gross revenue per adjusted admission which is not necessary to maintain total hospital costs at a level reasonably related to total services provided and which is not necessary to maintain a prudently managed hospital.

(8) The board shall disapprove, in its entirety or in part, any budget or any budget amendment that contains a rate of increase, a gross revenue per adjusted admission, or a net revenue per adjusted admission which the board finds, pursuant to subsection (3), subsection (5), or subsection (7) to be unjust, unreasonable, or excessive.

(9)(a) The staff of the board shall review the budget or the amendment to the budget and the executive director or executive staff members designated by the executive director shall make preliminary findings and recommendations in writing as to whether the budget should be approved, disapproved, or disapproved in part. The staff shall send the preliminary findings by certified mail to the hospital. The hospital shall have 14 days from the receipt of the preliminary findings and recommendations to file written objections and request a hearing with the board, if a hearing is desired, or to file written objections if a hearing is not requested by the hospital.

(b) If a hearing is requested, it shall be conducted by the board or, at the election of the board, by a hearing officer of the Division of Administrative Hearings of the Department of Administration, pursuant to the provisions of s. 120.57. Hearings shall be held within 30 days of filing the request unless waived by the board and the hospital. All hearings shall be held in Tallahassee unless the board determines otherwise.

(c) Recommended orders shall be issued within 30 days from the close of the hearing unless waived by all parties.

(d) The failure of a hospital to request a hearing within 14 days of the receipt of the preliminary findings of the staff constitutes a waiver of the right of the hospital to contest the final decision of the board, and the board shall enter a final order consistent with the staff's preliminary findings without further proceedings.

(e) During the pendency of any hearing or an appeal of a final order of the board, no hospital shall exceed its current maximum budget level in effect.

(10) The board may publish its findings in connection with any review conducted under this section in the newspaper of the largest circulation in the county in which the hospital is located.

(11) Notwithstanding any other provisions of this chapter:

(a) Any hospital operated by the Department of Health and Rehabilitative Services or the Department of Corrections; any rural hospital as defined in s. 408.07; and any intensive residential treatment program for children and adolescents as defined in s. 395.002(8) which received a certificate of need on or before January 1, 1991, and is licensed under chapter 395 for less than 33 beds, which is not part of a multifacility organization and which is part of a community mental health system, shall be exempt from filing a budget, and shall be exempt from budget review and approval for exceeding the maximum allowable rate of increase and from any penalties arising therefrom. However, each such hospital shall be required to submit to the board its audited actual experience, as required by s. 408.061(4)(d).

(b) In addition, the board shall exempt any hospital from filing a budget, from budget review and approval for exceeding the maximum allowable rate of increase, and from any penalties arising therefrom, upon a finding of the board that the hospital, during the hospital's most recent audited actual experience, had a prospective payment arrangement, as defined in s. 408.07, which contained all of the elements set forth in s. 408.50(2)(a)-(e) for at least 90 percent of the hospital's admissions exclusive of Medicare, Medicaid, and any other patients which meet the board's definition for charity care. Such exemption shall be on a year-to-year basis upon a finding by the board that the hospital has met the requirements of this subsection each year. Each hospital exempted from budget review pursuant to this paragraph shall submit to the board its audited actual experience, as required by s. 408.061(4)(a). This paragraph is repealed, and shall be subject to review by the Legislature, upon a finding by the board that at least 25 percent of hospitals which would have otherwise been subject to budget review are excluded from budget review pursuant to this paragraph. Such repeal shall take effect on July 1 following the date on which the board makes a finding that the 25-percent level, as set forth in this paragraph, has been reached.

(12) The review and approval of hospital budgets and budget amendments, and the imposition of fines and penalties, pursuant to this chapter shall apply to hospital budgets for fiscal years which end in calendar year 1994. Notwithstanding any other provision in this chapter to the contrary, any budget for fiscal years ending prior to 1994 shall be filed and reviewed pursuant to chapter 88-394, Laws of Florida, and rules adopted by the board pursuant thereto.

(13) For hospitals in detailed review, in addition to any gross or net revenues for a budget or budget amendment approved pursuant to subsection (5), the board shall also approve gross and net revenues which are necessary to fund any documented direct costs to hospitals arising from assistance provided to expand or supplement the curriculum of a community college, university, or vocational training school for the purpose of training nurses and other health professionals, not including physicians. Assistance would include, but not be limited to, the direct cost of faculty salaries and expenses, books, equipment, recruiting efforts, tuition, hospital internships, and in-kind contributions. It shall be the responsibility of the hospital to document any such increases in costs.

Section 73. Effective July 1, 1992, section 408.08, Florida Statutes, is created to read:

408.08 Inspections and audits; violations; penalties; fines; enforcement.—

(1) The agency may inspect and audit books and records, and records of individual or corporate ownership, including books and records of related organizations with which a health care provider or a health care facility had transactions, for compliance with this chapter. Upon presentation of a written request for inspection to a health care provider or a health care facility by the agency or its staff, the health care provider or the health care facility shall make available to the agency or its staff for inspection, copying, and review all books and records relevant to the determination of whether the health care provider or the health care facility has complied with this chapter.

(2) The board shall annually compare the audited actual experience of each hospital to the audited actual experience of that hospital for the previous year.

(a) For a hospital submitting a budget letter, if the board determines that the audited actual experience of the hospital exceeded its previous year's audited actual experience by more than the maximum allowable rate of increase as certified in the budget letter plus any banked points utilized in the budget letter, the amount of such excess shall be determined by the board and a penalty shall be levied against such hospital pursuant to subsection (3).

(b) For a hospital subject to budget review, if the board determines that the audited actual experience of the hospital exceeded its previous year's audited actual experience by more than the most recent approved budget or the most recent approved budget as amended, the amount of such excess shall be determined by the board, and a penalty shall be levied against such hospital pursuant to subsection (3).

(c) For a hospital submitting a budget letter and for a hospital subject to budget review, the board shall annually compare each hospital's audited actual experience for net revenues per adjusted admission to the hospital's audited actual experience for net revenues per adjusted admission for the previous year. If the rate of increase in net revenues per adjusted admission between the previous year and the current year was less than the market basket index plus 2 percentage points, the hospital may carry forward the difference and earn up to a cumulative maximum of 3 banked net revenue percentage points. Such banked net revenue percentage points shall be available to the hospital to offset, in any future year, penalties for exceeding the approved budget or the maximum allowable rate of increase as set forth in subsection (3). Nothing in this paragraph shall be used by a hospital to justify the approval of a budget or a budget amendment by the board in excess of the maximum allowable rate of increase pursuant to s. 408.072.

(3) Penalties shall be assessed as follows:

(a) For the first occurrence within a 5-year period, the board shall prospectively reduce the current budget of the hospital by the amount of the excess up to 5 percent; and, if such excess is greater than 5 percent over the maximum allowable rate of increase, any amount in excess of 5 percent shall be levied by the board as a fine against such hospital to be deposited in the Public Medical Assistance Trust Fund.

(b) For the second occurrence with the 5-year period following the first occurrence as set forth in paragraph (a), the board shall prospectively reduce the current budget of the hospital by the amount of the excess up to 2 percent; and, if such excess is greater than 2 percent over the maximum allowable rate of increase, any amount in excess of 2 percent shall be levied by the board as a fine against such hospital to be deposited in the Public Medical Assistance Trust Fund.

(c) For the third occurrence within the 5-year period following the first occurrence as set forth in paragraph (a), the board shall:

1. Levy a fine against the hospital in the total amount of the excess, to be deposited in the Public Medical Assistance Trust Fund.

2. Notify the agency of the violation, whereupon the agency shall not accept any application for a certificate of need pursuant to ss. 408.031-408.045 from or on behalf of such hospital until such time as the hospital has demonstrated to the satisfaction of the board that, following the date the penalty was imposed under subparagraph 1., the hospital has stayed within its projected or amended budget or its applicable maximum allowable rate of increase for a period of at least 1 year. However, this provision does not apply with respect to a certificate-of-need application filed to satisfy a life or safety code violation.

3. Upon a determination that the hospital knowingly and willfully generated such excess, notify the agency, whereupon the agency shall initiate disciplinary proceedings to deny, modify, suspend, or revoke the license of such hospital or impose an administrative fine on such hospital not to exceed $20,000.

The determination of the amount of any such excess shall be based upon net revenues per adjusted admission, excluding funds distributed to the hospital from the Public Medical Assistance Trust Fund. However, in making such determination, the board shall appropriately reduce the amount of the excess by the total amount of the assessment paid by such hospital pursuant to s. 395.101 minus the amount of revenues received by the hospital through the Public Medical Assistance Trust Fund. It is the responsibility of the hospital to demonstrate to the satisfaction of the board its entitlement to such reduction. It is the intent of the Legislature that the Health Care Board, in levying any penalty imposed against a hospital for exceeding its maximum allowable rate of increase or its approved budget pursuant to this subsection, consider the effect of changes in the case mix of the hospital and in the hospital's intensity and severity of illness as measured by changes in the hospital's actual proportion of outlier cases to total cases and dollar increases in outlier cases' average charge per case. It is the responsibility of the hospital to demonstrate to the satisfaction of the board any change in its case mix and in its intensity and severity of illness. For psychiatric hospitals, the board shall also reduce the amount of excess by utilizing as a proxy for case mix the change in a hospital's audited actual average length of stay as compared to the previous year's audited actual average length of stay without any thresholds or limitations.

(4) The following factors may be used by the board to reduce the amount of excess of the hospital as determined pursuant to this section:

(a) Unforeseen and unforeseeable events which affect the net revenue per adjusted admission and which are beyond the control of the hospital, such as prior year Medicare cost report settlements, retroactive changes in Medicare reimbursement methodology, and increases in malpractice insurance premiums, which occurred in the last 3 months of the hospital fiscal year during which the hospital generated the excess; or

(b) Imposition of the penalty would have a severe adverse effect which would jeopardize the continued existence of an otherwise economically viable hospital.

(5) The board shall reduce the amount of the excess for hospitals submitting budget letters pursuant to s. 408.072(3)(a) by the amount of any documented costs from financial assistance provided to expand or supplement the curriculum of a community college, university, or vocational training school for the purpose of training nurses or other health professionals, not including physicians. Financial assistance would include, but not be limited to, the direct costs for faculty salaries and expenses, books, equipment, recruiting efforts, tuition assistance, and hospital internships. The reduction would be based on actual documented expenses increased by the gross revenues necessary to generate net revenues sufficient to cover the expenses.

(6) If the board finds that any hospital chief executive officer or any person who is in charge of hospital administration or operations has knowingly and willfully allowed or authorized actual operating revenues or expenditures that are in excess of projected operating revenues or expenditures in the hospital's approved budget, the board shall order such officer or person to pay an administrative fine not to exceed $5,000.

(7) For hospitals filing budget letters, the board shall annually compare the audited actual experience of each hospital for the year under review to the audited actual experience of that hospital for the previous year. For hospitals which submitted detailed budgets or budget amendments, the board shall compare the audited actual experience of each hospital for the year under review to its approved gross revenue per adjusted admission for the year under review, for purposes of levying an administrative fine.

(a) For a hospital submitting a budget letter pursuant to s. 408.072(3)(a), if the board determines that the audited actual experience for the year under review exceeded the hospital's previous year's audited actual experience by more than the maximum allowable rate of increase as certified in the budget letter plus any banked points utilized in the budget letter, the amount of the excess shall be determined and an administrative fine shall be levied against such hospital pursuant to subsection (8).

(b) For a hospital which submitted a budget pursuant to s. 408.072(1), or a budget amendment pursuant to s. 408.072(6), if the board determines that the gross revenue per adjusted admission contained in the hospital's audited actual experience exceeded its board-approved gross revenue per adjusted admission, the amount of the excess shall be determined and an administrative fine shall be levied against such hospital pursuant to subsection (8).

(8) If the board determines that an excess exists pursuant to subsection (7), the board shall multiply the excess by the number of actual adjusted admissions contained in the year at issue to determine the amount of the base fine. The base fine shall be multiplied by the applicable occurrence factor to determine the amount of the administrative fine levied against the hospital.

(a) For the first occurrence within a 5-year period, the applicable occurrence factor shall be 0.25. For the second occurrence within a 5-year period, the applicable occurrence factor shall be 0.55. For the third occurrence within a 5-year period, the applicable occurrence factor shall be 1.0.

(b) In no event shall any administrative fine levied pursuant to this subsection exceed $365,000.

(9) In levying any administrative fine against a hospital pursuant to subsection (8), the board shall consider the effect of any changes in the hospital's case mix, and in the hospital's intensity and severity of illness as measured by changes in the hospital's actual proportion of outlier cases to total cases and dollar increases in outlier cases' average charge per case. The board shall adjust the amount of any excess by the changes in the hospital's case mix and in its intensity and severity of illness, based upon certified hospital patient discharge data provided to the board pursuant to s. 408.061. For psychiatric hospitals, the board shall adjust the amount of any excess by utilizing as a proxy for case mix the change in a hospital's audited actual average length of stay as compared to the previous year's audited actual average length of stay.

(10) In levying any administrative fine against a hospital pursuant to subsection (8), it is the intent of the Legislature that if a hospital can demonstrate to the satisfaction of the board that it operated within its approved gross revenue per adjusted admission for the first 8 months of its fiscal year and did not increase its prices, except for exceptions determined by the board during the last 5 months of its fiscal year, it shall not be subject to any administrative fine levied pursuant to subsection (8).

(11) It is the further intent of the Legislature that if a hospital can demonstrate to the satisfaction of the board that it did not increase its prices on average in excess of the MARI for the prior year, it shall not be subject to any administrative fine levied pursuant to subsection (8).

(12) The board shall submit a report to the Legislature by December 31, 1993, with its recommendations on the need for granting hospitals and professional boards additional authority to control utilization of services, the phasing in of practice parameters pursuant to s. 408.02, and the impact of implementation of this section on gross and net operating revenues.

(13) If the board finds that any hospital chief executive officer or any person who is in charge of hospital administration or operations has knowingly and willfully allowed or authorized gross revenue per adjusted admission, net revenue per adjusted admission, or rates of increase that are in excess of gross or net revenue per adjusted admission, or rates of increase in the hospital's approved budget, budget amendment, or budget letter, the agency shall order such officer or person to pay an administrative fine not to exceed $5,000.

(14) Any health care facility that refuses to file a report, fails to timely file a report, files a false report, or files an incomplete report and upon notification fails to timely file a complete report required under this section and s. 408.061; that violates any provision of this section, s. 408.061, or s. 408.20, or rule adopted thereunder; or that fails to provide documents or records requested by the agency under the provisions of this chapter shall be punished by a fine not exceeding $1,000 per day for each day in violation, to be imposed and collected by the agency.

(15) Any health care provider that refuses to file a report, fails to timely file a report, files a false report, or files an incomplete report and upon notification fails to timely file a complete report required under this section and s. 408.061; that violates any provision of this section, s. 408.061, or s. 408.20, or rule adopted thereunder; or that fails to provide documents or records requested by the agency under the provisions of this chapter shall be referred to the appropriate licensing board which shall take appropriate action against the health care provider.

(16) In the event that a health insurer does not comply with the requirements of s. 408.061, the agency shall report a health insurer's failure to comply to the Department of Insurance, which shall take into account the failure by the health insurer to comply in conjunction with its approval authority under s. 627.410. The agency shall adopt any rules necessary to carry out its responsibilities required by this subsection.

(17) Refusal to file, failure to timely file, or filing false or incomplete reports or other information required to be filed under the provisions of this chapter, failure to pay or failure to timely pay any assessment authorized to be collected by the agency, or violation of any other provision of this chapter or lawfully entered order of the agency or rule adopted under this chapter, shall be punished by a fine not exceeding $1,000 a day for each day in violation, to be fixed, imposed, and collected by the agency. Each day in violation shall be considered a separate offense.

(18) Notwithstanding any other provisions of this chapter, when a hospital alleges that a factual determination made by the board is incorrect, the burden of proof shall be on the hospital to demonstrate that such determination is, in light of the total record, not supported by a preponderance of the evidence. The burden of proof remains with the hospital in all cases involving administrative agency action.

Section 74. Effective July 1, 1992, section 408.085, Florida Statutes, is created to read:

408.085 Comprehensive inpatient rehabilitation hospitals; special provisions.—Notwithstanding any other provisions of this chapter, the board shall appoint a technical advisory panel to develop and implement by rule a proxy measure for case mix for comprehensive inpatient rehabilitation hospitals prior to the imposition of budget review or penalties on comprehensive inpatient rehabilitation hospitals under this chapter. Such case mix proxy measure shall take into account items such as, but not limited to, the changes from year to year in the weighted average cost per admission by program in each comprehensive inpatient rehabilitation hospital and, when available, other case mix or severity of illness indicators. The proxy for case mix for comprehensive inpatient rehabilitation hospitals shall be implemented on or before July 1, 1993. The review and approval of comprehensive inpatient rehabilitation hospital budgets pursuant to this chapter shall apply to comprehensive inpatient rehabilitation hospital budgets for fiscal years beginning on or after July 1, 1993.

Section 75. Effective July, 1, 1992, section 408.09, Florida Statutes, is created to read:

408.09 Assistance on cost containment strategies.—The agency shall:

(1) Assist purchasers and employers who seek technical assistance from the agency for the purpose of cost-effective purchasing of health care.

(2) Develop cost containment strategies for use by providers, employers, or consumers of health care.

(3) Develop an outreach program to assist small business to include cost containment initiatives for small business health insurance plans.

(4) Assist existing health coalitions and local health councils as needed in carrying out their respective goals in an efficient and effective manner.

Section 76. Effective July 1, 1992, section 408.10, Florida Statutes, is created to read:

408.10 Consumer complaints.—The agency shall:

(1) Publish and make available to the public a toll-free telephone number for the purpose of handling consumer complaints and shall serve as a liaison between consumer entities and other private entities and governmental entities for the disposition of problems identified by consumers of health care.

(2) Be empowered to investigate consumer complaints relating to problems with health care facilities billing practices and issue reports to be made public in any cases where the agency determines the health care facility has engaged in billing practices which are unreasonable and unfair to the consumer.

Section 77. Effective July 1, 1992, section 408.15, Florida Statutes, is created to read:

408.15 Powers of the agency.—In addition to the powers granted to the agency elsewhere in this chapter, the agency is authorized to:

(1) Enter into contracts and execute all instruments necessary or convenient for carrying out its business.

(2) Acquire, own, hold, dispose of, and encumber personal property and to lease real property in exercising its powers and performing its duties.

(3) Enter into agreements with any federal, state, or municipal agency, or other public institution, or with any private individual, partnership, firm, corporation, association, or other entity.

(4) Establish ad hoc advisory committees to expand public participation in agency decisions and draw on the experience of representatives from all areas of health insurance, financing, cost containment, and operations, including, but not limited to, providers, consumers, third-party payers, businesses, and academicians.

(5) Establish such staff as needed to carry out the purposes of this chapter.

(6) Apply for and receive and accept grants, gifts, and other payments, including property and services, from any governmental or other public and private entity or person and make arrangements as to the use of same, including undertaking special studies and other projects related to the Florida Health Plan. Funds obtained under this subsection may be used as matching funds for public or private grants.

(7) Seek federal statutory changes and any waivers of federal laws or regulations that will aid in implementing The Florida Health Plan and related health care reforms. This may include seeking amendments to:

(a) The Employee Retirement and Income Security Act of 1974 to permit greater state regulation of employer insurance plans.

(b) The Medicaid program to permit alternative organizational alignments, elimination of all program eligibility requirements except income, and a moratorium on further federal mandates.

(c) The Medicare program to seek state administration of benefits, provider payments, or case management of beneficiaries.

(d) Federal tax laws to permit a 100 percent tax deduction for all private health insurance plans, including those of self-employed persons and unincorporated employers, and reform of the flexible sharing account requirements to maximize pretax health care expenditures.

(e) Other federal programs to permit full implementation of The Florida Health Plan and related state health care reforms.

(8) Adopt, amend, and repeal all rules necessary to carry out the provisions of this chapter.

(9) Hold public hearings, conduct investigations, and subpoena witnesses, papers, records, and documents in connection therewith. The agency may administer oaths or affirmations in any hearing or investigation.

(10) Exercise all other powers which are reasonably necessary or essential to carry out the expressed intent, objects, and purposes of this chapter, unless specifically prohibited in this chapter.

(11) Grant extensions of time for compliance with any filing requirement of this chapter.

Section 78. Effective July 1, 1992, section 408.20, Florida Statutes, is created to read:

408.20 Assessments; Health Care Cost Containment Trust Fund.—

(1) The data collection and analysis activities of the agency shall be financed, in part, by an assessment on:

(a) Hospitals in an amount to be determined annually by the agency, but not to exceed 0.04 percent of the gross operating expenses of each hospital for the provision of hospital services for its last fiscal year. Every new hospital shall pay its initial assessment upon being licensed by the state and shall base its assessment payment during the first year of operation upon its projections for gross operating expenses for that year. Each hospital under new ownership shall pay its initial assessment for the first year of operation under new ownership based on its gross operating expenses for the last fiscal year under previous ownership. The assessments shall be levied and collected quarterly.

(b) Nursing homes in an amount set by the agency to cover the agency's approved budget. The agency shall calculate the amount to be collected per bed, rounded to the nearest whole dollar. All assessments collected under this section which are due after the date of notification by the agency shall be at a rate sufficient to cover the agency's approved budget. Assessments shall be levied and collected annually by the agency. Each new nursing home shall pay its initial assessment upon being licensed, and each nursing home under new ownership shall pay its initial assessment under the new ownership based on its number of beds.

(2) All moneys collected are to be deposited into the Health Care Cost Containment Trust Fund, which account is hereby created. The Health Care Cost Containment Trust Fund shall be subject to the service charge imposed pursuant to chapter 215.

(3) Any amounts raised by the collection of assessments provided for in this section which are not required to meet appropriations in the budget act for the current fiscal year shall be available to the agency in succeeding years.

(4) Hospitals operated by the Department of Health and Rehabilitative Services or the Department of Corrections are exempt from the assessments required under this section.

Section 79. Effective July 1, 1992, section 408.30, Florida Statutes, is created to read:

408.30 Effect on existing rules.—Nothing contained in this chapter is intended to repeal or modify any of the existing rules of the Health Care Cost Containment Board, as adopted to implement chapter 88-394, Laws of Florida, unless such rule or part thereof is in direct conflict with the provisions of this chapter; provided that any budget or budget amendment for fiscal years beginning prior to May 1, 1992, shall be filed and reviewed pursuant to chapter 88-394, Laws of Florida, and rules adopted by the board pursuant thereto. Rules of the Health Care Cost Containment Board existing on the effective date of this act shall remain in effect and shall be enforceable by the agency as created by this act, until such rules are repealed or amended by the agency, and no judicial or administrative proceeding pending on the effective date of this act shall be abated as a result of the provisions of this chapter.

Section 80. Effective July 1, 1992, section 408.40, Florida Statutes, is created to read:

408.40 Budget review proceedings; duty of Public Counsel.—

(1) Notwithstanding any other provisions of this chapter, it shall be the duty of the Public Counsel to represent the general public of the state in any proceeding before the agency or its advisory panels in any administrative hearing conducted pursuant to the provisions of chapter 120 or before any other state and federal agencies and courts in any issue before the agency, any court, or any agency. With respect to any such proceeding, the Public Counsel is subject to the provisions of and may utilize the powers granted to him by ss. 350.061-350.0614.

(2) The Public Counsel shall:

(a) Recommend to the agency, by petition, the commencement of any proceeding or action or to appear, in the name of the state or its citizens, in any proceeding or action before the agency and urge therein any position which he deems to be in the public interest, whether consistent or inconsistent with positions previously adopted by the agency, and utilize therein all forms of discovery available to attorneys in civil actions generally, subject to protective orders of the agency which shall be reviewable by summary procedure in the circuit courts of this state.

(b) Have access to and use of all files, records, and data of the agency available to any other attorney representing parties in a proceeding before the agency.

(c) In any proceeding in which he has participated as a party, seek review of any determination, finding, or order of the agency, or of any hearing examiner designated by the agency, in the name of the state or its citizens.

(d) Prepare and issue reports, recommendations, and proposed orders to the agency, the Governor, and the Legislature on any matter or subject within the jurisdiction of the agency, and to make such recommendations as he deems appropriate for legislation relative to agency procedures, rules, jurisdiction, personnel, and functions.

(e) Appear before other state agencies, federal agencies, and state and federal courts in connection with matters under the jurisdiction of the agency, in the name of the state or its citizens.

Section 81. Effective July 1, 1992, section 408.50, Florida Statutes, is created to read:

408.50 Prospective payment arrangements.—

(1) Hospitals as defined in s. 395.002, and health insurers regulated pursuant to parts VI and VII of chapter 627, shall establish prospective payment arrangements that provide hospitals with financial incentives to contain costs. Each hospital shall enter into a rate agreement with each health insurer which represents 10 percent or more of the private-pay patients of the hospital to establish a prospective payment arrangement. Hospitals and health insurers regulated pursuant to this section shall report annually the results of each specific prospective payment arrangement adopted by each hospital and health insurer to the board. The agency shall report a health insurer's failure to comply to the Department of Insurance, which shall take into account the failure by the health insurer to comply in conjunction with its approval authority under s. 627.410. The agency shall adopt any rules necessary to carry out its responsibilities required by this section.

(2) The prospective payment system established pursuant to this section shall include, at a minimum, the following elements:

(a) A maximum allowable payment amount established for individual hospital products, services, patient diagnoses, patient day, patient admission, or per insured, or any combination thereof, which is preset at the beginning of the budget year of the hospital and fixed for the entirety of that budget year, except when extenuating and unusual circumstances acceptable to the department warrant renegotiation.

(b) Timely payment to the hospital by the insurer or the insured, or both, of the maximum allowable payment amount, as so negotiated by the insurer or group of insurers.

(c) Acceptance by the hospital of the maximum payment amount as payment in full, which shall include any deductible or coinsurance provided for in the insurer's benefit plan.

(d) Utilization reviews for appropriateness of treatment.

(e) Preadmission screening of nonemergency admissions.

(3) Nothing contained in this section prohibits the inclusion of deductibles, coinsurance, or other cost containment provisions in any health insurance policy.

Section 82. Effective July 1, 1992, sections 407.001, 407.003, 407.025, 407.03, 407.035, 407.04, 407.06, 407.08, 407.09, 407.13, 407.30, 407.32, 407.33, 407.34, 407.52, 407.54, and 407.70, Florida Statutes, section 407.002, Florida Statutes, as amended by chapters 90-348 and 91-221, Laws of Florida, section 407.01, Florida Statutes, as amended by chapters 90-295, 91-49, and 91-221, Laws of Florida, section 407.02, Florida Statutes, as amended by chapters 91-71 and 91-221, Laws of Florida, sections 407.05, 407.10, and 407.53, Florida Statutes, as amended by chapter 91-221, Laws of Florida, section 407.07, Florida Statutes, as amended by chapters 91-108 and 91-221, Laws of Florida, section 407.11, Florida Statutes, as amended by chapter 90-295, Laws of Florida, sections 407.12 and 407.23, Florida Statutes, as amended by chapter 90-344, Laws of Florida, section 407.31, Florida Statutes, as amended by chapters 90-344, 90-348, and 91-71, Laws of Florida, section 407.50, Florida Statutes, as amended by chapters 91-221 and 91-282, Laws of Florida, section 407.51, Florida Statutes, as amended by chapter 91-282, Laws of Florida, and section 3 of chapter 91-126, appearing as section 407.80, Florida Statutes, are hereby repealed.

Section 83. All powers, duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Health Care Cost Containment Board are transferred by a type three transfer, as defined in s. 20.06(3), Florida Statutes, to the Agency for Health Care Administration, as created by this act. Such transfer shall take effect July 1, 1992. Any rules promulgated by or for the board are included in such transfer.

Section 84. (1) In editing manuscript for the next edition of the official Florida Statutes, the Statutory Revision Division of the Joint Legislative Management Committee shall change "Health Care Cost Containment Board" or "HCCB" to "Agency for Health Care Administration," and "board" to "agency," wherever the terms appear in ss. 112.153, 212.055, 394.4788, 395.1015, 408.001(2), 409.2673, 409.9113, and 440.13, Florida Statutes.

(2) This section shall take effect July 1, 1992.

Section 85. Effective July 1, 1992, subsections (1) and (10) of section 154.304, Florida Statutes, are amended to read:

154.304 Definitions.—For the purpose of this act:

(1) "Board" means the Health Care ~~Cost Containment~~ Board as established in chapter *408* ~~395~~.

(10) "Regional referral hospital" means any hospital which is eligible to receive reimbursement under the provision of this act because it has met its charity care obligation and it meets the definition of teaching hospital as defined in s. *408.07* ~~407.002~~.

Section 86. Effective July 1, 1992, paragraph (q) of subsection (4) of section 215.20, Florida Statutes, is amended, and paragraph (kk) is added to said subsection, to read:

215.20 Certain income and certain trust funds to contribute to the General Revenue Fund.—

(4) The income of a revenue nature deposited in the following described trust funds, by whatever name designated, is that from which the deductions authorized by subsection (3) shall be made:

(q) The Health Care Cost Containment Trust Fund established pursuant to s. *408.20* ~~407.04~~.

(kk) The Health Care Trust Fund established pursuant to s. 455.2205.

Section 87. Effective July 1, 1992, paragraph (a) of subsection (7) of section 240.4075, Florida Statutes, is amended to read:

240.4075 Nursing Student Loan Forgiveness Program.—

(7)(a) Funds contained in the Nursing Student Loan Forgiveness Trust Fund which are to be used by those nurses employed by hospitals and nursing homes must be matched on a dollar-for-dollar basis by contributions from the employing institutions except that this provision shall not apply to state-operated medical and health care facilities, county public health units, federally sponsored community health centers, or teaching hospitals as defined in s. *408.07* ~~407.002(27)~~.

All appropriated funds deposited into the trust fund shall be invested pursuant to s. 18.125. Interest income accruing to that portion of the trust fund not matched shall increase the total funds available for loan forgiveness. Pledged contributions shall not be eligible for matching prior to the actual collection of the total private contribution for the year.

Section 88. Effective July 1, 1992, subsection (9) of section 381.698, Florida Statutes, is amended to read:

381.698 Blood transfusions.—

(9) LIMITATION.—Nothing in this section shall require hospitals to file reports or make disclosures beyond those required by s. *408.061* ~~407.05~~.

Section 89. Effective July 1, 1992, subsection (3) of section 383.336, Florida Statutes, is amended to read:

383.336 Provider hospitals; practice parameters; peer review board.—

(3) Each provider hospital shall establish a peer review board consisting of obstetric physicians and other persons having credentials within that hospital to perform deliveries by caesarean section. This board shall review, at least monthly, every caesarean section performed since the previous review and paid for by state funds or federal funds administered by the state. The board shall conduct its review pursuant to the parameters specified in the rule adopted by the Department of Health and Rehabilitative Services pursuant to this act and shall pay particular attention to electronic fetal monitoring records, umbilical cord gas results, and Apgar scores in determining if the caesarean section delivery was appropriate. The results of this periodic review must be shared with the attending physician. These reviews and the resultant reports must be considered a part of the hospital's quality assurance monitoring and peer review process established pursuant to *s.* ~~ss. 407.12 and~~ 395.0115.

Section 90. Effective July 1, 1992, subsections (3) and (4) of section 394.4787, Florida Statutes, are amended to read:

394.4787 Definitions.—As used in this act:

(3) "Department" means the *Agency for Health Care Administration* ~~Department of Health and Rehabilitative Services~~.

~~(4) "HCCB" means the Health Care Cost Containment Board.~~

Section 91. Effective July 1, 1992, subsection (6) of section 395.01465, Florida Statutes, is amended to read:

395.01465 Emergency care hospitals.—

(6) The *Agency for Health Care Administration* ~~Health Care Cost Containment Board~~ shall treat emergency care hospitals in the same manner as hospitals defined in s. *408.07* ~~407.002(24)~~.

Section 92. Effective July 1, 1992, paragraph (a) of subsection (2), paragraphs (b) and (c) of subsection (7), and subsection (10) of section 395.034, Florida Statutes, are amended to read:

395.034 Reimbursement of state-sponsored trauma centers.—

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

(a) "Board" means the Health Care ~~Cost Containment~~ Board.

(7)

(b) The data base to be used for this calculation shall be the detailed patient discharge data of the most recently completed calendar year for which the Health Care ~~Cost Containment~~ Board possesses data. Out-of-state days that are included in the data base shall be allocated to the service area where the treating hospital is located.

(c) Fifty percent of the funds allocated to those service areas which had one or more trauma centers as of December 1, 1989, shall be distributed to those verified trauma centers proportionately based on volume and acuity of uncompensated trauma care provided during the most recently completed calendar year for which the Health Care ~~Cost Containment~~ Board possesses data in a lump sum payment on October 1, 1990. These trauma centers shall submit claims pursuant to subsection (4) in order to justify this funding. By June 30, 1991, any trauma center which fails to submit claims for reimbursement equal to or greater than the amount the trauma center received under the initial allocation shall return any unearned funds to the department for distribution pursuant to paragraph (e). Once this 50-percent lump sum is depleted, a trauma center will be reimbursed from the remaining 50 percent of the service area's original allocation.

(10) Funds distributed to a hospital pursuant to this section shall not be considered as net revenues of such hospital in determining whether an excess has occurred pursuant to s. *408.08* ~~407.51~~.

Section 93. Effective July 1, 1992, paragraphs (a) and (d) of subsection (1) and subsection (2) of section 395.101, Florida Statutes, are amended to read:

395.101 Annual assessments on net operating revenues to fund public medical assistance; administrative fines for failure to pay assessments when due.—

(1) For the purposes of this section, the term:

(a) "Department" means the *Agency for Health Care Administration* ~~Department of Health and Rehabilitative Services~~.

~~(d) "Health Care Cost Containment Board" or "board" means the Health Care Cost Containment Board created by s. 407.01.~~

(2) There is hereby imposed upon each hospital an assessment in an amount equal to 1 percent of the annual net operating revenue of the hospital for its first fiscal year ending subsequent to May 18, 1984, and in an amount equal to 1.5 percent of such revenue for each hospital fiscal year thereafter, such revenue to be determined by the *department* ~~board~~, based on the actual experience of the hospital as reported to the *department* ~~board~~. Within 6 months after the end of each hospital fiscal year, the *department* ~~board~~ shall certify ~~to the department~~ the amount of the assessment for each hospital. The assessment shall be payable to and collected by the department in equal quarterly amounts, on or before the first day of each calendar quarter, beginning with the first full calendar quarter that occurs after the *department* ~~board~~ certifies ~~to the department~~ the amount of the assessment for each hospital. All moneys collected pursuant to this subsection shall be deposited into the Public Medical Assistance Trust Fund.

Section 94. Effective July 1, 1992, subsection (5) of section 395.1015, Florida Statutes, is amended to read:

395.1015 Annual assessment on health care entities.—

(5) The board may use its authority under ss. *408.061, 408.062, 408.08, and 408.15* ~~407.02, 407.06, and 407.07~~ in administering this section.

Section 95. Effective July 1, 1992, section 395.61, Florida Statutes, is amended to read:

395.61 Legislative intent.—The Legislature finds and declares that statutory teaching hospitals, as defined in s. *408.07* ~~407.002(27)~~, provide the majority of graduate medical education in this state and that, without the contributions to undergraduate and graduate medical education by statutory teaching hospitals, this state will lack the supply of medical manpower necessary to meet the health care needs of the state in coming years, and, despite the enactment of various measures by the Legislature, there remains a deficit in the funds available to provide access to acute care for many residents of this state. The Legislature further finds that if properly funded, the statutory teaching hospitals are uniquely situated to contribute to both undergraduate and graduate medical education and to tertiary health care services, in that these teaching hospitals are geographically situated to make such contributions in the various regions of the state and also have the staff necessary to render such care. The Legislature finds that although the statutory teaching hospitals together maintain less than 10 percent of hospital beds in this state, they provide more than 90 percent of the state's graduate medical education and constitute a safety net for the most complex health care services for all Floridians, and while the state's statutory teaching hospitals are sustaining a disproportionate share of the cost of medical education and related patient care, the increasingly competitive health care environment has made it impossible for these hospitals to fund such costs. Therefore, it is the Legislature's intent to assure the survival of the state's statutory teaching hospitals and thus protect the health of a significant portion of the public.

Section 96. Effective July 1, 1992, the introductory paragraph, and paragraphs (a) and (b) of subsection (3), of section 395.63, Florida Statutes, are amended to read:

395.63 Distribution of funds from the Medical Education and Tertiary Care Trust Fund.—On or before September 15 of each year, the *Agency for Health Care Administration* ~~Health Care Cost Containment Board~~, in consultation with the Board of Regents, shall calculate an allocation fraction to be used for distributing funds from the Medical Education and Tertiary Care Trust Fund. At the end of each quarter of the state fiscal year, the Board of Regents shall distribute from the fund to each statutory teaching hospital, as defined in s. *408.07* ~~407.002(27)~~, an amount determined by multiplying one-fourth of the funds appropriated to the Medical Education and Tertiary Care Trust Fund times such hospital's allocation fraction. The allocation fraction for each such hospital shall be determined by the sum of three primary factors, divided by three. The primary factors are:

(3) A service index which comprises three components:

(a) The Health Care ~~Cost Containment~~ Board Service Index, computed by applying the standard Service Inventory Scores established by the Health Care ~~Cost Containment~~ Board to services offered by the given hospital, as reported on the Health Care ~~Cost Containment~~ Board Worksheet A-2 for the last fiscal year reported to the board before the date on which the allocation fraction is calculated. The numerical value of this factor is the fraction that the given hospital represents of the total Health Care ~~Cost Containment~~ Board Service Index values, where the total is computed for all state statutory teaching hospitals.

(b) A volume-weighted service index, computed by applying the standard Service Inventory Scores established by the Health Care ~~Cost Containment~~ Board to the volume of each service, expressed in terms of the standard units of measure reported on the Health Care ~~Cost Containment~~ Board Worksheet A-2 for the last fiscal year reported to the board before the date on which the allocation factor is calculated. The numerical value of this factor is the fraction that the given hospital represents of the total volume-weighted service index values, where the total is computed for all state statutory teaching hospitals.

Section 97. Effective July 1, 1992, subsection (2) of section 400.609, Florida Statutes, is amended to read:

400.609 Components of hospice programs of care.—Each hospice program shall consist of three components or modes of care which afford the terminally ill individual and the family of the terminally ill individual a range of service delivery which can be tailored to specific needs and preferences of the patient and family at any point in time. These three components are:

(2) INPATIENT HOSPICE CARE.—The inpatient component of care is an adjunct to hospice home care and shall primarily be used only for short-term stays. The facility or rooms within a facility used for the hospice inpatient component of care shall be arranged, administered, and managed in such a manner to provide privacy, dignity, comfort, warmth, and safety for the terminally ill patient and the family. Every possible accommodation shall be made to create as homelike an atmosphere as practicable. To facilitate overnight family visitation within the facility, rooms shall be limited to no more than double occupancy; and, whenever possible, both occupants shall be hospice patients. There shall be a continuum of care and a continuity of caregivers between the hospice home program and the inpatient aspect of care to the extent practicable and compatible with the preferences of the patient and his family. Fees charged for inpatient hospice care, whether provided directly by the hospice or through contract, shall be made available upon request to the *Agency for Health Care Administration* ~~Health Care Cost Containment Board created in s. 407.01~~. The hours for daily operation and the location of the place where the services are provided shall be determined, to the extent practicable, by the accessibility of such services to the patients and families served by the hospice program.

Section 98. Effective July 1, 1992, paragraph (e) of subsection (1) of section 400.702, Florida Statutes, is amended to read:

400.702 Development of intermediate care facilities.—

(1) The Department of Health and Rehabilitative Services is directed to issue a request for proposals, pursuant to the provisions of chapter 287, for a pilot program of intermediate-level care facilities. The development of intermediate-level care facilities under this pilot program shall be limited to four projects in geographic locations distributed in the south, north, and central part of the state and shall not exceed a total of 120 beds in each location. None of the projects may accept residents prior to July 1, 1990. The intermediate-level care facilities shall:

(e) Be licensed as a nursing home pursuant to *part I and ss. 408.061, 408.08, and 408.20* ~~ss. 400.011-400.346~~, except that the department is given the authority to waive any requirement that unnecessarily restricts the development of intermediate care facilities, provided such waiver does not contravene federal or state law. The department shall, however, ensure that the health and safety of residents of intermediate care facilities are adequately protected.

Section 99. Effective July 1, 1992, the introductory paragraph of subsection (1) of section 409.9113, Florida Statutes, is amended to read:

409.9113 Disproportionate share program for teaching hospitals.—In addition to the payments made under ss. 409.911 and 409.9112, the Department of Health and Rehabilitative Services shall make disproportionate share payments to statutorily defined teaching hospitals for their increased costs associated with medical education programs and for tertiary health care services provided to the indigent. This system of payments shall conform with federal requirements and shall distribute funds in each fiscal year for which an appropriation is made by making quarterly Medicaid payments. Notwithstanding the provisions of s. 409.915, counties are exempt from contributing toward the cost of this special reimbursement for hospitals serving a disproportionate share of low-income patients.

(1) On or before September 15 of each year, the *Agency for Health Care Administration* ~~Health Care Cost Containment Board~~ shall calculate an allocation fraction to be used for distributing funds to state statutory teaching hospitals. Subsequent to the end of each quarter of the state fiscal year, the department shall distribute to each statutory teaching hospital, as defined in s. *408.07* ~~407.002(27)~~, an amount determined by multiplying one-fourth of the funds appropriated for this purpose by the Legislature times such hospital's allocation fraction. The allocation fraction for each such hospital shall be determined by the sum of three primary factors, divided by three. The primary factors are:

Section 100. Effective July 1, 1992, paragraph (b) of subsection (1) of section 409.9114, Florida Statutes, is amended to read:

409.9114 Extraordinary disproportionate share program.—

(1) Subject to any limitations established within the general appropriations act or established pursuant to chapter 216, the department is authorized to make a special extraordinary contribution to the care of indigent persons in this state. In order to be eligible to receive these funds, a hospital must:

(b) Be classified as a teaching hospital as defined in s. *408.07* ~~407.002(27)~~; or

Section 101. Effective July 1, 1992, paragraph (c) of subsection (4) of section 440.13, Florida Statutes, is amended to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

(4)

(c) No later than August 1, 1990, all hospitals shall submit to the division the price list masters which were in effect on January 1, 1990 The division shall review a random sample of hospital charges received in order to determine at least 250 of the most frequently incurred hospital charges for treatment of injured employees pursuant to this chapter. The division shall prepare arrays of hospital charges from the price list masters for at least 250 of the most frequently incurred charges and shall identify the values for the 50th percentile. The division shall submit the arrays to the three-member panel no later than October 1, 1990 The three-member panel shall review the arrays within 30 days of receipt and shall approve a schedule of maximum reimbursement allowances based on 80 percent of the 50th percentile which will be effective January 1, 1991. Effective January 1, 1991, if the usual and customary charge is equal to or less than 80 percent of the 50th percentile, the reimbursement shall be at 80 percent of the 50th percentile or 80 percent of the usual and customary charges, whichever is less. If the usual and customary charge is greater than the amount represented by 80 percent of the 50th percentile, charges shall be reimbursed at 80 percent of the 50th percentile or 65 percent of the usual and customary charge, whichever is greater. Reimbursement of a compensable hospital charge not itemized in the schedule of maximum reimbursement allowances shall be at 70 percent of the hospital's usual and customary charge.

Notwithstanding the above, compensable charges for trauma centers, as defined in s. 395.031, and for emergency services and care, as defined in s. 395.0142, shall be reimbursed at 80 percent of the usual and customary charge from July 1, 1990, through December 31, 1991. Effective January 1, 1992, the schedule of maximum reimbursement allowances shall include at least 250 of the most frequently incurred charges for hospitals, emergency services and care, and trauma centers. Effective January 1, 1992, reimbursement of compensable charges for emergency services and care and trauma centers not itemized in the schedule of maximum reimbursement allowances shall be at 70 percent of the usual and customary charge. Until the three-member panel approves a schedule of maximum reimbursement allowances and it becomes effective, all medically necessary compensable hospital charges shall be reimbursed at 75 percent of their usual and customary charge. The division shall develop a data base

of at least 250 of the most frequently incurred charges for hospitals, emergency services and care, and trauma centers contained in the schedule of maximum reimbursement allowances. Beginning July 1, 1991, and on an annual basis thereafter, the division shall develop arrays of at least 250 of the most frequently incurred charges contained in the schedule of maximum reimbursement allowances from charge data entered into the division's data base for the previous year, which shall include charge data for hospitals, trauma centers, and emergency services and care. The division shall enter the charge data into its data base of medical charge data to ensure accurate arrays. The three-member panel shall annually review the data arrays and shall approve a schedule of maximum reimbursement allowances based on a maximum of 80 percent of the 50th percentile which shall not reflect an increase greater than the aggregate maximum allowable rate of increase as defined in s. *408.07* ~~407.002(17)~~, and which shall become effective the subsequent January 1. The three-member panel may develop two or more schedules of maximum reimbursement allowances based on groupings of hospitals providing like services. However, the maximum reimbursement allowances contained in the schedule of maximum reimbursement allowances for each group shall not exceed 80 percent of the 50th percentile of that group. Actual reimbursement of charges shall be as otherwise provided in this section.

Section 102. Effective July 1, 1992, subsection (1) of section 766.112, Florida Statutes, is amended to read:

766.112 Comparative fault.—

(1) Notwithstanding anything in law to the contrary, in an action for damages for personal injury or wrongful death arising out of medical malpractice, whether in contract or tort, when an apportionment of damages pursuant to this section is attributed to a teaching hospital as defined in s *408 07* ~~407.002(27)~~, the court shall enter judgment against the teaching hospital on the basis of such party's percentage of fault and not on the basis of the doctrine of joint and several liability.

Section 103. Effective July 1, 1992, paragraph (a) of subsection (4), paragraph (c) of subsection (6), and paragraph (c) of subsection (9) of section 766.314, Florida Statutes, are amended to read:

766.314 Assessments; plan of operation.—

(4) The following persons and entities shall pay into the association an initial assessment in accordance with the plan of operation:

(a) On or before October 1, 1988, each hospital licensed under chapter 395 shall pay an initial assessment of $50 per infant delivered in the hospital during the prior calendar year, as reported to the *Agency for Health Care Administration* ~~Health Care Cost Containment Board~~; provided, however, that a hospital owned or operated by the state or a county, special taxing district, or other political subdivision of the state shall not be required to pay the initial assessment or any assessment required by subsection (5). The term "infant delivered" includes live births and not stillbirths, but the term does not include infants delivered by employees or agents of the Board of Regents or those born in a teaching hospital as defined in s. *408.07* ~~407.002(27)~~. The initial assessment and any assessment imposed pursuant to subsection (5) may not include any infant born to a charity patient (as defined by rule of the *Agency for Health Care Administration* ~~Health Care Cost Containment Board~~) or born to a patient for whom the hospital receives Medicaid reimbursement, if the sum of the annual charges for charity patients plus the annual Medicaid contractuals of the hospital exceeds 10 percent of the total annual gross operating revenues of the hospital. The hospital is responsible for documenting, to the satisfaction of the association, the exclusion of any birth from the computation of the assessment. Upon demonstration of financial need by a hospital, the association may provide for installment payments of assessments.

(6)

(c) The *Agency for Health Care Administration* ~~Department of Health and Rehabilitative Services~~ shall, upon notification by the association that an assessment has not been timely paid, enforce collection of such assessments required to be paid by hospitals pursuant to ss. 766.301-766.316. Failure of a hospital to pay such assessment is grounds for disciplinary action pursuant to s. 395.018 notwithstanding any provision of law to the contrary.

(9)

(c) In the event the total of all current estimates equals 80 percent of the funds on hand and the funds that will become available to the association within the next 12 months from all sources described in subsections (4) and (5) and paragraph (7)(a), the association shall not accept any new claims without express authority from the Legislature. Nothing herein shall preclude the association from accepting any claim if the injury occurred 18 months or more prior to the effective date of this suspension. Within 30 days of the effective date of this suspension, the association shall notify the Governor, the Speaker of the House of Representatives, the President of the Senate, the Department of Insurance, *the Agency for Health Care Administration,* the Department of Health and Rehabilitative Services, and the Department of Professional Regulation of this suspension.

Section 104. Effective July 1, 1992, subsection (6) of section 768.81, Florida Statutes, is amended to read:

768.81 Comparative fault.—

(6) Notwithstanding anything in law to the contrary, in an action for damages for personal injury or wrongful death arising out of medical malpractice, whether in contract or tort, when an apportionment of damages pursuant to this section is attributed to a teaching hospital as defined in s. *408.07* ~~407.002(27)~~, the court shall enter judgment against the teaching hospital on the basis of such party's percentage of fault and not on the basis of the doctrine of joint and several liability.

Section 105. Effective July 1, 1992, subsection (8) of section 945.603, Florida Statutes, is amended to read:

945.603 Powers of authority.—The purpose of the authority is to assist in the delivery of health care services for inmates in the Department of Corrections, to advise the department on the professional conduct of primary, convalescent, dental, and mental health care and the management of costs consistent with quality care, and to advise the Governor and the Legislature on the status of the department's health care delivery system. For this purpose, the authority may:

(8) Coordinate the development of prospective payment arrangements as described in s. *408.50* ~~407.13~~ when appropriate for the acquisition of inmate health care services

Section 106. Effective July 1, 1992, section 408.601, Florida Statutes, is created to read:

408.601 Healthy Communities, Healthy People Plan.—

(1) The Department of Health and Rehabilitative Services shall develop a biennial Healthy Communities, Healthy People Plan that shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31 of each even-numbered year.

(2) The plan must include data on the health status of the state's population, health status objectives and outcome measures, and public health strategies, including health promotion strategies. The plan must also provide an overall conceptual framework for the state's health promotion programs that considers available information on mortality, morbidity, disability, and behavioral risk factors associated with chronic diseases and conditions; proposals for public and private health insurance reforms needed to fully implement the state's health promotion initiative; the best health promotion practices of the county public health units and other states; and proposed educational reforms needed to promote healthy behaviors among the state's school-age children.

(3) The initial plan, which shall be submitted by December 31, 1992, must report on the progress of and the resources needed to fully implement the Healthy Communities, Healthy People Program.

Section 107. Effective July 1, 1992, section 408.602, Florida Statutes, is created to read:

408.602 Short title.—Sections 408.601-408.604 may be cited as the "Healthy Communities, Healthy People Act."

Section 108. Effective July 1, 1992, section 408.603, Florida Statutes, is created to read:

408.603 Definitions.—As used in sections 408.601-408.604, the term:

(1) "Department" means the Department of Health and Rehabilitative Services.

(2) "Primary prevention" means interventions directed toward healthy populations with a focus on avoiding disease prior to its occurrence.

(3) "Secondary prevention" means interventions designed to promote the early detection and treatment of diseases and to reduce the risks experienced by at-risk populations.

(4) "Tertiary prevention" means interventions directed at rehabilitating and minimizing the effects of disease in a chronically ill population.

Section 109. Effective July 1, 1992, section 408.604, Florida Statutes, is created to read:

408.604 Healthy Communities, Healthy People Program.—

(1) The department shall develop and implement the Healthy Communities, Healthy People Program, a comprehensive and community-based health promotion and wellness program. The program shall be designed to reduce major behavioral risk factors associated with chronic diseases, including those chronic diseases identified in chapter 385, and injuries and accidents, by enhancing the knowledge, skills, motivation, and opportunities for individuals, organizations, and communities to develop and maintain healthy lifestyles.

(2) The department shall consolidate and use existing resources, programs, and program data to develop this program, to avoid duplication of efforts or services. Such resources, programs, and program data shall include, but not be limited to, s. 381.103, the comprehensive health improvement project under s. 385.103, and the comprehensive public health plan, public information, and statewide injury control plan under s. 381.0011(3), (8), and (12).

(3) The program shall include:

(a) Biennial statewide assessments of specific, causal, and behavioral risk factors that affect the health of residents of the state.

(b) The development of community-based health promotion programs, incorporating health promotion and preventive care practices supported in scientific and medical literature.

(c) The development and implementation of statewide age-specific, disease-specific, and community-specific health promotion and preventive care strategies using primary, secondary, and tertiary prevention interventions.

(d) The development and implementation of models for testing statewide health promotion programs that address major risk factors in the state and motivate individuals to permanently adopt healthy behaviors, enhance self-esteem, and increase social and personal responsibilities.

(e) The enhancement of the State Health Office's special initiatives to develop the mental, emotional, and social competencies of children and adolescents, using innovative school-based and neighborhood-based approaches to build self-esteem and prevent later problems such as drug abuse, poor school performance, criminal behavior, and other behavioral problems.

(f) The development and implementation of a statewide health education program to educate the public and communities about health risks and assist them in modifying unhealthy behaviors.

(g) The establishment of a comprehensive program to inform the public and communities about the prevalence of chronic diseases in the state; known and potential risks, including social and behavioral risks; and behavior changes that would reduce risks.

(h) The development and implementation of a program for enhancing self-help organizations and volunteer programs that enlist the support of volunteers in health promotion activities, particularly persons who serve as role models because of their public visibility or because of their recovery from or skill in coping with disease.

(i) The development of policies that encourage the use of alternative community delivery sites for health promotion and preventive care programs and promote the use of neighborhood delivery sites that are close to work, home, and school.

Section 110. Effective July 1, 1992, paragraphs (d) and (e) are added to subsection (4) of section 20.19, Florida Statutes, to read:

20.19 Department of Health and Rehabilitative Services.—There is created a Department of Health and Rehabilitative Services.

(4) DEPUTY SECRETARY FOR HEALTH.—The secretary shall appoint a Deputy Secretary for Health who shall be the State Health Officer and shall serve at the pleasure of, and be directly responsible to, the secretary. The Deputy Secretary for Health shall be responsible for all programs, activities, and functions of the department relating to public health matters, including environmental health. The State Health Officer must be a physician licensed under chapter 458 or chapter 459 who has specialized training or experience in public health programming and administration.

(d) The department may establish within existing resources an Office of Health Promotion and Wellness to be directed by the Assistant Health Officer for Health Promotion and Wellness, who shall report to the State Health Officer.

(e) The department may establish with existing resources the Office of Public Health Policy and Research to be supervised by the Assistant Health Officer for Public Health Policy and Research, who shall report directly to the State Health Officer. The Assistant Health Officer shall direct all public health information systems, public health planning, public health research, and public health policy analysis activities administered by the State Health Office. The office shall seek constructive solutions to statewide public health problems and encourage the efficient and effective delivery of public health services. It shall assist in forming public health policies by coordinating, sponsoring, and conducting research on major public health issues; developing, implementing, and managing public health information systems, including the vital statistics system; and conducting analyses of public health policy issues, including manpower, cost, health status, environmental, family health, disease control, and health promotion issues. The office shall assist in developing model public health programs, including health promotion programs; secure grant funds to support the testing of model and innovative public health programs; and evaluate public health program impacts and client outcomes. The office shall produce periodic public health reports and comprehensive public health plans.

(f) On or before December 31, 1992, the department shall submit to the Legislature a plan for the establishment of the Office of Health Promotion and Wellness and the Office of Public Health Policy and Research.

Section 111. (1) Florida Health Services Corps.—

(a) To encourage qualified medical professionals to practice in underserved locations where there are shortages of such personnel, the Legislature establishes the Florida Health Services Corps.

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

1. "Department" means the Department of Health and Rehabilitative Services.

2. "Florida Health Services Corps" means a program authorized by this section which:

a. Offers scholarships to medical, chiropractic, dental, and nursing students in return for service in a public health care program.

b. Offers membership on a voluntary basis to physicians and other health care personnel employed by or under contract with the department who provide compensated or uncompensated care.

3. "Medically underserved area" means:

a. A geographic area, a special population, or a facility that has a shortage of health professionals as defined by federal regulations;

b. A county public health unit, community health center, or migrant health center; or

c. A geographic area or facility designated by rule by the department that has a shortage of health care practitioners who serve Medicaid and other low-income patients.

4. "Medically indigent person" means a person who is eligible for Medicaid under state law, a migrant, a Supplemental Security Income beneficiary, a food stamp recipient, and any person the department determines is eligible for departmental health care services based on an inability to pay for some or all their care.

5. "Public health program" means a county public health unit, a children's medical services program, a federally funded community health center, a federally funded migrant health center, or other publicly funded health care program designated by the department.

(c) The Florida Health Services Corps shall be developed by the State Health Office, in conjunction with the Department of Education and the State University System. The State Health Officer shall be the director of the Florida Health Services Corps.

(d) Corps members shall be supervised by the State Health Officer for the purpose of practice guidelines, continuing education, and other matters pertaining to professional conduct.

(e) The department may award scholarships to students studying medicine, chiropractic, nursing, or dentistry.

1. The program shall require a student who receives a scholarship to accept an assignment in a public health care program or work in a specific community located in a medically underserved area upon graduation. The department shall determine assignments. If a practitioner is assigned to a medically underserved area, the practitioner must treat Medicaid patients and other patients with low incomes.

2. An eligible student must pursue a full-time course of study in:

a. Allopathic or osteopathic medicine, including physician assistants;

b. Dentistry;

c. Nursing, including registered nurses, nurse midwives and other nurse practitioners; or

d. Chiropractic medicine.

3. In selecting students to participate in the scholarship program, priority shall be given to students who indicate a desire to practice a primary care specialty in a medically underserved area after their obligation is completed and who indicate an intent to practice medical specialties for which the department has a need.

4. Scholarship assistance shall consist of reimbursement for tuition and other educational costs such as books, supplies, equipment, transportation, and monthly living expense stipends. The department shall pay the same amount for living expense stipends as is paid by the National Health Services Corps. Each monthly living expense stipend shall be for a 12-month period beginning with the first month of each school year in which the student is a participant. The department may reimburse a participant for books, supplies, and equipment based on average costs incurred by participants for these items. The department shall prescribe, by rule, eligible expenses for reimbursement and allowable amounts.

5. For a medical student, enrollment in the corps may begin in the second year of medical school or in any year thereafter. For a nursing student or other student, enrollment may occur in any year.

6. For a student who receives scholarship assistance, participation in the corps after graduation shall be 1 year for each school year of financial assistance, up to a maximum of 3 years. The period of obligated service shall begin when the participant is assigned by the department to a public health program or to a medically underserved area.

(g) The financial penalty for noncompliance with participation requirements shall be determined in the same manner as in the National Health Services Corps scholarship program. In addition, noncompliance with participation requirements shall also result in ineligibility for professional licensure under chapter 458, chapter 459, chapter 460, chapter 464, chapter 465, or chapter 466, Florida Statutes. For a participant who is unable to participate for reasons beyond his control, such as disability, the penalty is the actual amount of financial assistance provided to the participant. Financial penalties shall be deposited in the Florida Health Services Corps Trust Fund and shall be used to provide additional scholarship and financial assistance.

(h) Membership in the corps may be extended to any licensed physician or other health care practitioner employed by, or under contract with, the department who provides compensated or uncompensated care to medically indigent persons. Participation in the corps is voluntary and subject to the supervision of the department for the purpose of practice guidelines, continuing education, and other matters pertaining to professional conduct.

(i) A Florida Health Services Corps member is an agent of the state under section 768.28(9), Florida Statutes, while providing compensated or uncompensated services to medically indigent persons who are referred by the department.

(j) Funds appropriated under this section shall be deposited in the Florida Health Services Corps Trust Fund, which shall be administered by the State Health Office.

(k) The department shall adopt rules to implement the Florida Health Services Corps. The rules must require a corps member to provide care to a specific number of charity and Medicaid patients, require charity and Medicaid patients to comprise a minimum proportion of the patients of corps members, or require a corps member to provide a minimum amount of care, measured in dollars, to charity and Medicaid patients. If a dollar measurement is used, the calculation of a dollar value for the care delivered must be based on Medicaid reimbursement rates. The rules must also quantify penalties for noncompliance.

(2) This section shall take effect July 1, 1992.

Section 112. Effective July 1, 1992, subsection (9) of section 768.28, Florida Statutes, is amended to read:

768.28 Waiver of sovereign immunity in tort actions; recovery limits; limitation on attorney fees; statute of limitations; exclusions.—

(9)(a) No officer, employee, or agent of the state or of any of its subdivisions shall be held personally liable in tort or named as a party defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of his employment or function, unless such officer, employee, or agent acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. However, such officer, employee, or agent shall be considered an adverse witness in a tort action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of his employment or function. The exclusive remedy for injury or damage suffered as a result of an act, event, or omission of an officer, employee, or agent of the state or any of its subdivisions or constitutional officers shall be by action against the governmental entity, or the head of such entity in his official capacity, or the constitutional officer of which the officer, employee, or agent is an employee, unless such act or omission was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. The state or its subdivisions shall not be liable in tort for the acts or omissions of an officer, employee, or agent committed while acting outside the course and scope of his employment or committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

(b) As used in this subsection, the term:

1. "Employee" includes any volunteer firefighter.

2. "Officer, employee, or agent" includes, but is not limited to, *any member of the Florida Health Services Corps, and* any public defender or his employee or agent, including, among others, an assistant public defender and an investigator.

(c) For purposes of the waiver of sovereign immunity only, a member of the Florida National Guard is not acting within the scope of state employment when performing duty under the provisions of Title 10 or Title 32 of the United States Code or other applicable federal law; and neither the state nor any individual may be named in any action under this chapter arising from the performance of such federal duty.

Section 113. Effective July 1, 1992, for the purpose of incorporating the amendment to section 768.28, Florida Statutes, in references thereto, subsection (1) of section 766.203, Florida Statutes, is reenacted to read:

766.203 Presuit investigation of medical negligence claims and defenses by prospective parties.—

(1) Presuit investigation of medical negligence claims and defenses pursuant to this section and ss. 766.204-766.206 shall apply to all medical negligence, including dental negligence, claims and defenses. This shall include:

(a) Rights of action under s. 768.19 and defenses thereto.

(b) Rights of action involving the state or its agencies or subdivisions, or the officers, employees, or agents thereof, pursuant to s. 768.28 and defenses thereto.

Section 114. Effective July 1, 1992, for the purpose of incorporating the amendment to section 768.28, Florida Statutes, in references thereto, subsection (1) of section 766.207, Florida Statutes, is reenacted to read:

766.207 Voluntary binding arbitration of medical negligence claims.—

(1) Voluntary binding arbitration pursuant to this section and ss. 766.208-766.212 shall not apply to rights of action involving the state or its agencies or subdivisions, or the officers, employees, or agents thereof, pursuant to s. 768.28.

Section 115. (1) Employees of state contractors; access to hospitalization and medical insurance benefits.—

(a) As used in this section:

1. "Agency" means any state officer, department, division, board, bureau, commission, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any state agency.

2. "Contractor" means any person or entity that enters into a contract with an agency to provide services or to furnish materials of any kind, but does not include a person or entity that enters into a provider agreement with the Department of Health and Rehabilitative Services to provide services under the Medicaid program.

3. "Subcontractor" means any person or entity who is in privity with a contractor to provide services or to furnish materials of any kind, either to the contractor or to the agency.

(b) Effective July 1, 1994, every contractor, and each subcontractor of every contractor, shall ensure that each employee who works on a competitively bid state agency contract valued in excess of $100,000 shall have access to hospitalization and medical insurance benefits during his employment on such agency contracts. The contractor's and subcontractor's obligation to ensure employee access to hospitalization and medical insurance benefits shall be fulfilled through the employer's payment of wages or contributions to employee hospitalization and medical insurance benefit plans, or any combination thereof. The monetary value of the hospitalization and medical insurance benefits provided to the employee by the employer shall be based on hospitalization and medical insurance coverage for the employee, the employee's spouse and legally dependent children.

(c) Before signing the contract as described in subsection (2), the contractor shall provide the agency with sufficient written documentation to demonstrate that the provisions of this section have been satisfied by the contractor and the subcontractors, if any. The agency shall examine the written documentation to ascertain that each employee who will work on the contract has access to hospitalization and medical insurance benefits. If the agency finds that the contractor or any subcontractor under the contractor has not ensured employees' access to hospitalization and medical insurance benefits, the agency shall notify the contractor in writing that the provisions of this section have not been met and shall provide sufficient detail to enable the contractor to take remedial action. A contractor or any subcontractor who has been notified by an agency that the provisions of this section have not been met has 15 days from the date the agency provided written notice to ensure access to hospitalization and medical insurance benefits for each employee who will work on the contract and to provide written documentation of the remedial action to the agency. No later than 10 days after receiving written documentation from the contractor, the agency shall examine the written documentation pertaining to the contractor's remedial action to determine if the provisions of this section have been met. If the agency finds that the contractor still has not ensured access to hospitalization and medical insurance benefits for each employee who will work on the contract, the agency shall award the contract to another contractor who has complied with the provisions of this section.

(d) Each agency contract governed by this section shall mandate that the contractor to whom the contract is awarded, and any subcontractor under him:

1. May not pay hospitalization and medical insurance benefits contributions in lieu of the employee's regular wages for the type of work he will perform under the state contract.

2. Shall pay to the state $200 as liquidated damages for each employee of the contractor, or of any subcontractor under him, who performs any portion of the contract work for each calendar day, or portion thereof, if such employee's hospitalization and medical insurance benefit contributions have not been paid by the employer. These liquidated damages shall be deposited in the Public Medical Assistance Trust Fund.

3. Shall post, in a conspicuous place on the site where such contract work is performed:

a. A statement of the employee's right to access to hospitalization and medical insurance benefits.

b. The amount of liquidated damages for any failure to pay such benefits.

c. The name and address of the responsible state official to whom complaints should be given.

4. May not terminate an employee performing work on the contract because of the employee's filing a complaint regarding the payment of hospitalization and medical insurance benefits contributions.

(e) Should it be determined by an agency that a contractor or any subcontractor under him has substantially or repeatedly failed to comply with the provisions of this section, the noncomplying contractor or subcontractor, and the principal owners thereof, shall be prohibited from bidding on or otherwise participating in state contracts for a period of 3 years.

(f) State agencies shall promulgate the necessary rules to administer the provisions of this section and shall establish administrative procedures for the resolution of written complaints pertaining to the underpayment of hospitalization and medical insurance benefits.

(g) This section shall not apply to:

1. Any contract that is in effect on the effective date of this section. This section shall not apply to any contract for which bids have been advertised or proposals have been requested prior to the effective date of this section.

2. Blanket contracts designed to consolidate an indeterminate number of smaller contracts which may be needed over a fixed period of time, provided the overall contract ceiling does not exceed $500,000, and further provided that no individual work order issued under such contract shall exceed $25,000.

3. State agency contracts which are subject to the provisions of the Davis-Bacon Act.

4. Contractors or subcontractors who are subject to the provisions of a collective bargaining agreement which provides access to hospitalization and medical insurance benefits.

(2) This section shall take effect July 1, 1994.

Section 116. (1) *The Statutory Revision Division of the Joint Legislative Management Committee is hereby directed to prepare, with the assistance of the staffs of the appropriate substantive committees of the House of Representatives and the Senate, and in consultation with the Agency for Health Care Administration, the Department of Health and Rehabilitative Services, and the Department of Professional Regulation, appropriate legislation as needed to correct cross references and any other inconsistencies which may be found in the Florida Statutes as a result of the provisions of this act, in order to properly implement the legislative intent expressed herein, for submission to the 1993 Regular Session of the Legislature.*

(2) This section shall take effect July 1, 1992.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, line 2, strike all of said line and insert: An act relating to health care; creating s. 20.42, F.S.; creating the Agency for Health Care Administration; providing for a Director of Health Care Administration; providing organization of the agency; creating ss. 408.0015-408.604, F.S.; creating the Health Care Reform Act of 1992; providing legislative findings and intent; establishing the Health Care Board; providing for membership and duties; providing legislative findings and intent; establishing goals and strategies of the plan; requiring recommendations regarding access to health care services, cost containment, insurance reform, health regulation, and data collection, research, and analysis; providing duties and authority of the Agency for Health Care Administration; providing legislative intent that certain insurance reforms be included in The Florida Health Plan; repealing s. 20.19(5), F.S., relating to the Assistant Secretary for Regulation and Health Facilities of the Department of Health and Rehabilitative Services; transferring powers, duties, and functions to the Agency for Health Care Administration; directing that changes in terminology be made in the Florida Statutes, reflecting transfer to the

Agency for Health Care Administration of authority to regulate organ and tissue procurement organizations, birth centers, abortion clinics, prescribed pediatric extended care centers, intermediate care facilities for the developmentally disabled, crisis stabilization units and residential treatment facilities, hospitals, mental health institutions, ambulatory surgical centers, nursing homes, adult congregate living facilities, home health agencies, adult day care centers, hospices, adult foster homes, clinical laboratories, multiphasic health testing centers, cholesterol screening centers, health maintenance organizations and prepaid health clinics, and authority to regulate the practices of midwifery and clinical laboratory personnel, and certain other regulatory authority; amending s. 381.004, F.S., providing agency duties regarding a prohibition against HIV testing; transferring powers, duties, and functions of the State Center for Health Statistics from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; amending and renumbering s. 381.0401, F.S.; providing for a status report; revising membership on the State Comprehensive Health Information System Advisory Council; renumbering ss. 381.701-381.715, F.S.; placing provisions relating to certificates of need under the agency; amending ss. 381.702, 381.703, 381.715, and 381.7155, F.S.; revising definitions; revising membership of the Statewide Health Council; conforming provisions relating to certificates of need; providing for enforcement of rules; providing a saving clause for certificates of need currently in effect; amending ss. 394.455, 396.032, and 397.021, F.S.; conforming terminology; amending s 395.017, F.S.; providing for disclosure of patient records to the Agency for Health Care Administration; amending s. 395.041, F.S.; providing agency duties relating to internal risk management programs; amending ss. 400.304 and 400.307, F.S., relating to operation of the state and district nursing home and long-term care facility ombudsman councils; amending ss. 400.401, 400.408, and 400.623, F.S.; providing agency responsibilities relating to adult congregate living facilities; amending s. 624.215, F.S.; requiring reports to the agency regarding legislative proposals mandating health insurance coverage; amending s. 20.30, F.S.; deleting the Division of Medical Quality Assurance, and specified boards thereunder, from the Department of Professional Regulation; transferring powers, duties, and functions to the Division of Health Quality Assurance of the Agency for Health Care Administration; directing that changes in terminology be made in the Florida Statutes reflecting transfer to the Agency for Health Care Administration of authority to regulate the practices of acupuncture, medicine, osteopathic medicine, chiropractic, podiatric medicine, optometry, nursing, pharmacy, dentistry, speech-language pathology and audiology, nursing home administration, occupational therapy, respiratory therapy, opticianry, physical therapy, psychology, and clinical social work, marriage and family therapy, and mental health counseling; amending ss. 455.20, 455.201, 455.203, 455.205, 455.207, 455.208, 455.209, 455.211, 455.215, 455.2175, 455 218, 455.221, 455.223, 455.224, 455.225, 455.227, 455.2273, 455.2275, 455.228, 455.2285, 455.229, 455.232, 455.241, 455.243, 455.245, and 455.26, F.S., and creating ss. 455.214, 455.2173, and 455.220, F.S.; providing powers and duties of the Agency for Health Care Administration in general provisions relating to the licensing and regulation of health professionals; creating s. 455.2205, F.S.; creating the Health Care Trust Fund for deposit of license and regulatory fees and charges; repealing s. 455.213(6) and (7), F.S., relating to continuing education for medical professionals under the Department of Professional Regulation; providing for voluntary private health insurance coverage and insurance cost containment; providing practice parameters in the delivery of health care; providing for a demonstration project; revising, expanding, and consolidating provisions relating to health care cost containment under new chapter 408, F.S.; providing duties of the Agency for Health Care Administration and the Health Care Board; providing for uniform systems of financial reporting by health care facilities, health care providers, and health insurers; providing for information relating to physician charges; providing confidentiality of patient records; providing for review; providing certain immunity from liability for reporting data; providing for research, analyses, studies, and reports relating to health care costs and access; providing for dissemination of health care information; providing definitions; providing for review of hospital budgets by the Health Care Board; providing for inspections and audits; specifying violations; providing penalties and administrative fines; providing for enforcement; providing special budget review and penalty provisions for comprehensive inpatient rehabilitation hospitals; providing for assistance to health care providers, and to employers and consumers, on cost containment strategies; providing for the handling of consumer complaints; specifying additional powers of the Agency for Health Care Administration; authorizing contracts, agreements, and acquisition of property; providing for establishment of advisory committees and employment of staff; providing for hospital and nursing home assessments; creating the Health Care Cost Containment Trust Fund; providing for effect of the act on existing rules of the Health Care Cost Containment Board; providing for health care provider budget review proceedings; specifying duty of the Public Counsel; providing for prospective payment arrangements; repealing present provisions of chapter 407, F.S., relating to health care cost containment and the Health Care Cost Containment Board; transferring powers, duties, and functions of the Health Care Cost Containment Board to the Agency for Health Care Administration; directing that conforming changes in terminology be made in the Florida Statutes; amending ss. 154.304, 215.20, 240.4075, 381.698, 383.336, 394.4787, 395.01465, 395 034, 395.101, 395.1015, 395.61, 395 63, 400.609, 400.702, 409.9113, 409 9914, 440.13, 766.112, 766 314, 768.81, and 945.603, F.S.; providing conforming language; correcting cross references; creating the Healthy Communities, Healthy People Act under the Department of Health and Rehabilitative Services; providing for a plan, providing definitions; providing for a health promotion and wellness program; amending s. 20.19, F.S.; authorizing establishment within the Department of Health and Rehabilitative Services of the Office of Health Promotion and Wellness and the Office of Public Health Policy and Research; creating the Florida Health Services Corps; providing for services by medical professionals in medically underserved areas; providing for scholarships; providing for coordination between the State Health Office, the Department of Education, and the State University System; providing certain immunity from liability for providing certain medical services; providing for rules; amending s. 768.28, F.S.; providing certain immunity from liability for corps members; reenacting ss. 766.203(1) and 766.207(1), F.S., relating to medical negligence claims, to incorporate the amendment to s. 768.28, F.S., in references thereto; requiring state contractors to provide employees with access to hospitalization and medical insurance benefits; providing for proof of insurance; providing for damages; providing a penalty; providing for rules; providing exemptions; directing that a reviser's bill be prepared to correct cross references and other inconsistencies;

On motions by Senator Jenne, the Senate concurred in **House Amendments 1, 2** and **3**.

Senator Jenne moved that the Senate concur in **House Amendment 4**. The motion failed. The vote was:

Yeas—14 Nays—22

On motion by Senator Johnson, the Senate reconsidered the vote by which the Senate refused to concur in **House Amendment 4**.

Senator Jenne moved that the Senate concur in **House Amendment 4**. The motion was adopted. The vote was:

Yeas—27 Nays—4

CS for SB 2390 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—35 Nays—2

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 2426 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 2426—A bill to be entitled An act relating to North Springs Improvement District, Broward County; expanding the boundaries of the district; providing an effective date.

House Amendment 1—On page 8, line 15, strike "3" and insert: 2

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

SB 2426 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 2452 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 2452—A bill to be entitled An act relating to sexual offenses; providing that sexual contact or penetration is a victim injury that must be scored under sentencing guidelines; creating s. 794.005, F.S.; providing legislative findings and intent as to the basic charge of sexual battery; amending s. 794.011, F.S., to clarify that the offense described in s. 794.011(5), F.S., is a lesser included offense in any sexual battery offense charged under s. 794.011(3) or (4); providing an effective date.

House Amendment 1 (with Title Amendment)—On page 2, line 20, strike everything after the enacting clause and insert:

Section 1. Subsections (8), (9), (10), and (11) of section 921.001, Florida Statutes, are renumbered as subsections (9), (10), (11), and (12), respectively, and a new subsection (8) is added to said section, to read:

921.001 Sentencing Commission.—

(8) For purposes of the statewide sentencing guidelines, if the conviction is for an offense described in chapter 794, chapter 800, or s. 826.04 and such offense includes sexual penetration, the sexual penetration must receive the score indicated for penetration or slight injury, regardless of whether there is evidence of any physical injury. If the conviction is for an offense described in chapter 794, chapter 800, or s. 826.04 and such offense does not include sexual penetration, the sexual contact must receive the score indicated for contact but no penetration, regardless of whether there is evidence of any physical injury. If the victim of an offense described in chapter 794, chapter 800, or s. 826.04 suffers any physical injury as a direct result of the primary offense or any other offense committed by the offender resulting in conviction, such physical injury must be scored separately and in addition to the points scored for the sexual contact or the sexual penetration.

Section 2. Section 794.005, Florida Statutes, is created to read:

794.005 Legislative findings and intent as to basic charge of sexual battery.—The Legislature finds that the least serious sexual battery offense, which is provided in s. 794.011(5), was intended, and remains intended, to serve as the basic charge of sexual battery and to be necessarily included in the offenses charged under subsections (3) and (4), within the meaning of s. 924.34; and that it was never intended that the sexual battery offense described in s. 794.011(5) require any force or violence beyond the force and violence that is inherent in the accomplishment of "penetration" or "union."

Section 3. For the purpose of clarifying the law relating to lesser included offenses in sexual battery cases, section 794.011, Florida Statutes, is amended to read:

794.011 Sexual battery.—

(1) Definitions:

(a) The term "consent" means intelligent, knowing, and voluntary consent and shall not be construed to include coerced submission.

(b) The term "mentally defective" means that a person suffers from a mental disease or defect which renders that person temporarily or permanently incapable of appraising the nature of his or her conduct.

(c) The term "mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered to that person without his or her consent or due to any other act committed upon that person without his or her consent.

(d) The term "offender" means a person accused of a sexual offense.

(e) The term "physically helpless" means that a person is unconscious, asleep, or for any other reason physically unable to communicate unwillingness to an act.

(f) The term "retaliation" includes, but is not limited to, threats of future physical punishment, kidnapping, false imprisonment or forcible confinement, or extortion.

(g) The term "serious personal injury" means great bodily harm or pain, permanent disability, or permanent disfigurement.

(h) The term "sexual battery" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.

(i) The term "victim" means the person alleging to have been the object of a sexual offense.

(j) The term "physically incapacitated" means that a person is bodily impaired or handicapped and substantially limited in his or her ability to resist or flee an act.

(2) A person 18 years of age or older who commits sexual battery upon, or injures the sexual organs of, a person less than 12 years of age in an attempt to commit sexual battery upon such person commits a capital felony, punishable as provided in ss. 775.082 and 921.141. If the offender is under the age of 18, that person is guilty of a life felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person who commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process thereof uses or threatens to use a deadly weapon or uses actual physical force likely to cause serious personal injury is guilty of a life felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) A person who commits sexual battery upon a person 12 years of age or older, without that person's consent, under any of the following circumstances is guilty of a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) When the victim is physically helpless to resist.

(b) When the offender coerces the victim to submit by threatening to use force or violence likely to cause serious personal injury on the victim, and the victim reasonably believes that the offender has the present ability to execute the threat.

(c) When the offender coerces the victim to submit by threatening to retaliate against the victim, or any other person, and the victim reasonably believes that the offender has the ability to execute the threat in the future.

(d) When the offender, without the prior knowledge or consent of the victim, administers or has knowledge of someone else administering to the victim any narcotic, anesthetic, or other intoxicating substance which mentally or physically incapacitates the victim.

(e) When the victim is mentally defective and the offender has reason to believe this or has actual knowledge of this fact.

(f) When the victim is physically incapacitated.

(5) A person who commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process thereof *does not use* ~~uses~~ physical force and violence ~~not~~ likely to cause serious personal injury is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) Evidence of the victim's mental incapacity or defect is admissible to prove that the consent was not intelligent, knowing, or voluntary; and the court shall instruct the jury accordingly.

(7) The offense described in subsection (5) is included in any sexual battery offense charged under subsection (3) or subsection (4).

Section 4. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, line 2, after the semicolon (;) insert: amending s. 921.001, F.S.;

House Amendment 2—On page 1, line 14, through page 2, line 17, strike all of said lines and insert:

WHEREAS, in adopting and implementing Rules 3.701 and 3.988, Florida Rules of Criminal Procedure, relating to sentencing guidelines, the Legislature intended and still intends that victim injury includes sexual contact or penetration in the calculation of a guidelines sentence regardless of whether there is ascertainable physical injury apart from such contact or penetration, and

WHEREAS, the Legislature manifested its intent by approving Rule 3.988(b), which clearly and unambiguously requires the scoring of sexual contact or penetration as victim injury on the "category 2" scoresheet form, and

WHEREAS, the Florida Supreme Court has recently found "that penetration, which does not cause ascertainable physical injury, does not

result in victim injury as contemplated by the rule for which victim injury points may be assessed" in the case of Karchesky v. State, 17 F.L.W. 55 (Fla. January 24, 1992), and

WHEREAS, the Legislature intended and still intends that the least serious sexual battery offense, which is provided in section 794.011(5), Florida Statutes, is the basic charge of sexual battery and is necessarily included in the offenses provided in subsections (3) and (4), within the meaning of section 924.34, Florida Statutes, and

WHEREAS, the Legislature never intended that the sexual battery offense described in section 794.011(5), Florida Statutes, require any force or violence beyond the force and violence that is inherent in the accomplishment of "penetration" or "union", and

WHEREAS, the Florida Supreme Court recently found that the sexual battery offense provided in section 794.001(5), Florida Statutes, is not a necessarily included lesser offense to the sexual battery offense described in section 794.011(3) and (4), Florida Statutes, in the case of Gould v. State, 577 So.2d 1302 (Fla. 1991), NOW, THEREFORE,

On motions by Senator Grant, the Senate concurred in the House amendments.

SB 2452 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 2466 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 2466—A bill to be entitled An act relating to Escambia County; providing that appointees to citizens' advisory committees of the Escambia County Utilities Authority shall have no personal or business ties with the authority that could be construed as a conflict of interest; amending s. 9(a), chapter 81-376, Laws of Florida, as amended; deleting powers of the authority to adopt personnel and management policies independent of the Escambia County Civil Service Board; repealing chapter 91-349, Laws of Florida, which abolishes the Escambia County Utilities Authority on October 1, 1992; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 1, line 19, through page 2, line 8, strike all of said lines and insert:

Section 1. Authority created.—There is hereby created and established a local governmental body, corporate and politic, to be known as the "Escambia County Utilities Authority," hereinafter referred to as the "authority."

Section 2. Legislative findings.—The Legislature finds and declares that the health, welfare, and safety of the inhabitants of Escambia County and of the City of Pensacola would be enhanced by the consolidation of certain utility systems and the creation of an independent authority for the purposes hereinafter enumerated: That the consolidation of said utility systems will serve a public purpose; that the consolidated systems will be able to utilize economies of scale and thereby achieve cost savings to the public; that the increased size of the combined utility systems will enhance the likelihood of more favorable financing for the city and county; that the present sewer system of the county is near maximum capacity, while the sewer system of the city presently has excess capacity and is underutilized; and that the consolidation of utility systems may eliminate duplicative staff functions and positions.

Section 3. Purposes.—The authority is created for the purpose of acquiring, constructing, financing, owning, managing, providing, promoting, improving, expanding, maintaining, operating, regulating, franchising, and otherwise having plenary authority with respect to certain utility systems within the territorial limits of Escambia County, Florida, and areas adjacent thereto. It is further the purpose of this act to repose in the authority all powers with respect to water, sewer, and natural gas, and such other additional utilities as may be hereafter designated as provided in sections 5(c) and 7(c) herein, which are now, in the future could be, or could have been, but for this act, exercised by the City of Pensacola or Escambia County, Florida.

Section 4. Governing body.—

(a) The initial governing body of the authority shall consist of seven members who shall each be an elector of Escambia County. Thereafter, as provided for in subsection (b), all members of the governing body of the authority shall be elected.

(1) The initial appointees to the governing body of the authority shall be appointed as follows:

a. Two of the members shall be members of the Board of County Commissioners of Escambia County (hereinafter referred to as the "board"), and shall be appointed by the board. Two of the members shall be members of the City Council of the City of Pensacola (hereinafter referred to as the "council"), and shall be appointed by the council. The members of the council and the board so appointed shall, while serving as members of the authority, be duly elected members of the board or the council if serving either the 2-year or 4-year terms for which they were elected. If no member of the council or the board serving the term for which elected is available to fill a position on the authority herein designated to be filled by a member of the board or the council, the board or council may appoint any member of the board or council who is available to serve to fill such position.

b. The fifth member shall be appointed by the board; the sixth member shall be appointed by the council. The seventh member shall be appointed by the six members so appointed. In the event that the six appointed members of the governing body of the authority should be unable to agree upon a seventh member, then the seventh member shall be appointed jointly by the board and the council. Such appointment shall be approved by the council and the board, voting as separate entities.

(2) The duties undertaken by the members of the board and the council so appointed shall be deemed to be additional duties of the offices of county commissioner and city councilman, respectively.

(b) The members initially appointed shall serve their terms until their successors shall be duly elected under the provisions of this subsection. Successors to members shall be elected by a majority of their electors in nonpartisan elections utilizing the primary and general election system provided for in chapter 100, Florida Statutes. Candidates shall qualify for nomination to such offices in the manner provided in chapter 99, Florida Statutes, for the qualification of candidates for the office of county commissioner, and shall qualify with the Supervisor of Elections of Escambia County.

(1) The successors of the members of the board and council appointed to the governing body of the authority, and the successor of the fifth member appointed by the board, shall be elected, in the primary and general elections held in 1984, by districts under the district plan of the board. Each such successor shall be an elector of the district from which he is elected and shall be elected by the qualified electors of that respective district. There shall be no successor for the sixth member appointed by the council and the seventh member appointed by the six other appointed members, and the terms of such appointed members shall expire upon the commencement of the terms of the members elected pursuant to this paragraph.

(2) The first successors elected for Districts Two and Four at the general election held in 1984 shall be elected to a 2-year term. The first successors elected for Districts One, Three, and Five at the general election held in 1984 shall serve for a 4-year term. Thereafter, each member shall be elected for a term of 4 years. Upon the expiration of a term of office, a new successor to the office shall be elected as designated in this paragraph; however, upon the occasion of a vacancy for any elected office which vacancy occurs prior to the expiration of the then present term of that office, a successor shall be appointed by the Governor and the successor shall be a resident of the district in which the vacancy occurred. Upon the occasion of a vacancy for any reason in the term of office of a member of the initial governing body of the authority which vacancy occurs prior to his replacement by election, a successor shall be appointed in the same manner as the initial appointment was made. Any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term and until a successor is duly elected.

(c) Members shall be eligible for reelection.

(d) Before entering upon his duties, each member shall take an oath to administer the duties of office faithfully and impartially, and a record of such oath shall be filed in the Office of the Secretary of State.

(e) Appointed authority members who are members of the board shall serve without compensation from the authority, but shall be entitled to reimbursement from the authority for expenses in accordance with the requirements of section 112.061, Florida Statutes, as amended from time to time. Such members may also receive reimbursement from the authority for additional, unusual, or extraordinary expenses upon approval of the authority. Appointed authority members who are members of the council may be paid compensation by the city in an amount determined by the city for undertaking the additional duties and responsibilities set forth herein. Such members shall be entitled to reimbursement from the authority for expenses in accordance with the requirements of section 112.061, Florida Statutes, as amended from time to time. Such members may also receive reimbursement from the authority for additional, unusual, or extraordinary expenses upon approval of the authority.

(f) As compensation for performance of duties and responsibilities set forth herein, elected members of the authority and their successors shall receive from the authority monthly an amount to be determined by majority vote of the members of the authority, not to exceed the amount of compensation received monthly by members of the District School Board of Escambia County, and shall also receive from the authority $200 per month to be used in defraying regular expenses incurred in the performance of the duties of office. Such members may receive reimbursement from the authority for additional, unusual, or extraordinary expenses upon approval by the authority.

(g) The authority shall elect a chairman and a vice chairman from the members of the authority, each of whom shall serve for 1 year or until his successor is chosen. The chairman, or the vice chairman in the chairman's absence, shall preside at all meetings of the authority and shall perform such additional duties prescribed by the members or in the bylaws of the authority. The authority shall hold regular meetings at least monthly at such times and places as it may designate and may hold more frequent special meetings. A majority of the membership shall constitute a quorum for the purpose of meeting and transacting business. Each member of the authority shall have one vote. The authority may adopt bylaws and may make all policies, procedures, rules, and regulations not inconsistent with this act which it may deem necessary respecting the conduct of its affairs, including, but not limited to, the operation of its utility systems. Such policies, procedures, rules, and regulations shall provide for notice of all public meetings and shall provide that an agenda shall be prepared by the authority in time to ensure that a copy of the agenda will be available at least 3 days before any regular meeting of the authority. After the agenda has been made available, change shall be only for good cause, as determined by the person designated to preside at the meeting, and stated in the record. Special or emergency meetings may be called by the chairman upon no less than 24 hours' notice. The authority shall publish and thereafter codify and index all rules, regulations, and resolutions formulated, adopted, or used by the authority in the discharge of its functions. Such rules, regulations, and resolutions shall be made available for public inspection and copying, at no more than cost. The authority shall not be deemed an "agency" within the meaning of chapter 120, Florida Statutes. The authority shall be deemed to be an "agency" within the meaning of chapter 119, Florida Statutes; and all records of the authority shall be open to the public. The authority shall be deemed an "agency" or "authority of the county" for purposes of section 286.011, Florida Statutes, the "Government in the Sunshine Law."

Section 5. Powers.—

(a) The authority shall have all powers and authorities necessary, convenient, or desirable to accomplish the purposes of this act. In furtherance thereof, the authority shall have:

(1)a. The power to borrow and expend money to pay for any of the purposes of the authority, and to issue its bonds, notes in anticipation of the issuance of bonds, revenue certificates, or other evidences of indebtedness, including obligations issued to refund or refinance same, and to pledge for the repayment of same any revenues of the authority, including any revenues provided to the authority by governmental or other entities for pledge by the authority as security for payment of such obligations, all in the manner and subject to such limitations as may be prescribed by resolution of the authority, including, but not limited to, the powers granted under chapter 125, part I of chapter 153, part I of chapter 159, part II of chapter 166, and chapter 170, Florida Statutes, and chapter 57-1313, Laws of Florida. The bonds, notes, certificates, or other evidences of indebtedness authorized to be issued by this act may be validated in the manner prescribed in chapter 75, Florida Statutes. Any complaint for validation permitted by the preceding sentence shall be filed in the Circuit Court of Escambia County. The authority may enter into trust agreements with banks or other corporate entities possessing trust powers within or without the State of Florida. The authority may create liens upon or security interests in its assets, properties, funds, or revenues, of whatever kind or nature, and may specify the priority or order of such liens or security interests. Such creation and specification of priority or ordering may be made by resolution of the authority or in a trust agreement to which the authority is a party. The passage of such resolution or the execution of such trust agreement is sufficient to the creation and specification of priority and order of such liens and security interests, and it shall not be necessary to comply with the requirements of the Uniform Commercial Code respecting the filing of a financing statement to perfect a security interest granted by the authority.

b. In the exercise of the powers granted by this paragraph, the authority shall comply in all respects with the requirements of chapter 218, Florida Statutes, as the same may be amended from time to time.

(2) All power and authority heretofore possessed pursuant to law, ordinance, franchise, or otherwise by Escambia County, the board, the City of Pensacola, or the council, or hereafter granted by law, ordinance, franchise, or otherwise to any county, municipality, special district, or other unit of local government insofar as such powers and authority are related to sewage collection and disposal, water supply, and natural gas, including, but not limited to, the powers granted under chapter 125, chapter 127, part I of chapter 153, part I of chapter 159, part I of chapter 163, part II of chapter 166, chapter 170, and chapter 180, Florida Statutes, and chapter 57-1313, Laws of Florida.

(3) All powers granted to municipalities with regard to sewage collection and disposal, water supply, and natural gas granted to municipalities pursuant to chapters 170 and 180, Florida Statutes, including the issuance of bonds or notes in anticipation thereof payable from special assessments under chapter 170, Florida Statutes.

(4) The power to establish service districts and reasonable rate classifications for purposes of providing utilities services. The authority shall endeavor to provide that the costs of any improvements to or expansions of the systems are borne by those users of the systems who benefit from such improvements or expansions.

(5) The power to set, fix, pledge to establish, or establish, levy, or impose assessments, rates, fees, and other charges for the use of and for the services furnished or to be furnished by the authority's systems, and to alter and amend same from time to time, which assessments, rates, fees, and charges, together with other revenues and receipts, shall result in the authority's receiving or possessing an amount not less than is required to operate and maintain a self-liquidating or self-sustaining utility system.

(6) The power of eminent domain, as provided by general law, to carry out the purposes described in this act. As a condition precedent to instituting eminent domain proceedings, the authority shall first receive the approval of the governing body (either the board or the council) of the jurisdiction in which the subject property is located.

(7) The power to apply for and accept grants, loans, and subsidies from any governmental entity for the construction, operation, and maintenance of the systems, facilities, or functions under jurisdiction of the authority, and to comply with all requirements and conditions imposed in connection therewith.

(8) The power and authority to perform any of its functions by lease or contract with any other public or private entity.

(9) All other powers, not expressly prohibited by the United States or Florida Constitutions or by general law, necessary to effectuate and carry out the purposes and intent of this act.

(10) All privileges, immunities, and exemptions accorded political subdivisions of this state under the provisions of the constitution and laws of the state. Neither the members of the authority nor any person executing any contract or obligation on its behalf shall be personally liable or accountable thereon or by reason thereof.

(11) Only those powers granted by general law to counties or municipalities with respect to mandatory sewer taps or sewer utilization or with respect to the acquisition of privately owned water systems.

(12) The power to purchase, own, convey, sell, lease, rent, or encumber air space, development rights, tower space, or any other interests in property above the surface of any land pursuant to such terms and conditions as the authority in its discretion may determine.

(13) The power to provide any and all utilities services authorized by this act to areas outside the territorial limits of Escambia County, but adjacent thereto, if capacity is available.

(14) The power to establish civil penalties, including the imposition of fines, for the violation of rules or regulations of the authority pertaining to the disposal of waste or the use of the authority's systems, facilities, or services. The authority may enforce the rules and regulations adopted pursuant to this section, by suit for injunction or other appropriate action in the courts of the state.

(15) All powers granted to municipalities and to counties with respect to membership and participation in and ownership of any separate legal entity created for the purposes of any financing program or loan pool as set forth in section 163.01(7)(d), Florida Statutes, as the same may be amended from time to time.

(b) Any power granted herein may be exercised by resolution of the authority duly adopted, and any such resolution shall be recorded in the minutes of the authority.

(c) If the authority determines that it is necessary or appropriate for the authority to provide, operate, or maintain resource recovery systems or solid waste collection, distribution, or disposal systems, the authority may specify such additional utility systems by resolution. Upon approval of such resolution by the governmental body of the jurisdiction which such other additional utility system or systems shall serve, the authority, with respect to these specified utility systems, shall be vested with all power set forth herein or in general law that would, but for the provisions of this act, apply to such specified utility systems. All powers granted to the authority by this act regarding such specified utilities systems shall only apply to areas outside the corporate limits of the city unless the council, by resolution, irrevocably relinquishes its powers to provide, operate, or maintain such specified utilities systems or any one of them within the corporate limits of the city.

(d) No listing of powers included in this act is intended to be exclusive or restrictive. On the contrary, it is intended that the authority should have all implied powers necessary or incidental to carrying out the expressed powers and the expressed purposes for which the authority is created. These implied powers include, but are not limited to, the authority to employ personnel, to borrow and expend money, to enter into contractual obligations, to employ legal counsel, and to purchase, lease, sell, or exchange real or personal property. The fact that this act specifically states that the authority possesses a certain power does not mean that the authority must exercise such power unless the act specifically so requires. The authority's power to levy special assessments shall not be deemed to be the power to levy taxes.

(e) Nothing herein shall be construed to affect any privately owned water or sewer utility operating within Escambia County on August 1, 1981, under any franchise, permit, or other authorization from the board. The board of county commissioners shall continue to exercise such powers, duties, and functions with regard to such privately owned utilities to the same extent as exercised or allowed prior to August 1, 1981. Any rates set or approved for any privately owned utility by the board between August 1, 1981, and the effective date of chapter 83-404, Laws of Florida, shall remain in full force and effect and shall not be subject to challenge because of any provisions of chapter 81-376, Laws of Florida. The board and the authority are authorized to utilize the provisions of section 367.081(4)(b), Florida Statutes, as it may be amended, and the rules of the Florida Public Service Commission adopted pursuant thereto, for the purpose of automatically increasing or decreasing the rates of any privately owned utility over which the board exercises rate-making authority or approval, subject to the limitations of such statutes and rules.

(f) All powers granted to the authority by this act regarding natural gas shall only apply to areas outside the present franchised area of the City of Pensacola.

(g) The city is hereby specifically authorized and directed to convey to the authority those assets of its gas system located north of the Ten Mile Road in Escambia County, and the authority is authorized and directed to accept such assets upon the authority providing written notice to the city that the authority is capable of providing natural gas service with their own distribution system within the authority's franchise areas that the city is currently serving with permission of the present franchisee without causing interruption of natural gas service to the customers thereto; provided, however, that such conveyance by the city is conditioned upon payment by the authority to the city of the appraised value of such assets. The appraisal method shall be replacement cost, less accrued depreciation. Such appraisal value shall be determined by an appraiser selected by the city, one appraiser selected by the authority, and a third appraiser selected by those two appraisers. In the event of disagreement among the three appraisers, the value placed upon the assets by the third appraiser shall be final.

(h) Nothing herein shall be construed to affect the interstate transmission of natural gas. The authority shall have no power or authority over the interstate transmission of natural gas.

Section 6. Public purpose.—The Legislature finds and declares that the creation of the authority and the carrying out of its purposes are in all respects for the benefit of the people of this state, Escambia County, and the City of Pensacola; that the authority is performing an essential governmental function; that all property of such authority is and shall in all respects be considered to be public property, and title to such property shall be held by the authority for the benefit of the public; that the use of such property, until disposed of upon such terms as the authority may deem just, shall be for essential public and governmental purposes; and that all bonds, notes, revenue certificates, or other evidences of indebtedness and interest or income thereon and all of the property, facilities, services, and activities of the authority are declared to be nontaxable for any and all purposes by the state or any unit of government herein to the same extent as if owned or issued by or on behalf of a county or municipality of the state.

Section 7. Transfer of assets and liabilities.—

(a) The City of Pensacola and Escambia County are hereby specifically authorized and directed to convey to the authority the water and sewer systems of each, and the authority is authorized and directed to accept such systems, upon payment to the City of Pensacola of $10 million as fair compensation for the loss of revenues from its water systems, plus the amount necessary to defease all outstanding obligations of the city with respect to its water and sewer systems and upon payment to the county of the amount necessary to defease all outstanding obligations of the county with respect to its water and sewer systems. However, if adequate provisions can be made to protect the rights of the county and the holders of the obligations relating the county's Water and Sewer District Number One, then such obligations shall be transferred to the authority; otherwise, the authority shall pay to the county such amount as is necessary to defease the outstanding obligations of Water and Sewer District Number One. Furthermore, the rights of the holders of outstanding obligations issued by the City of Pensacola and Escambia County to finance their respective water and sewer systems shall be protected and shall not be deemed to be abridged or denied by the transfer herein authorized. Upon the transfer of any such systems to the authority, adequate provision shall be made for the payment of such obligations; whereupon, all rights of the holder in the property of the city or county or authority shall terminate. Upon payment of the compensation mentioned above, the city and county shall transfer to the authority all properties, both real and personal, improvements, facilities, and assets of the city's and county's water and sewer systems. To consummate the sale as aforementioned, revenue bonds shall be issued and sold by the authority as soon as practicable after the authority organizes and commences its activities.

(b) When such transfers have been completed, the authority shall assume all rights and obligations of ownership and management of the water and sewer systems of the City of Pensacola and Escambia County. Any and all legal commitments, contracts, or other obligations heretofore entered into or assumed by the City of Pensacola or Escambia County in connection with the programs, activities, or functions transferred are hereby charged to and shall be performed by the authority. However, accounts receivable and debts of the city and the county that are due and payable prior to the date of such transfer shall remain the property or the obligation of the city or the county.

(c) Upon majority vote of the authority and of the governmental body affected, and upon payment of fair compensation by the authority, such governmental body shall be authorized to transfer to the authority, and the authority shall be authorized to accept, any resource recovery system or solid waste collection, distribution, or disposal system of such govern-

mental body. The amount of such compensation shall be agreed upon by the governmental body and the authority. However, the rights of the holders of any outstanding bonds, notes, revenue certificates, or other evidence of indebtedness issued to finance such system shall be protected and shall not be deemed to be abridged or denied by the transfer herein authorized. Nothing herein contained shall preclude the limitation or alteration of any and all such rights of such holders if and when adequate provision shall be made for the retirement of such bonds, notes, revenue certificates, or other evidence of indebtedness.

(d) The City of Pensacola, Escambia County, or any other governmental entity shall be authorized in its discretion to cooperate with or contract with the authority, on any matter necessary, incidental, or convenient, for such funding as will effectuate the purposes of this act, including, but not limited to, agreements authorizing the pledge of any legally available revenues as security for and for payment of any bonds, notes, revenue certificates, or other evidence of indebtedness of the authority, interest or redemption premium thereon, and other necessary expenses or costs in connection with such bonds, notes, revenue certificates, or other evidence of indebtedness. Such legally available revenues may be so provided, used, or pledged, notwithstanding the provisions of any other law; provided, however, that ad valorem taxes may be so provided and used only after full compliance with the Constitution of the State of Florida, and provided further that nothing herein shall be deemed or operate to impair the rights of the holders of any outstanding obligations secured by such revenues, until such time as provision for payment of such obligations shall have been made.

Section 8. Franchise fees.—The Pensacola City Council is hereby authorized to impose a franchise fee upon the Escambia County Utilities Authority System; provided, however, that the authority is authorized to pass on said fee only to in-city users of the system, which shall be reflected on the city bills.

Section 9. Rate setting procedure.—

(a) The authority shall fix the initial schedule of assessments, rates, fees, and other charges for the use of and for the services furnished or to be furnished by the authority's facilities, to be paid by the owner, tenant, or occupant of each lot or parcel of property which may be connected with and use any such facility by or through any part of the water, natural gas, or other additional utility systems of the authority.

(b) After the system or systems shall have been in operation, the authority may revise such schedule of assessments, rates, fees, and charges from time to time. Such assessments, rates, fees, and charges shall be so fixed and revised as to provide funds, with other funds available for such purposes, sufficient at all times to pay the cost of maintaining, repairing, and operating the system or systems, including the reserves for such purposes and for replacements and depreciation and necessary extensions, to pay the principal of and the interest on any bonds as the same shall become due and the reserves therefor, and to provide a margin of safety for making such payments, all in accordance with section 5(a)(5). The authority shall charge and collect the assessments, rates, fees, and charges so fixed or revised.

(c) Such assessments, rates, fees, and charges shall be just and equitable and may be based or computed upon the quantity of water consumed, upon the number and size of sewer connections, upon the number and kind of plumbing fixtures in use in the premises connected with the sewer system, upon the number or average number of persons residing or working in or otherwise connected with such premises, upon the quantity of natural gas consumed, upon any other factor affecting the use of the facilities furnished, or upon any combination of the foregoing factors. Prior to fixing or revising such schedule of rates, fees, and charges, the authority shall cause to be prepared a statement of financial impact. Such statement shall be made available to the public during the ratemaking procedure.

(d) In cases where the amount of water or natural gas furnished to any building or premises is such that it imposes an unreasonable burden upon the water or natural gas supply systems, an additional charge may be made therefor, or the authority may, if it deems it advisable, require the owners or occupants of such building or premises to reduce the amount of water or natural gas consumed thereon in a manner to be specified by the authority, or the authority may refuse to furnish water to such building or premises.

(e) In cases where the character of the sewage from any manufacturing or industrial plant or any building or premises is such that it imposes an unreasonable burden upon any sewage disposal system, an additional charge may be made therefor, or the authority may, if it deems it advisable, require such manufacturing or industrial plant or such building or premises to treat such sewage in such manner as shall be specified by the authority before discharging such sewage into any sewer lines owned or maintained by the authority.

(f) The authority may charge any owner or occupant of any building or premises receiving the services of the facilities herein provided such initial installation or connection charge or fee as the authority may determine to be just and reasonable.

(g)(1) Except as hereinafter provided in paragraph (2), no assessments, rates, fees, or charges shall be fixed under the foregoing provisions of this section until after a public hearing at which all of the users of the authority's facilities and owners, tenants, and occupants of property served or to be served thereby and all others interested shall have an opportunity to be heard concerning the proposed assessments, rates, fees, and charges. After the adoption by the authority of a resolution setting forth the preliminary schedule or schedules fixing such assessments, rates, fees, and charges, notice of such public hearing setting forth the schedule or schedules of assessments, rates, fees, and charges shall be given:

a. By publication in a newspaper of general circulation in the affected area;

b. By mail to all persons and organizations that have made requests for advance notice of the authority's proceedings; and

c. By posting in appropriate places so that affected persons may be duly notified.

Such publication, mailing, and posting of notice shall occur at least 14 days prior to the public hearing. Such hearing may be adjourned from time to time. After such hearing, such preliminary schedule or schedules, either as originally adopted or as modified or amended, shall be adopted and put into effect. The assessments, rates, fees, or charges so fixed for any users or property served shall be extended to cover any additional users or property thereafter served that fall within the same class or classes without the necessity of any hearing or notice.

(2) The authority may fix the assessments, rates, fees, and charges to be paid by any such user, owner, tenant, or occupant as the authority reasonably finds to be unique with respect to its use of the authority's systems or facilities. Such assessments, rates, fees, and charges may be fixed by resolution adopted at any regular meeting, or any special meeting of the authority called for that purpose, and such resolution shall state the basis for such finding.

(3) A copy of the schedule or schedules of such assessments, rates, fees, and charges as finally fixed in such resolution shall be kept on file in the headquarters of the authority and shall be open to inspection by all parties interested.

(4) Any change or revision of any assessments, rates, fees, or charges may be made in the same manner as such assessments, rates, fees, or charges were originally established as hereinabove provided.

Section 10. Personnel.—

(a) The authority is empowered to appoint, remove, and suspend employees or agents of the authority and fix their compensation within the guidelines established by the Escambia County Civil Service Rules.

(b) The authority may provide social security for its employees pursuant to the provisions of chapter 650, Florida Statutes, and may bring its employees under the Florida Retirement System, the State and County Officers and Employees Retirement System, or any other qualified retirement program.

(c) On the effective date of the transfer of assets set forth in section 7, all employees of the Escambia County Department of Utilities and of the City of Pensacola Department of Utilities that theretofore had been assigned to the Escambia Water and Sewer Utilities Authority created by virtue of that certain interlocal agreement dated November 25, 1980, and any other such employee who may be designated by the city or the county prior to the effective date of the transfer of assets referred to above, shall be transferred to the authority and shall continue without loss of benefits as employees of the authority.

(d) Employees who are transferred to the authority and who are members of the retirement systems available to employees of the City of Pensacola or Escambia County shall not lose those pension or retirement rights or any reserves accrued to their benefit during the period of their employment by the city or the county. Such employees may elect to retain the pension and retirement rights accrued during the period of their employment by the city or the county. Any employee so electing shall give written notice of his election, within 30 days or such longer period of time determined by the authority after the effective date of the transfer, to the City Manager of the City of Pensacola or to the County Administrator of Escambia County, as appropriate, who shall then process the notice. In the event any employees elect to retain their pension and retirement rights accrued during the period of their employment with the city or the county, or prior to such election, the authority shall pay into the appropriate retirement system during the period that such employees remain as authority employees, such sums of money as are paid by the city or the county for the benefit of such employees in order to guarantee their continuing participation in such retirement program. The authority may make appropriate deductions from the employees' salaries to preserve their retirement benefits.

(e) Employees who prior to being transferred to the authority were members of the general pension system of the City of Pensacola and who do not elect to continue to accrue additional rights to benefits thereunder shall be entitled to the same rights under such system as would be afforded to persons who had voluntarily left the employ of the City of Pensacola as of September 30, 1981. Such rights shall be determined in accordance with the special laws governing such system, and shall include, but shall not be limited to, the right to receive a pension effective as of September 30, 1981, or such later date as the employee attains the age or length of service as an employee of the City of Pensacola as is required for eligibility to receive a pension, to retain vested rights, or to withdraw contributions, depending on the employee's length of service as of September 30, 1981. The enjoyment of such rights shall not be deemed to be a change of benefits within the meaning of section 112.63(3), Florida Statutes. The payment of such benefits as may be payable on account of service as an employee of the City of Pensacola shall be the obligation of the City of Pensacola, through its general pension and retirement fund.

(f) Employees of the authority are subject to the civil service system of Escambia County and to the policies and rules of the Civil Service Board.

Section 11. Personnel appeals board.—

(a) There shall be appointed a personnel appeals board comprised of two members appointed by the authority, two members chosen by employees of the authority classified below the level of department head, and one member appointed by the other four members. The members of the board shall serve a term of 1 year. An appointment to a vacant position on the board shall be filled in the manner of the original appointment to that position. The board shall hear appeals from suspensions, demotions, or dismissals or of employees of the authority classified below the level of department head and not designated as other key staff personnel by the authority as provided in section 13. The decisions of the board on such appeals shall be final, subject to review by the Circuit Court of Escambia County. The board may investigate and make recommendations to the executive director of the authority on major policy and procedural questions relating to personnel management and on individual grievances by employees. However, the recommendations of the board on such matters shall be advisory only. The board may employ legal counsel, and a reasonable budget for such purpose shall be provided by the authority. The executive director of the authority shall provide the administrative services required by the board.

(b) Notwithstanding anything provided herein or in any special or general act to the contrary, the rights and benefits herein granted shall be in lieu of and substitution for any rights and benefits such employees may have had under any civil service or personnel system of the City of Pensacola or Escambia County.

Section 12. Process and procedure.—

(a) Any person wishing to appeal an action of the authority that directly affects his substantial interests may file a petition for review within 10 days of the date the complained of action is taken. The authority shall consider such petitions for review and shall take action at a public meeting to grant or deny such petitions within 40 days of receipt.

(b) If the petition is granted, the petitioner, or his counsel, shall be afforded an opportunity, at a mutually convenient time and place and after reasonable written notice, to present to the authority or its designee written or oral evidence in opposition to the authority's action. If a material issue of disputed fact is involved, the authority shall appoint a hearing officer to preside. The hearing officer shall hear the evidence and shall prepare recommended findings of fact and conclusions of law for approval of the authority.

(c) Decisions of the authority shall be in writing and shall contain findings of fact and conclusions of law. A person aggrieved by a decision of the authority shall have the same rights and remedies that would have been available to him under general law if the action complained of had been taken by Escambia County or the City of Pensacola.

Section 13. Executive director.—The authority shall employ and fix the compensation of an executive director, who shall manage the affairs of the utilities systems under the supervision of the authority and direct the activities of the employees of the authority. The executive director shall devote his entire working time to the performance of his duties and not have outside employment or business. The executive director shall be a college graduate. The executive director must either possess a degree in science, engineering, business management, or public administration or, alternatively, must be a licensed and registered engineer. The executive director shall have at least 6 years of experience in the field of engineering, operations, or management of a utility system of size comparable to or larger than the water and sewer system of the City of Pensacola in 1981. The authority may allow the substitution of additional years of administrative or management experience in lieu of the specific educational or professional requirements set forth above. The executive director, the assistant executive director, the department heads, and such other key staff personnel so designated by the authority shall not be included within any civil service system or be under the jurisdiction of the personnel appeals board.

Section 14. Fiscal year and budget.—The fiscal year of the authority shall begin on the first day of October and end on the last day of September of the following year. Prior to the beginning of each fiscal year, the authority shall adopt an annual budget that shall be balanced and that shall detail the anticipated expenses and revenues of the authority for the forthcoming fiscal year.

Section 15. Execution of documents; payment of bills.—All instruments in writing necessary to be executed by the authority shall be executed by the executive director upon authorization by the authority or by such other officer, agent, or employee of the authority as it may by resolution designate. The authority shall provide for the examination of all payrolls, bills, and other claims and demands against the authority to determine, before the same are paid, that they are duly authorized, in proper form, correctly computed, and legally due and payable and that the authority has funds on hand to make payment.

Section 16. Annual audit.—The authority shall be required to complete an annual compliance and financial audit of the fiscal activities of the authority by a private certified public accounting firm, which shall report to the authority concerning its findings and recommendations.

Section 17. Management efficiency audit.—The authority shall contract for a management efficiency audit by a private firm within 1 year of the effective date of the act, and at intervals of at least 3 years thereafter, to review program results and make recommendations for the proper, efficient, and economical operation and maintenance of the utilities systems, facilities, and functions under supervision of the authority.

Section 18. Transition provisions.—Within 15 days after the effective date of this act, the city and the county shall make their initial appointments to the authority. Within 15 days thereafter, the authority shall conduct its first meeting and appoint its seventh member. Within 15 days thereafter, the authority shall appoint its executive director and elect its officers and shall thereupon assume the duties and responsibilities of the Escambia County Water and Sewer Utilities Authority created pursuant to a certain interlocal agreement entered into between the city and the county on November 25, 1980. The authority shall give its highest priority to taking all actions necessary for transferring to its ownership and control the water and sewer systems of the city and the county and shall cooperate with the city and the county to complete the transfer of the systems and the transfer of employees to the authority from the city and the county by October 1, 1981, or as soon thereafter as is practicable.

Section 19. Citizens' advisory committee.—The authority shall make provision for and appoint a citizens' advisory committee or committees. The appointees to such committees shall have no personal or business ties with the authority that could be construed as a conflict of interest.

Section 20. Enforcement and penalties.—Any violation of rules or regulations of the authority pertaining to the disposal of waste or the use of the authority's systems, facilities, or services is declared to be a noncriminal violation and shall be punishable by fine, forfeiture, or penalty. Such fine, forfeiture, or penalty shall be established by resolution of the authority, and shall not exceed $500 for each violation. However, the authority may specify, by resolution, that violation of a rule or regulation of the authority is punishable by fine, forfeiture, or penalty in an amount exceeding $500, but not exceeding $2,000 per day, if the authority must have authority to punish a violation of such rule or regulation by a fine, forfeiture, or penalty in an amount greater than $500 in order for the authority to carry out a federally mandated program. Any resolution of the authority establishing such fine, forfeiture, or penalty may provide that each day of a continuing violation shall constitute a separate violation. Violations of such authority rules and regulations may be prosecuted in the same manner as misdemeanors, or pursuant to section 5(a)(14) of this act. If such violations are prosecuted in the same manner as misdemeanors, they may be enforced by local law enforcement agencies and prosecuted in the name of the state in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof. All fines, forfeitures, and penalties imposed for violations of authority rules and regulations shall be paid to the authority, provided that the local law enforcement agency be reimbursed from such fines, forfeitures, and penalties for its cost of enforcement.

Section 21. Construction.—The provisions of this act shall be liberally construed to effectuate the purposes set forth herein.

Section 22. *Chapters 81-376, 82-390, 83-403, 83-404, 84-427, 84-428, 85-410, 86-451, 89-473, 91-349, and 91-403, Laws of Florida, and section 3 of chapter 91-335, Laws of Florida, are hereby repealed.*

Section 23. *If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.*

And the title is amended as follows:

On page 1, lines 2-15 strike all of said lines and insert: An act relating to Escambia County; codifying and reenacting provisions relating to the Escambia County Utilities Authority; providing that appointees to citizens' advisory committees shall have no personal or business ties with the authority that could be construed as a conflict of interest; deleting powers of the authority to adopt personnel and management policies independent of the Escambia County Civil Service Board; repealing chapters 81-376, 82-390, 83-403, 83-404, 84-427, 84-428, 85-410, 86-451, 89-473, 91-349, and 91-403, Laws of Florida, and section 3 of chapter 91-335, Laws of Florida, relating to the Escambia County Utilities Authority, to conform; providing an effective date.

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

SB 2466 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—35 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 2488 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 2488—A bill to be entitled An act relating to Manatee County; establishing the merger of the Oneco-Tallevast and Samoset Fire Control Districts into the Southern Manatee Fire and Rescue District; defining jurisdiction of the district; providing for a board of fire commissioners and providing for their election; providing authority to levy special assessments; providing a schedule of special assessments; providing for impact fees; providing for consolidation of the Oneco-Tallevast and Samoset Fire Control Districts; repealing conflicting sections of chapters 84-477 and 84-481, Laws of Florida, as amended; providing severability; providing for liberal interpretation; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 3, lines 1-31, and on page 4, lines 1-27, strike all of said lines and renumber the subsequent sections.

And the title is amended as follows:

On page 1, lines 6-8, strike all of said lines and insert: jurisiction of the district; providing authority to levy

House Amendment 2—Beginning on page 5, line 21, through page 8, line 4, strike all of said lines and insert:

(a) Vacant platted lots (use code 0000) or unbuilt condominia (use code 0004) $4 per lot or condominium.

(b) Unsubdivided acreage (use code 5000 through 7000 and 9800, 9900, and 9901) $2 per acre or fraction thereof, except that not more than $250 may be assessed against any one parcel.

(c) Vacant commercial and industrial parcels, per lot or parcel (use code 1000 and 4000) $4 per lot or parcel.

Whenever a residential unit is located on a parcel defined herein as vacant, the residential plot shall be considered as one lot or one acre, with the balance of the parcel being assessed as vacant land in accordance with the schedule herein. Whenever an agricultural or commercial building or structure is located on a parcel defined herein as vacant, the building or structure shall be assessed in accordance with the schedule of commercial/industrial assessments.

(2) Residential parcels include all parcels that are developed for residential purposes and are usually classified by the property appraiser as use code types "0100," through "0800," "0801," "0803," and "2802." All residential parcels shall be assessed by the number and size of dwelling units per parcel. Surcharges may be assigned by the district for dwelling units located on the third or higher floors. The maximum annual assessment for these parcels shall be:

(a) Single family residential (use code 0100) shall be assessed per dwelling unit. The base assessment for all dwellings may not exceed $60 for the first 1,000 square feet. Each square foot above 1,000 square feet shall be assessed at a rate not to exceed $0.04 per square foot.

(b) Condominia residential (use code 0400) shall be assessed $90 per dwelling unit.

(c) Mobile homes (use code 0200 or 0204) shall be assessed $80 per dwelling unit.

(d) Multi-family residential (use codes 0300 and 0800), cooperatives (use code 0500), retirement homes (use code 0600), and miscellaneous residential uses (use code 0700) shall be assessed $90 per dwelling unit or, in the case of group quarters, per bedroom.

(e) Mobile home or travel trailer parks (use code 2802) shall be assessed $80 per dwelling unit or available rental space as applicable.

(f) Any other residential unit, including, but not limited to, the residential portions of mixed uses (use code 1200), shall be assessed $90 per dwelling unit.

(3)(a) Commercial/industrial parcels include all other developed parcels that are not included in the residential category as defined above. All commercial/industrial parcels shall be assessed on a square footage basis for all buildings and structures in accordance with the following schedule and hazard classification. The district may or may not vary the assessment by hazard classifications as set forth herein.

(b) The base assessment for all buildings and structures shall be $200 for the first 1,000 square feet on a parcel. The schedule for all square footage above 1,000 square feet is as follows. However, the district may grant an improved hazard rating to all or part of the buildings and structures if they are equipped with complete internal fire suppression facilities.

Category	Use Codes	Square Foot Assessment
Mercantile (M)	1100, 1200, 1300, 1400 1500, 1600, 1604, 2900	$0.0525 per sq. ft.

Business (B)	1700, 1704, 1800, 1900, 1904, 2200, 2300, 2400, 2500, 2600, 3000, 3600	$0.0525 per sq. ft.
Assembly (A)	2100, 3100, 3200, 3300, 3400, 3500, 3700, 3800, 3900, 7600, 7700, 7900	$0.0675 per sq. ft.
Factory/ Industrial (F)	4100, 4104, 4400, 4500, 4600, 4700, 9100	$0.0900 per sq. ft.
Storage (S)	2000, 2700, 2800, 4900	$0.0900 per sq. ft.
Hazardous (H)	4200, 4300, 4800, 4804	$0.1050 per sq. ft.
Institutional (I)	7000, 7100, 7200, 7300, 7400, 7800, 8400, 8500, 9200	$0.0600 per sq. ft.

On motions by Senator McKay, the Senate concurred in the House amendments.

SB 2488 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39 Nays—None

RETURNING MESSAGES ON HOUSE BILLS

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has refused to concur in the Senate Amendment to HB 935 and requests the Senate to recede.

John B. Phelps, Clerk

HB 935—A bill to be entitled An act relating to public safety officers; amending s. 112.19, F.S.; redefining the term "law enforcement officer" with respect to death benefits to include officers who serve process or attend terms of the circuit or county court or bailiffs; amending s. 112.191, F.S.; revising language with respect to death benefits payable to firefighters killed in the line of duty; providing for retroactive application; providing an effective date.

On motion by Senator Crotty, the Senate receded from the Senate amendment.

HB 935 passed and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendment 1, concurred in same as amended, passed as amended, HB 1851 and requests the concurrence of the Senate.

John B. Phelps, Clerk

HB 1851—A bill to be entitled An act relating to advance directives; redesignating ch. 765, F.S.; creating part I of chapter 765, F.S.; providing definitions; providing legislative findings and intent; providing for effect of existing advance directives; providing for revocations; providing for review of certain decisions; preserving certain existing rights to consent to medical treatment; providing for statutory construction; providing for effects of an advance directive with respect to insurance; providing for immunity from liability; providing for discipline and license revocation of health care providers under certain circumstances; providing for constitutional effect; recognizing advance directives of other states; creating part II of chapter 765, F.S.; providing for a health care surrogate; providing for designating a surrogate; providing duties; providing for capacity of a principal to make certain decisions; providing responsibilities of a surrogate; creating part III of chapter 765, F.S.; providing procedures for declaring the withholding or withdrawing of life-prolonging procedures; providing a form for such declaration; providing for determining a patient's condition; providing procedures for a do-not-resuscitate order; providing for patient transfer; providing intent regarding mercy killing and suicide; providing penalties for falsifying a declaration; creating part IV of chapter 765, F.S.; providing for a proxy for making certain health care decisions; providing procedures; creating s. 744.3115, F.S.; providing court authority regarding health care surrogates; amending s. 744.345, F.S.; providing for designating a health care surrogate in letters of guardianship; amending s 709 08, F.S.; providing for application of chapter 765; repealing ss. 745.41-745.52, F.S., relating to health care surrogates; repealing ss. 765.01-765.17, F.S., relating to the right to decline life-prolonging procedures; providing an effective date.

House Amendment 1 to Senate Amendment 1—On page 9, line 30, through page 10, line 11, strike all of said lines and insert:

765.113 Restrictions on providing consent.—Unless the principal expressly delegates such authority to the surrogate in writing, or a surrogate or proxy has sought and received court approval pursuant to rule 5.900 of the Florida Probate Rules, a surrogate or proxy may not provide consent for:

(1) Abortion, sterilization, electroshock therapy, psychosurgery, experimental treatments that have not been recommended by a federally approved institutional review board in accordance with 45 C.F.R., part 46, or voluntary admission to a mental health facility.

(2) Withholding or withdrawing life-prolonging procedures from a pregnant patient prior to viability as defined in s 390 001(5).

House Amendment 2 to Senate Amendment 1—On page 1, line 18, strike "765.113, and 765.114," and insert: and 765.113,

House Amendment 3 to Senate Amendment 1—On page 18, lines 20 and 21, strike all of said lines and renumber subsequent subsections.

On motions by Senator Grant the Senate concurred in the House amendments to **Senate Amendment 1**.

HB 1851 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34 Nays—1

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendment 1, concurred in same as amended, passed as further amended, HB 2341 and requests the concurrence of the Senate.

John B. Phelps, Clerk

HB 2341—A bill to be entitled An act relating to pest control; revising chapter 482, F.S., relating to the licensing and regulation of pest control, pursuant to review under the Regulatory Sunset Act; amending s. 482.011, F.S.; renaming the Pest Control Act as the Structural Pest Control Act; amending s. 482.021, F.S.; rearranging, modifying, adding, and deleting definitions applicable to the chapter; amending s. 482.032, F.S., relating to enforcement; authorizing the Department of Health and Rehabilitative Services or agent thereof to enter upon public or private premises or carriers during regular business hours in the performance of departmental duties relating to pesticides and related records; amending s. 482 051, F.S., relating to rules; providing technical changes; amending s 482.061, F.S.; providing for the appointment of inspectors, including setting the criteria therefor by rule; providing for waiver of examination and certificate issuance and renewal fees; amending s. 482.071, F.S., relating to licenses; revising license issuance and renewal fees; providing for expediting the processing of a license application, including payment of a special fee therefor; prohibiting a licensee that is going out of business or selling its business from being relicensed for a specified period if the licensee does not cover its existing contract responsibilities; authorizing specified combined single-limit coverage as meeting the minimum financial responsibility for bodily injury and property damage; providing that licensure under the chapter is a prerequisite to issuance of a local occupational license; transferring and amending s. 482.081, F.S., relating to issuance of local occupational licenses, to conform; creating s. 205.065, F.S.; providing an exemption for nonresident persons regulated by the Department of Professional Regulation who have paid an occupational license tax in the county or municipality where their permanent business location is maintained; amending s. 482.091, F.S.; revising requirements for the issuance and use of employee identification cards, including the fee therefor; amending s. 482.111, F.S.; revising requirements for issuance

and use of pest control operators' certificates; limiting the scope of such certificates to defined categories; revising certificate issuance and renewal fees; revising continuing education requirements; amending s. 482.121, F.S., relating to misuse of a certificate; providing technical changes; amending s. 482.132, F.S.; revising qualifications for examination and certification; amending s. 482.141, F.S., relating to examinations; revising examination fees; amending s. 482.151, F.S.; revising requirements for issuance and use of special identification cards; restricting such cards to the performance of fumigation; revising examination and card issuance and renewal fees; revising the expiration date; revising renewal requirements; amending s. 482.152, F.S., relating to the duties of a certified operator in charge of pest control activities of a licensee; providing technical changes; creating ss. 482.155 and 482.156, F.S.; providing for limited certification for certain governmental, private property, and commercial uses; requiring examinations, examination and recertification fees, and certain continuing education; requiring commercial landscape maintenance certificateholders to furnish proof of required minimum financial responsibility for bodily injury and property damage and to maintain certain records; amending s. 482.161, F.S., relating to disciplinary grounds and actions; providing applicability to limited certificateholders; providing a ground for failure to pay an administrative fine; revising the administrative fine and the factors in consideration thereof; providing that certified operators in charge are responsible for the actions of their employees and may be disciplined therefor; providing applicability to licensees; amending s. 482.165, F.S., relating to the unlicensed practice of pest control; providing technical changes; creating s. 482.1821, F.S.; prohibiting a licensee from closing its pest control business and opening a new pest control business under a different name without satisfying outstanding contracts and liabilities; providing certain mitigating circumstances; amending s. 482.183, F.S., relating to limitations on violations of the chapter; providing technical changes; amending s. 482.191, F.S., relating to violation and penalty; providing technical changes; amending s. 482.201, F.S., relating to liens for furnishing pest control services; providing technical changes; amending s. 482.211, F.S.; providing exemptions from the regulatory control of the chapter; authorizing the department to prescribe other exemptions by rule; amending s. 482.226, F.S.; revising requirements for wood-destroying organism inspections and reports; revising minimum financial responsibility requirements; amending s. 482.2265, F.S.; revising consumer information and application notice requirements; providing for a pest control notification registry of pesticide-sensitive persons; providing for registration of such persons, including initial and annual renewal fees; providing for waiver of fees due to financial inability; providing for notice to such persons prior to any pesticide application within specified areas determined by the department; providing for expansion of such areas by the department, within certain limits; requiring such persons to notify the department of the properties and residences within their areas of sensitivity as set by the department; amending s. 482.227, F.S., relating to guarantees and warranties; providing technical changes; amending s. 482.231, F.S., relating to the use of fogging machines; providing technical changes; creating s. 482.2401, F.S.; providing for disposition and use of revenues from fees and fines assessed under the chapter; amending s. 482.241, F.S., relating to liberal interpretation of the chapter; providing technical changes; amending s. 482.242, F.S.; preempting to the state all regulation of pest control, except for the issuance of local occupational licenses; repealing ss. 482.182 and 482.25, F.S., relating to offenses committed prior to the original act and to the application of the original act; repealing s. 15, ch. 82-229, s. 18, ch. 89-180, and s. 2, ch. 89-198, Laws of Florida, relating to Sunset repeal of various sections of chapter 482, F.S.; saving chapter 482, F.S., from Sunset repeal; providing for future review and repeal; providing an appropriation and the creation of positions within the department for the purposes of this act; providing an effective date.

House Amendment 1 (with Title Amendment) to Senate Amendment 1—On page 71, between lines 13 and 14, insert:

Section 56. Section 482.242, Florida Statutes, is amended to read:

482.242 Preemption.—

(1) This chapter is intended as comprehensive and exclusive regulation of pest control in this state. The provisions of this *chapter* ~~measure~~ preempt *to the state all regulation of the activities and operations of pest control services, including the pesticides used pursuant to labeling and registration approved under chapter 487. No local government or political subdivision of the state may enact or enforce an ordinance that regulates pest control, except that the preemption in this section does not prohibit a local government or political subdivision from enacting an ordinance regarding any of the following:*

(a) Local occupational licenses adopted pursuant to Chapter 205.

(b) Land development regulations adopted pursuant to Chapter 163 which include regulation of any aspect of development, including a subdivision, building construction, sign regulation or any other regulation concerning the development of land, or landscaping or tree protection ordinances which do not include pesticide application restrictions.

(c) Protection of wellhead protection areas and high recharge areas.

(d) Hazardous materials reporting as set forth in part II of chapter 252, storage, and containment including as relating to stormwater management.

(e) Hazardous material unlawful discharge and disposal.

(f) Hazardous materials remediation.

(2) For the purposes of this section:

(a) "Hazardous materials" shall be as defined in s. 403.74 and chapter 252.

(b) "Wellhead protection area" means an area designated by local government to protect the ground water source for a well intended for human consumption for a community water system and includes the surface and subsurface area surrounding such a potable water wellfield. The maximum boundaries of the wellfield shall be the zone of contribution and the minimum shall be 10 years travel time. Differing levels of protection may be established within the protection area zones based upon an evaluation of the risk to human health and the environment. Wellhead protection areas shall be delineated using such methods as reasonable or calculated fixed radii, simplified variable shapes, analytical methods, hydrogeological mapping, numerical flow or transport models or other professionally accepted methodologies.

(c) "High recharge area" means areas contributing significant volumes of water which adds to the storage of an aquifer through vertical flow. The term "significant" will vary geographically depending on the hydrologic characteristics of that aquifer. High recharge areas will receive higher protection than other areas due to their significance as current or future water use areas.

(d) "Zone of contribution" means the area surrounding a well pumping water for human consumption that encompasses all areas or features that supply ground water recharge to the well as determined by the relevant water management district or the local government. ~~any and all city and county ordinances which may differ with this act.~~

(Renumber subsequent sections.)

And the title is amended as follows:

On page 76, line 12, after "interpretation;" insert: amending s. 482.242, F.S.; providing for limited preemption;

House Amendment 2 to Senate Amendment 1—On page 67, lines 4 through 27 strike all of said lines and insert: *A person desiring to have his name continue to appear on the registry from year to year must submit an annual renewal fee of $10. In a bona fide case of a person's financial inability to pay the initial registration renewal fee or any subsequent registration fee, the department may grant a waiver of the fee or all such fees.*

(b) The department shall notify all licensees and limited certificateholders quarterly or more often if necessary of the names and addresses of those persons who are currently registered as pesticide-sensitive and of their particular sensitivities and of any special notification requirements established pursuant to paragraph (d).

(c) Before making a pesticide application to a lawn, plant bed, or exterior foliage on property contigous with or adjacent to the property on which the primary residence of a person registered under paragraph (a) is located, a licensee or limited certificateholder must notify that person at least 24 hours before applying the pesticide. Notification may be made by telephone, by mail, in person, or by hand delivery. Notification must also include information on the type of pesticide to be used, except in an instance of pesticide application of a small amount on an infestation or disease that is discovered onsite at the time of treatment.

House Amendment 3 to Senate Amendment 1—On page 68, line 13, after "resides," to line 20 through "endangered." strike all of said lines and insert: *and it shall limit such extra-distance notifications to*

instances of use of the pesticide or pesticide class to which sensitivity is documented, or for which the department determines sensitivity is scientifically probable. Additionally, the department may limit notification requirements with respect to the application of a pesticide in excess of a stipulated quantity. Futher, a distance requirement must be set at the minimum distance required to prevent the health of the registrant from being endangered. Such notification shall include the specific vicinity to which the pesticide is to be applied.

House Amendment 4 to Senate Amendment 1—On page 51, line 15, strike "lawn" and insert: *plant bed*

House Amendment 5 to Senate Amendment 1—On page 28, lines 2 and 3, strike all of said lines and insert: *a sufficient number of individuals who the department has determined are qualified to perform the inspection or investigative work necessary. The department shall adopt rules to set criteria for the necessary qualifications for inspectors.* ~~for the~~

House Amendment 6 to Senate Amendment 1—On page 67, at the end of line 2, insert: *Persons placed on the registry pursuant to this subparagraph must provide an annual update of their physician's certificate in order to renew their registry participation.*

House Amendment 7 (with Title Amendment) to Senate Amendment 1—On page 31, between lines 18 and 19 insert:

Section 32. Section 205.065, Florida Statutes, is created to read:

205.065 Exemption; nonresident persons regulated by the Department of Professional Regulation.—If any person engaging in or managing a business, profession, or occupation regulated by the Department of Professional Regulation has paid an occupational license tax for the current year to the county or municipality in the state where his permanent business location or branch office is maintained, no other local governing authority may levy an occupational license tax, or any registration or regulatory fee equivalent to the occupational license tax, on him for performing work or services on a temporary or transitory basis in another municipality or county. In no event shall any work or services performed in a place other than the county or municipality where the permanent business location or branch office is maintained be construed as creating a separate business location or branch office of that person for the purposes of this chapter.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 74, line 25, after "license;" insert: creating s. 205.065, F.S.; providing an exemption for nonresident persons regulated by the Department of Professional Regulation who have paid an occupational license tax in the county or municipality where their permanent business location is maintained;

On motions by Senator Weinstock, the Senate concurred in the House amendments to **Senate Amendment 1**.

HB 2341 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendment 1, concurred in same as amended, passed as further amended, CS for HB 2439 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for HB 2439—A bill to be entitled An act relating to transportation; creating the Transportation Efficiency Act of 1992; amending s. 338.001, F.S.; providing that projects constructed as part of the Florida Intrastate Highway System Plan shall be included in the department's adopted work program; amending s. 335.182, F.S.; redefining the term "connection"; amending s. 339.155, F.S.; revising language with respect to transportation planning; amending s. 339.175, F.S.; revising language with respect to transportation planning organizations; creating a Metropolitan Planning Organization Advisory Council; providing for future repeal; amending s. 336.045, F.S.; revising language with respect to uniform minimum standards for design, construction, and maintenance; authorizing the department to accept certain donations; amending s. 333.025, F.S.; revising language with respect to air navigation and required permits for structures exceeding federal standards; amending s. 333.03, F.S.; revising language with respect to airport zoning regulations; creating s. 331.21, F.S.; providing a term of office for the presiding officer of an airport authority; providing criteria; amending s. 235.19, F.S.; revising language with respect to site planning and selection to provide a cross reference; amending s. 333.031, F.S.; revising language with respect to a report of the Airport Safety and Land Use Compatibility Study Commission; providing for the future repeal of s. 333.031, F.S., relating to the commission; creating s. 341.3201, F.S.; providing a short title; amending s. 341.321, F.S.; providing legislative intent with respect to the development of a high-speed rail transportation system; amending s. 341.322, F.S.; providing definitions; amending s. 341.325, F.S.; providing for special powers and duties of the department with respect to high-speed rail development; amending s. 341.329, F.S.; revising language with respect to bonds and project financing; providing reference to the department rather than the commission; amending s. 341.331, F.S.; revising language with respect to service designation and termini; amending s. 341.332, F.S.; revising language with respect to franchises; creating ss. 341.3331 through 341.3339, F.S.; providing for requests for proposals; providing for notice; providing for application for franchise and for filing; providing for confidentiality; providing for future review and repeal; providing for a franchise review process, for assessment, and for criteria; providing for interagency coordination of franchise application review; providing for public hearings; providing for the determination and award of the franchise, administrative proceedings, and final action on applications, providing for the effect of franchise; providing for post-franchise agreements; amending s. 341.334, F.S.; providing for right-of-way easements and eminent domain of the department; amending s. 341.335, F.S.; revising language with respect to the powers and duties of the Florida Land and Water Adjudicatory Commission; amending s. 341.336, F.S.; revising language with respect to the powers and duties of the Department of Environmental Regulation and the Department of Community Affairs and affected agencies; creating s. 341.337, F.S.; providing for certification application, filing and contents; repealing s. 341.338, F.S., relating to requests for proposals; repealing s. 341.339, F.S., relating to notice of issuance of request for proposals; repealing s. 341.341, F.S., relating to application for franchise; amending s. 341.342, F.S.; revising language with respect to agreements concerning contents of certification of application and supporting documentation; amending s. 341.343, F.S.; providing for review of application for certification; amending s. 341.344, F.S.; creating the Citizen Planning and Environmental Advisory Committee; amending s. 341.345, F.S.; revising language with respect to alternative corridors or transit station locations; amending s. 341.346, F.S.; revising language with respect to hearing officers; creating s. 341.3465, F.S.; providing for the alteration of time limits; amending s. 341.347, F.S.; revising language with respect to local government hearings; amending s. 341.348, F.S.; revising language with respect to reports and studies; amending s. 341.351, F.S.; revising language with respect to notice of application for certification and proceedings relating to high-speed rail transportation system certification; amending s. 341.352, F.S.; revising language with respect to certification hearings; amending s. 341.353, F.S.; revising language with respect to the final disposition of application for certification; repealing s. 341.355, F.S., relating to the assessment of franchise component; repealing s. 341.358, F.S., relating to the conditions precedent to the award of a franchise; repealing s. 341.361, F.S., relating to determination and award of franchise; repealing s. 341 362, F.S., relating to terms and conditions of the franchise; amending s. 341.363, F.S.; revising language with respect to the effect of certification; amending s. 341.364, F.S.; revising language with respect to appeals to the board; creating s. 341.365, F.S.; providing for associated developments; amending s. 341.366, F.S.; revising language with respect to recording of notice of certified corridor route; amending s. 341.368, F.S.; revising language with respect to modification of franchise and certification; amending s. 341.369, F.S.; revising language with respect to the disposition of fees; increasing fees; amending s. 341.371, F.S.; revising language with respect to the revocation or suspension of the franchise; amending s. 341.372, F.S.; revising language with respect to administrative fines; amending s. 341.375, F.S.; revising language with respect to participation by women, minorities, and socially and economically disadvantaged persons; amending s. 341.381, F.S.; providing for applicability; amending s. 341.383, F.S.; revising language relating to local government authority to assess fees; amending s. 341.385, F.S.; revising language with respect to award of the franchise; amending s. 341.386, F.S.; conforming to the act; amending s. 341.031, F.S.; providing definitions; amending s. 341.041, F.S.; revising language with respect to the transit responsibilities of the department; amending s. 341.051,

F.S.; revising language with respect to the funding participation of the department of public transit programs and projects; amending s. 341.052, F.S.; revising language with respect to block grant funds; amending s. 339.08, F.S.; restricting use of moneys in the State Transportation Trust Fund; amending s. 341.302, F.S.; providing for development of a rail system plan; providing for inclusion of certain elements of the plan; amending s. 341.3025, F.S.; prescribing rulemaking authority of entities that own or operate certain public rail systems; amending s. 341.303, F.S.; providing for funding of rail systems; reenacting s. 343.53(2), F.S., relating to the Tri-County Commuter Rail Authority; amending s. 343.54, F.S.; requiring plans for expansion of service of the Tri-County Commuter Rail Authority to be consistent with local comprehensive plans; reenacting s. 343.63(2), F.S., relating to the Central Florida Commuter Rail Authority; amending s. 343.64, F.S.; prescribing powers of the Central Florida Commuter Rail Authority with respect to feeder transit services and purchase of insurance; requiring the authority to adopt a plan of development; amending s. 343.73, F.S.; providing for membership of the governing board of the Tampa Bay Commuter Rail Authority; amending s. 343.74, F.S.; relating to the powers and duties of the Tampa Bay Commuter Rail Authority; providing the authority with power to purchase insurance; amending s. 339.135, F.S.; redefining the term "district work program"; directing the Florida Transportation Commission to conduct a statewide public hearing on the tentative work program; revising the procedure with respect to such program; revising language with respect to work programs of the department; amending s. 218.32, F.S.; revising language with respect to financial reporting of the department; amending s. 335.074, F.S.; revising language with respect to safety inspection of bridges; repealing s. 335.04(1)(b)5., F.S., relating to an annual report on the functional classification of roads; amending s. 334.046, F.S.; revising language with respect to department program objectives; repealing s. 339.136, F.S., relating to the Improved Tentative Work Program; creating s. 337.2723, F.S.; providing for the acquisition of property interests for transportation purposes; amending s. 337.271, F.S.; revising language with respect to negotiations for acquisitions; repealing s. 337.241, F.S., relating to preparation and recording of maps of reservation for transportation corridors and facilities; amending s. 348.68, F.S.; relating to consultation with Hillsborough County City-County Planning Commission; amending s. 337.273, F.S.; revising language with respect to transportation corridors; creating s. 337.107, F.S.; providing for contracts for right-of-way services; amending s. 337.25, F.S.; revising language with respect to acquisition, lease, and disposal of real and personal property; amending s. 337.274, F.S.; allowing the department to enter land to perform archaeological assessments; amending s. 337.276, F.S.; revising language with respect to advanced acquisition of right-of-way; amending s. 206.46, F.S.; revising language with respect to the State Transportation Trust Fund; amending s. 215.605, F.S.; providing a cross reference; authorizing funds not needed for debt service on state bonds for right-of-way acquisition or bridge construction to be transferred to the State Transportation Trust Fund; amending s. 255.565, F.S.; revising language with respect to the Asbestos Oversight Program Team; amending s. 337.106, F.S.; revising language with respect to professional service providers; amending s. 337.11, F.S.; revising language with respect to bids; amending s. 337.18, F.S.; revising language with respect to surety bonds; amending s. 337.175, F.S.; revising language with respect to retainage; amending s. 337.185, F.S.; providing for certain claims before the State Arbitration Board; amending s. 337.221, F.S.; revising language with respect to the claims settlement process; creating s. 337.108, F.S.; providing for indemnification with respect to hazardous materials and pollutants; amending s. 337.015, F.S.; directing the department to make payments for road and bridge construction at certain intervals; amending s. 337.17, F.S.; providing for bid guaranty payable to the department; amending s. 287.042, F.S.; revising language with respect to the powers and duties of the Division of Purchasing; amending s. 338.2275, F.S.; revising approved use of funds for turnpike projects; extending the Branan/Chaffee Road Facility; excluding a portion of the Western Beltway; authorizing use of funds for the Central Connector; amending s. 338.223, F.S.; revising language with respect to proposed turnpike projects; amending s. 337.26, F.S.; revising language with respect to instruments of sale, lease, or conveyance; amending s. 337.27, F.S.; revising language with respect to the exercise of the power of eminent domain by the department and noncharter counties; amending s. 316.1001, F.S.; revising language with respect to the payment of tolls on toll facilities and penalties for noncompliance; amending s. 320.03, F.S.; providing a cross reference; amending s. 316.660, F.S.; revising language with respect to fines for citations; amending s. 316.2952, F.S.; authorizing the use of electronic toll payment devices; amending s. 318.14, F.S.; revising language with respect to noncriminal traffic infractions; amending s. 318.18, F.S.; revising language with respect to civil penalties; creating s. 335.045, F.S.; providing for the applicability of the Florida Transportation Code; amending s. 348.60, F.S.; revising language with respect to lease-purchase agreements; authorizing the Orlando-Orange County Expressway Authority to construct a portion of the Western Beltway; authorizing the Orlando-Orange County Expressway Authority to construct certain improvements and facilities incidental to the expressway system; amending s. 348.966, F.S.; providing definitions; amending s. 348.968, F.S.; revising language with respect to the purposes and powers of the Santa Rosa Bay Bridge Authority; amending s. 348.969, F.S.; revising language with respect to bonds; amending s. 348.97, F.S.; revising language with respect to lease purchase; amending s. 348.971, F.S.; providing for the appointment of the department as agent of the authority; amending s. 348.973, F.S.; providing for cooperation; amending s. 348.974, F.S., relating to the covenant of the state; creating s. 348.9751, F.S.; providing remedies and pledges enforceable for bondholders; creating s. 348.9761, F.S.; providing for exemption from taxation; creating s. 348.9771, F.S.; providing eligibility for investments and security; creating s. 348.9781, F.S.; providing for applicability; amending s. 348.0012, F.S.; providing for the application of the Florida Expressway Authority Act; amending s. 348.0004, F.S.; prohibiting expressway authorities from undertaking certain construction; amending s. 338.251, F.S.; revising language with respect to the Toll Facilities Revolving Trust Fund; amending s. 338.250, F.S.; revising language with respect to Central Florida Beltway mitigation; amending s. 20.23, F.S.; revising language with respect to the Department of Transportation; amending s. 334.065, F.S.; revising language with respect to the Center for Urban Transportation Research; amending s. 212.69, F.S.; revising language with respect to certain funds in the the Gas Tax Collection Trust Fund; creating an oversight committee and providing for powers and duties thereof; transferring the Clean Florida Commission from the Department of Transportation to the Department of Environmental Regulation; amending s. 403.4131, F.S.; conforming to the act; amending s. 334.044, F.S.; providing an additional duty of the Department of Transportation; repealing s. 321.001, F.S., relating to the power of the Governor to effectuate the purposes of the National Safety Act of 1966; amending s. 163.03, F.S.; eliminating a responsibility of the Department of Community Affairs with respect to highway safety grant programs; amending s. 110.205, F.S.; revising language with respect to certain positions exempt from the Career Service System; amending s. 335.20, F.S.; revising language with respect to the local government cooperative assistance program; amending s. 59, chapter 90-136, Laws of Florida; revising language with respect to the functional classification of roads; amending s. 337.407, F.S.; revising language with respect to the regulation of signs and lights within rights-of-way; exempting certain transit bus benches from departmental size requirements; amending s. 177.151, F.S.; revising language with respect to the state plane coordinate; providing effective dates.

House Amendment 1 (with Title Amendment) to Senate Amendment 1—On page 1, line 14, through page 213, line 22, strike all of said lines and insert:

Section 1. *The provisions of this act shall be known as the "Transportation Efficiency Act of 1992"*

Section 2. Subsections (7) and (8) of section 338.001, Florida Statutes, are amended to read:

338.001 Florida Intrastate Highway System Plan.—

(7) *Any* ~~No~~ project ~~may~~ *to* be constructed as part of the Florida Intrastate Highway System *shall be* ~~unless~~ included in the *department's adopted work program. Any Florida Intrastate Highway System projects that are added to or deleted from the previous adopted work program, or any modification to Florida Intrastate Highway System projects contained in the previous adopted work program, shall be specifically identified and submitted as a separate part of the tentative work program* ~~system plan as adopted by affirmative action of the Legislature~~.

(8) *Updates of* the ~~proposed~~ Florida Intrastate Highway System Plan shall be included as a section of the Florida Transportation Plan *annually* submitted to the Legislature by January 15~~, 1991~~. *Subsequent to an annual submission, but before the next regular legislative session after such submission, the department shall present to the legislative transportation committees a status report on the Florida Intrastate Highway System Plan.*

Section 3. Paragraphs (a) and (b) of subsection (5) and subsection (7) of section 339.155, Florida Statutes, are amended to read:

339.155 Transportation planning.—

(5) SYSTEMATIC PLANNING PROCESS.—The department shall institute and publish a systematic planning process for considering those factors to be used in developing the statewide transportation plan pursuant to subsection (2) so that any major transportation facility is so planned that it will function as an integral part of the overall plan for local, regional, and state development. The process shall:

(a) Provide the necessary framework to guide transportation planning in the state, consistent with the state comprehensive plan. ~~In order to assist~~ The department *shall be assisted* in the systematic planning process *by*~~, there is created~~ the Metropolitan Planning Organization Advisory *Council* ~~Committee~~ *created pursuant to s. 339.175.* ~~The committee shall be composed of a representative from each metropolitan planning organization in the state. Each metropolitan planning organization shall select one representative to serve on the committee and shall notify the department of such selection or any change in representation. The advisory committee shall, by majority vote, make recommendations to the department concerning the statewide transportation plan. The department shall formally document actions taken in response to such recommendations. The advisory committee will augment, and not supplant, the role of individual metropolitan planning organizations in the cooperative transportation planning process.~~

(b) Identify statewide ~~and local~~ transportation needs and issues by documenting transportation system conditions and projecting future mobility demands. In identifying such needs and issues, consideration shall be given to the condition of existing facilities and services, as well as to new facilities and services. The identification of needs shall be by category by district and shall state the cost to meet such needs.

1. *Upon the written request by the President of the Senate and the Speaker of the House of Representatives* ~~From the transportation needs identified pursuant to this subsection~~, the department shall prepare a list of projects, *from the transportation needs identified pursuant to this paragraph,* that meet the following criteria:

a. The project can be made production-ready within the 5 fiscal years following the end of the current fiscal year.

b. The project is not included in the current adopted work program or in the tentative work program to be submitted by the department for the next fiscal year.

c. The project is included in the transportation improvement program of any metropolitan planning organization within whose boundaries the project is located in whole or in part.

d. The project is not inconsistent with an approved local comprehensive plan of any local government within whose boundaries the project is located in whole or in part, or, if inconsistent, is accompanied by an explanation of why the inconsistency should be resolved in favor of the department's recommendation to the Legislature that the project should be undertaken.

2. The department shall submit the list of projects prepared pursuant to this *paragraph* ~~subsection~~ to the legislative appropriations committees ~~no later than January 15 of each year~~ as part of the annual update of the Florida Transportation Plan required pursuant to paragraph (6)(b), together with the following plans and reports:

a. An enhanced program and resource plan that adds the list of projects and required support costs to the projects and other programs of the tentative work program required to be submitted by the department not later than January 15 of each year pursuant to s. 339.135(4)(g);

b. A variance report comparing the enhanced plan with the plan for the tentative work program covering the same period of time; and

c. A 36-month cash forecast identifying the additional revenues needed to finance the enhanced plan.

(7) PROCEDURES FOR PUBLIC PARTICIPATION IN TRANSPORTATION PLANNING.—

(a) The department shall, pursuant to its rules, hold hearings for metropolitan statistical areas and areas projected by the department to become metropolitan statistical areas within *the next* 10 years, as follows:

1. *An annual systems* ~~A~~ planning hearing, at which time the factors included in subsection (2) shall be presented for discussion and comment. However, a hearing held on a metropolitan urban area transit study or on an equivalent comprehensive *transportation* planning study shall satisfy the planning hearing requirement if it is so stated in the public notice of the study hearing.

2. A facility and site or corridor hearing, at a time prior to the selection of the type or types of major transportation facility or facilities to be constructed and prior to the selection of the site or corridor of the proposed facility.

3. A design hearing, at a time after the selection of, and prior to the commitment by the department to, a specific design proposal for the facility or facilities.

(b) These public hearings shall be so conducted as to provide an opportunity for effective participation by interested persons in the process of transportation planning and site and route selection and in the specific location and design of transportation facilities. The various factors involved in the decision or decisions and any alternative proposals shall be clearly presented so that the persons attending the hearing may present their views relating to the decision or decisions which will be made.

(c) Opportunity for *design* ~~public~~ hearings:

1. The department, prior to holding a design ~~or planning~~ hearing, shall duly notice all affected property owners of record, as recorded in the property appraiser's office, by mail at least 20 days prior to the date set for the hearing. The affected property owners shall be:

a. Those whose property lies in whole or in part within 300 feet on either side of the center line of the proposed facility.

b. Those who the department determines will be substantially affected environmentally, economically, socially, or safetywise.

2. For each subsequent hearing, the department shall daily publish notice at least 14 days immediately prior to the hearing date in a newspaper of general circulation for the area affected.

3. A copy of the notice of opportunity for *the* ~~public~~ hearing shall be furnished to the United States Department of Transportation and to the appropriate departments of the state government at the time of publication.

4. The opportunity for another ~~public~~ hearing shall be afforded in any case when proposed locations or designs are so changed from those presented in the notices specified above or at a ~~public~~ hearing as to have a substantially different social, economic, or environmental effect.

5. The opportunity for a ~~public~~ hearing shall be afforded in each case in which the department is in doubt as to whether a ~~public~~ hearing is required.

(d) Opportunity for planning hearings: The department, prior to holding a planning hearing, shall duly notice all interested persons by publishing a notice in the Florida Administrative Weekly and a newspaper of general circulation for the metropolitan statistical area. Notices of the hearing shall be published twice prior to the day of the hearing. The first notice shall be at least 14 days prior to the hearing.

Section 4. Paragraph (a) of subsection (2), paragraphs (a) and (b) of subsection (3), and paragraph (a) of subsection (9) of section 339.175, Florida Statutes, are amended, and subsection (23) is added to said section, to read:

339.175 Transportation planning organization.—

(2)(a) The voting membership of an M.P.O. shall consist of not fewer than 5 or more than 18 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 Section 134, Title 23, U.S.C., as amended by the Intermodal Surface Transportation Efficiency Act of 1991, may also provide for M.P.O. members who represent municipalities to alternate on an annual basis with representatives from other municipalities within the designated urban area that do not have members on the M.P.O.* County commission members shall compose not less than 33⅓ percent 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, in which case county commission members may compose less than 33⅓ percent of the M.P.O. membership, but all five county commissioners shall be members. All voting members shall be elected officials of general purpose governments, except that a local governing entity which has two or more members on the M.P.O. may appoint, as one of its apportioned voting members, a member of a statutorily authorized planning board or transportation, expressway, aviation, or port

authority. In urbanized areas in which authorities or other agencies have been, or may be, created by law to perform transportation functions that are not under the jurisdiction of local elected officials, they may be considered by the Governor for one voting membership on the M.P.O. Provided, however, in urbanized areas in which authorities or other agencies have been or may be created by law to perform public transit functions that receive financial assistance or grants from the state, said authorities or agencies shall have one voting membership on the M.P.O. Said member shall be an elected official appointed by the respective authority or other agency performing public transit functions or where there is more than one public transit agency in the urbanized area, the member shall be elected by vote of the transit agencies. The county commission shall compose not less than 25 percent of the M.P.O. membership when a public transit representative has been appointed.

(3)(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 among the various governmental entities within the area ~~on the basis of equitable population ratio and geographic factors~~ and shall prescribe a method for appointing alternate members who may vote at any M.P.O. meeting at which the regular members in attendance do not comprise a quorum. An appointed alternate member must be an elected official serving the same governmental entity or area that the regular member serves. The governing 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 at least every 5 years and reapportion it as necessary to comply with subsection (2).

(b) *Except for members that serve on an annual basis as provided in (2)(a),* the members of an M.P.O. shall serve 4-year terms. The membership of a member who is a public official will terminate upon his leaving his elective or appointive office for any reason, or 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.

(9) The powers, privileges, and authority of an M.P.O. are those specified in this section and incorporated in the interlocal agreement authorized under s. 163.01. The duties of an M.P.O. are described as those duties required by federal and state laws, rules, and regulations, now and subsequently applicable, which are necessary to qualify the urbanized areas of the state to receive all federal-aid transportation funds for which they are legally eligible as a consequence of the proper exercise of such duties. Such duties include, in cooperation with the department, the following functions, including any subsequent amendments or expansions required by federal and state laws, rules, and regulations:

(a) Development of:

1. A comprehensive transportation plan which includes consideration of long-range goals and transportation systems management measures.

2. An annual unified planning work program which will identify the planning budget and the planning activities to be undertaken during the program year. The work 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 urbanized area of the M.P.O.

3. An annually updated transportation improvement program, which shall consist of improvements recommended from the comprehensive transportation plan developed and recommended for federal or state funding during the program period and which shall:

a. Identify transportation improvements recommended for advancement during the next fiscal year and 4 subsequent state fiscal years. Such improvements 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 urbanized area of the M.P.O. The department shall give primary priority to those transportation improvements that are:

(I) Designed to maximize safe and efficient travel;

(II) Identified in approved local government comprehensive plans to receive local matching funds in accordance with the provisions of s. 335.20 or to be funded pursuant to the provisions of s. 339.12;

(III) Within transportation corridors protected by local government action;

(IV) Used in the operation of or in conjunction with public transportation facilities; and

(V) Located within the boundaries of a local government which has made a responsible local effort to fund improvements needed to accommodate local transportation demand.

b. Indicate the priorities for the area.

c. Group improvements of similar urgency and anticipated staging into appropriate staging periods.

d. Include realistic estimates of total costs and revenues for the program period.

e. Include a discussion of how improvements relate to the comprehensive transportation plan.

f. Indicate how the improvements are consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government whose boundaries are within the urbanized area.

g. Indicate how the improvements are consistent, to the maximum extent feasible, with port and aviation master plans, and public transit development plans of the units of local government whose boundaries are within the urbanized area.

The annual transportation improvement program shall be submitted to the district secretary, *each member of the Legislature who represents the metropolitan planning organization area,* and the Department of Community Affairs at least *120* ~~90~~ days prior to the submission of the tentative work program to the Florida Transportation Commission.

(23)(a) A Metropolitan Planning Organization Advisory Council is created to augment, and not supplant, the role of the individual metropolitan planning organizations in the cooperative transportation planning process described in s. 339.155(5).

(b) The council shall consist of one representative from each metropolitan planning organization and shall elect a chairperson annually from their number. 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 make rules to effectuate its powers, responsibilities, and obligations.

5. Assist the metropolitan planning organizations 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 the metropolitan planning organizations 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.

Section 5. Subsection (1) of section 336.045, Florida Statutes, is amended, and subsection (6) is added to said section, to read:

336.045 Uniform minimum standards for design, construction, and maintenance; advisory committees.—

(1) The department shall develop and adopt uniform minimum standards and criteria for the design, construction, and maintenance of all public streets, roads, highways, bridges, sidewalks, curbs and curb ramps, crosswalks, where feasible, bicycle ways, underpasses, and over-

passes used by the public for vehicular and pedestrian traffic. *In developing such standards and criteria, the department shall consider design approaches which provide for the compatibility of such facilities with the surrounding natural or manmade environment; the safety and security of public spaces; and the appropriate aesthetics based upon scale, color, architectural style, materials used to construct the facilities, and the landscape design and landscape materials around the facilities. The department shall annually provide funds in its tentative work program to implement the provisions of this subsection relating to aesthetic design standards.* The minimum standards adopted *must* ~~shall~~ include a requirement that permanent curb ramps be provided at crosswalks at all intersections where curbs and sidewalks are constructed in order to give handicapped persons and persons in wheelchairs safe access to crosswalks.

(6) If the governing body of a county or municipality has adopted a design element as part of its comprehensive plan pursuant to part II of chapter 163, the department shall consider such element during project development of transportation facilities. The design of transportation facilities constructed by the department within the boundaries of that county or municipality must be consistent with that element to the maximum extent feasible.

Section 6. *The Department of Transportation is authorized to accept donations of plans, materials, installation, and maintenance for landscape projects on the State Highway System.*

(1) The department shall adopt rules for review and permitting of landscape donations. The rules must include, but are not limited to, an examination of the donation's aesthetic value, feasibility of installation and maintenance, compliance with state and federal regulations, and requirements for a maintenance plan.

(2) The department may place signs at the sight of donated landscaping where the donation encompasses materials and their installation and maintenance. Department rules shall provide for the type and size of such signs.

Section 7. Section 333.025, Florida Statutes, is amended to read:

333.025 Permit required for structures exceeding federal obstruction standards.—

(1) In order to prevent the erection of structures dangerous to air navigation, subject to the provisions of subsections (2), (3), and (4), each person shall secure from the Department of Transportation a permit for the erection, alteration, or modification of any structure the result of which would exceed the federal obstruction standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, and 77.29. However, permits from the Department of Transportation will be required only within an airport hazard area where federal standards are exceeded and if the proposed construction is within:

~~(a)~~ a 10-nautical-mile radius of the geographical center of a publicly owned or operated airport, a military airport, or an airport licensed by the state for public use. ~~which has a published instrument approach procedure;~~

~~(b) A 6-nautical-mile radius of the geographical center of a publicly owned or operated airport, a military airport, or an airport licensed by the state for public use which has no published instrument approach procedure and has runways in excess of 3,200 feet in length; or~~

~~(c) A 2.5-nautical-mile radius of the geographical center of a publicly owned or operated airport, a military airport, or an airport licensed by the state for public use which has no published instrument approach and has runways 3,200 feet or less in length.~~

(2) Affected airports will be considered as having those facilities which are shown on the airport's master plan, or an airport layout plan submitted to the Federal Aviation Administration Airport District Office or comparable military documents, and will be so protected. Planned or proposed public-use airports which are the subject of a notice or proposal submitted to the Federal Aviation Administration *or to the Department of Transportation* shall also be protected.

(3) Permit requirements of subsection (1) shall not apply to projects which received construction permits from the Federal Communications Commission for structures exceeding federal obstruction standards prior to May 20, 1975, *provided such structures now exist*; nor shall it apply to previously approved structures now existing, or any necessary replacement or repairs to such existing structures, so long as the height and location is unchanged.

(4) When political subdivisions have adopted adequate airspace protection in compliance with s. 333.03, *and such regulations are on file with the Department of Transportation,* a permit for such structure shall not be required from the Department of Transportation.

(5) The Department of Transportation shall, within 30 days of the receipt of an application for a permit, issue or deny a permit for the erection, alteration, or modification of any structure the result of which would exceed federal obstruction standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, and 77.29.

(6) In determining whether to issue or deny a permit, the department shall consider:

(a) The nature of the terrain and height of existing structures.

(b) Public and private interests and investments.

(c) The character of flying operations and planned developments of airports.

(d) Federal airways as designated by the Federal Aviation Administration ~~that lie within the radii described in subsection (1)(a)-(c)~~.

(e) Whether the construction of the proposed structure would cause an increase in the minimum descent altitude or the decision height at the affected airport.

(f) Technological advances.

(g) The safety of persons on the ground and in the air.

(h) Land use density.

(i) The safe and efficient use of navigable airspace.

(j) The cumulative effects on navigable airspace of all existing structures, proposed structures identified in the applicable jurisdictions' comprehensive plans, and all other known proposed structures in the area.

(7) When issuing a permit under this section, the Department of Transportation shall, as a specific condition of such permit, require the obstruction marking and lighting of the permitted structure as provided in s. 333.07(3)(b).

(8) The Department of Transportation shall not approve a permit for the erection of a structure unless the applicant submits both documentation showing compliance with the federal requirement for notification of proposed construction and a valid aeronautical evaluation, and no permit shall be approved solely on the basis that such proposed structure will not exceed federal obstruction standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, or 77.29, or any other federal aviation regulation.

Section 8. Paragraph (c) of subsection (1), paragraphs (e) and (d) of subsection (2), and subsection (3) of section 333.03, Florida Statutes, are amended, and subsection (6) is added to said section, to read:

333.03 Power to adopt airport zoning regulations.—

(1)

(c) Airport zoning regulations adopted under paragraph (a) shall, as a minimum, require:

1. A variance for the erection, alteration, or modification of any structure which would cause the structure to exceed the federal obstruction standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, and 77.29,-

2. Obstruction marking and lighting for structures as specified in s. 333.07(3),-

3. Documentation showing compliance with the federal requirement for notification of proposed construction and a valid aeronautical evaluation submitted by each person applying for a variance;

4. Consideration of the criteria in s. 333.025(6), when determining whether to issue or deny a variance; and

5. That no variance shall be approved solely on the basis that such proposed structure will not exceed federal obstruction standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, or 77.29, or any other federal aviation regulation.

(2) In the manner provided in subsection (1), interim airport land use compatibility zoning regulations shall be adopted. When political subdivisions have adopted land development regulations in accordance with the provisions of chapter 163 which address the use of land in the manner consistent with the provisions herein, adoption of airport land use compatibility regulations pursuant to this subsection shall not be required. Interim airport land use compatibility zoning regulations shall consider the following:

(c) Where an airport authority or other governing body operating a publicly owned, public-use airport has conducted a noise study in accordance with the provisions of 14 C.F.R. part 150, *neither* residential construction *nor any educational facility as defined in chapter 235 shall* ~~should not~~ be permitted within the area contiguous to the airport defined by an outer noise contour that is considered incompatible with that type of construction by 14 C.F.R. part 150, Appendix A or an equivalent noise level as established by other types of noise studies.

(d) Where an airport authority or other governing body operating a publicly owned, public-use airport has not conducted a noise study, *neither* residential construction *nor any educational facility as defined in chapter 235 shall* ~~should not~~ be permitted within an area contiguous to the airport measuring one-half the length of the longest runway on either side of and at the end of each runway centerline.

(3) In the manner provided in subsection (1), airport zoning regulations shall be adopted which restrict new incompatible uses, activities, or construction within runway clear zones, including uses, activities, or construction in runway clear zones which are incompatible with normal airport operations or endanger public health, safety, and welfare by resulting in congregations of people, emissions of light or smoke, or attraction of birds. *Such regulations shall prohibit the construction of an educational facility of a public or private school at either end of a runway of a publicly owned, public-use airport within an area which extends 5 miles in a direct line along the centerline of the runway, and which has a width measuring one-half the length of the runway. Exceptions approving construction of an educational facility within the delineated area shall only be granted when the political subdivision administering the zoning regulations makes specific findings detailing how the public policy reasons for allowing the construction outweigh health and safety concerns prohibiting such a location.*

(6) Nothing in subsection (2) or subsection (3) shall be construed to require the removal, alteration, sound conditioning, or other change, or to interfere with the continued use or adjacent expansion of any public or private educational facility or campus in existence on July 1, 1992, or to prohibit the construction of new public or private educational facilities on campuses which have been sited prior to July 1, 1992, or for which property has been acquired prior to July 1, 1992.

Section 9. Section 331.21, Florida Statutes, is created to read:

331.21 Independent authorities; terms of presiding members.—Notwithstanding a contrary provision of any general or special law, the presiding member of an authority created by the legislature which operates an international airport enplaning more than eight million passengers annually may serve as presiding member for eight consecutive years, provided he or she is selected to serve each term as a member of the authority and each term as its presiding member under the applicable procedures of the authority.

Section 10. Subsection (4) of section 235.19, Florida Statutes, is amended to read:

235.19 Site planning and selection.—

(4) Sites recommended for purchase, or purchased, in accordance with the provisions of chapter 230 or chapter 240 shall meet standards prescribed therein and such supplementary standards as may be prescribed by the state board to promote the educational interests of the students. Each site shall be well drained and reasonably free from mud, and the soil shall be adaptable to landscaping and suitable for outdoor educational purposes. *As provided in s. 333.03,* ~~Insofar as is practicable,~~ the site shall not be located within any path of flight approach of any airport. *Insofar as is practicable, the site shall not* ~~or~~ adjoin a right-of-way of any railroad or through highway and shall not be adjacent to any factory or other property from which noise, odors, or other disturbances, or at which conditions, would be likely to interfere with the educational program.

Section 11. Subsection (6) is added to section 333.031, Florida Statutes, to read:

333.031 Airport Safety and Land Use Compatibility Study Commission.—

(6) Subsequent to submission of the 1991 report to the Governor and Legislature, the commission shall assess the effectiveness of and make any appropriate modifications to the 1991 report recommendations, and provide a final report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader by July 1, 1993.

Section 12. *Effective July 1, 1993, section 333.031, Florida Statutes, as created by chapters 90-136 and 90-227, Laws of Florida, and as amended by this act, is hereby repealed.*

Section 13. Section 341.3201, Florida Statutes, is created to read:

341.3201 Florida High-Speed Rail Transportation Act; short title.—Sections 341.3201-341.386 may be cited as the "Florida High-Speed Rail Transportation Act."

Section 14. Section 341.321, Florida Statutes, is amended to read:

341.321 Development of high-speed rail *transportation system* ~~lines~~; legislative findings, policy, purpose, and intent.—

(1) The intent of ss. 341.3201-341.386 is to further and advance the goals and purposes of the 1984 High Speed Rail Transportation Commission Act; to ensure a harmonious relationship between that act and the various growth management laws enacted by the Legislature including the Local Government Comprehensive Planning and Land Development Regulation Act, ss 163 3616-363.3215, the Florida State Comprehensive Planning Act of 1972 as amended, ss. 186.011-186.031, the Florida Regional Planning Council Act, ss. 186.501-186.512, and the State Comprehensive Plan, chapter 187; to promote the implementation of these acts in an effective manner; and to encourage and enhance the establishment of a high-speed rail transportation system connecting the major urban areas of the state as expeditiously as is economically feasible. Furthermore, it is the intent of the Legislature that any high-speed rail line and transit station be consistent to the maximum extent feasible with local comprehensive plans, and that any other development associated with the rail line and transit station shall ultimately be consistent with comprehensive plans. The Legislature therefore reaffirms these enactments and further finds:

(a) That the implementation of a high-speed rail transportation system in the state will result in overall social and environmental benefits, improvements in ambient air quality, better protection of water quality, greater preservation of wildlife habitat, less use of open space, and enhanced conservation of natural resources and energy.

(b) That a high-speed rail transportation system, when used in conjunction with sound land-use planning, becomes a vigorous force in achieving growth management goals and in encouraging the use of public transportation to augment and implement land use and growth management goals and objectives.

(c) That urban and social benefits include revitalization of blighted or economically depressed areas, the redirection of growth in a carefully and comprehensively planned manner, and the creation of numerous employment opportunities within inner-city areas.

(d) That transportation benefits include improved travel times and more reliable travel, hence increased productivity. High-speed rail is far safer than other modes of transportation and, therefore, travel-related deaths and injuries can be reduced, and millions of dollars can be saved from avoided accidents.

(2)~~(1)~~ It is the finding of the Legislature that:

(a) Access to timely and efficient modes of passenger transportation is necessary for Florida's travelers, visitors, and day-to-day commuters; to the quality of life in the state; and to the economy of the state.

(b) Technological advances in the transportation system can significantly and positively affect the ability of the state to attract and provide efficient services for domestic and international tourists and thus significantly affect the revenues of the state.

(c) The development and utilization of a properly designed, constructed, and financed high-speed rail *transportation system* ~~line~~ can act as a catalyst for economic growth and development; eliminate unduly long and traffic-congested commutes for day-to-day commuters; create new employment opportunities; create a safer transportation alternative; serve as a positive growth management system for building a better and more environmentally secure state; and promote the health, safety, and welfare of the citizens of the state.

(d) *Sections 341.3201-341.386 are* ~~The passage of this act is~~ a declaration of legislative intent that the state pursue the development of a high-speed rail *transportation system* ~~line~~ to solve transportation problems and eliminate their negative *effect* ~~impacts~~ on the citizens of this state.

(e) Joint development is a necessary planning, financing, management, operation, and construction mechanism to ensure the continued future development of an efficient and economically viable high-speed rail *transportation system* ~~line~~ in this state, without which mechanism the development of such a system may be rendered economically unfeasible.

(f) The geography of the state is suitable for the construction and efficient operation of a high-speed rail *transportation system* ~~line~~.

(g) The public use of the high-speed rail *transportation system* ~~line~~ must be encouraged and assured to achieve the public purpose and objectives set forth in *ss. 341 3201-341 386* ~~this act~~. In order to encourage the public use of the high-speed rail *transportation system* ~~line~~ and to protect the public investment in the *system* ~~line~~, it is necessary to provide an environment surrounding a high-speed rail transit station which will enhance the safe movement of pedestrians and traffic into and out of the area, assure the personal and property safety of high-speed rail *transportation system* ~~line~~ users while the users are in the area of the station, and eliminate all conditions in the vicinity which constitute economic and social liabilities to the use of the high-speed rail *transportation system* ~~line~~.

(h) Areas surrounding certain transit stations may, as a result of slums, blighted conditions, crime, and traffic congestion, pose a serious threat to the use of the high-speed rail *transportation system* ~~line~~, reduce revenues from users, discourage pedestrian and traffic ingress and egress, retard sound growth and development, impair the public investment, and consume an excessive amount of public revenues in the employment of police and for other forms of public protection to adequately safeguard the users and the high-speed rail *transportation system* ~~line~~. Such areas may require acquisition, clearance, disposition, or joint private and public development, as provided in *ss. 341.3201-341.386* ~~this act~~, to provide parking lots, stores, retail establishments, restaurants, hotels, office facilities, or other commercial, civic, residential, or support facilities appurtenant or ancillary to the high-speed rail *transportation system* ~~line~~ and transit stations and to otherwise provide for an environment which will encourage the use of, and safeguard, the facility.

(i) The powers conferred by *ss. 341.3201-341.386* ~~this act~~ are for public uses and purposes for which public funds may be expended and the power of eminent domain may be exercised, and the necessity in the public interest for the provisions herein enacted is hereby declared as a matter of legislative determination.

(3)~~(2)~~ Based upon the legislative findings, it is appropriate for the state to enact legislation that *authorizes the development of* ~~creates a High-Speed Rail Transportation Commission in order to develop~~ a high-speed rail *transportation system* ~~line~~ in this state utilizing existing publicly owned lands and rights-of-way whenever possible.

(4)~~(3)~~ It is the purpose of the Legislature to authorize the *Department of* ~~High-Speed Rail~~ Transportation ~~Commission~~ to implement the innovative mechanisms required to effect the joint (public-and-private) venture approach to planning, locating, permitting, managing, financing, constructing, operating, and maintaining an interregional high-speed rail *transportation system* ~~line~~ for the state, including providing incentives for revenue generation, operation, and management by the private sector.

(5)~~(4)~~ The legislative intent of *ss. 341 3201-341.386* ~~this act~~ is to establish a centralized and coordinated permitting and planning process for the location of *a* high-speed rail *transportation system and such system's* ~~lines and their~~ construction, operation, and maintenance in order to enhance and complete the transportation system of this state for travelers, visitors, and day-to-day commuters. This necessarily involves the addressing of several broad interests of the public through the subject matter jurisdictions of several agencies. The Legislature recognizes that the location, construction, operation, and maintenance of *a* high-speed rail *transportation system* ~~lines~~ will have an effect upon the welfare of the population and that a centralized and coordinated permitting and planning process will help to ensure that such *system results in* ~~lines produce~~ minimal adverse effects on the environment and public health, safety, and welfare.

(6)~~(5)~~ It is the intent of the Legislature that the first request for proposals ~~by the High-Speed Rail Transportation Commission~~ be prepared so as not to preclude any of the technologies contained in the conceptual proposals presented to the Governor's High-Speed Rail Committee.

(7)~~(6)~~ Upon the legislative findings, the Legislature preempts, by *ss. 341.3201-341.386,* ~~this act~~ any question, issue, or determination that the high-speed rail *transportation system* ~~line~~ is needed.

(8) It is further the intent and purpose of the Legislature in enacting this act to:

(a) Complement the establishment of the statewide rail transportation system envisioned by s. 341.302 by including as an integral component a high-speed rail transportation system that is competitive with air and automobile travel;

(b) Facilitate the accomplishment of the State Comprehensive Plan Policy, ss. 187.201(20)(b)1., of establishing a high-speed rail system that links the Tampa Bay area, Orlando, and Miami;

(c) Encourage the creation of a public/private partnership including the state and a private entity franchisee together investing time and resources to develop a high-speed rail transportation system for Florida; and

(d) Improve overall transportation in Florida by providing for the establishment of a statewide high-speed rail transportation system that may be accomplished on an incremental basis commensurate with available resources and using, if necessary, existing rail or other transportation facilities on an interim basis.

Section 15. Section 341.322, Florida Statutes, is amended to read:

341.322 Definitions ~~of terms~~ used in *ss. 341.3201-341.386* ~~ss. 341.321-341.386~~.—As used in *ss. 341 3201-341 386* ~~this act~~, the term:

~~(1) "Act" means ss. 341.321-341.386.~~

~~(2) "Administering agency" means:~~

~~(a) The commission, for matters pertaining to the franchise component.~~

~~(b) The Department of Environmental Regulation, for matters pertaining to the rail line element of the certification component.~~

~~(c) The Department of Community Affairs for matters pertaining to the ancillary facilities element of the certification component.~~

(1)~~(3)~~ "Agency," as the context requires, means an official, officer, commission, authority, council, committee, department, division, bureau, board, section, political subdivision, or other unit of government within the state, including a county, municipality, or other regional or local governmental entity.

(2)~~(4)~~ "Amendment" means a material change in the information provided in the application for *certification* ~~a franchise~~, which change is made after the initial application is filed *and before final action on the application has occurred.*

~~(5) "Ancillary facilities" means property, equipment, or buildings built, installed, or established to provide financing, funding, or revenues for the planning, construction, management, and operation of a high-speed rail line and shall include site-specific and non-site-specific ancillary facilities. The term "ancillary facilities" includes property necessary for joint development, such as parking lots, stores, retail establishments, restaurants, hotels, offices, or other commercial, civic, residential, or support facilities and may also include property necessary to protect or preserve the station area by reducing urban blight or traffic congestion or property necessary to accomplish any of the above purposes which are reasonably anticipated or necessary. However, the term "ancillary facilities" does not include the rail line, transit station, or transit station appurtenant building. The ancillary facilities may be located outside the corridor, provided the ancillary facilities are located on property adjacent to the corridor or the property is connected with the transit station or transit station appurtenant building by a transit system.~~

(3)~~(6)~~ "Applicant" means any person who *responds to a request for proposals and* applies for a franchise pursuant to the provisions of *ss. 341 3201-341.386* ~~this act~~.

(4) "Application for certification" means the documents which are required by the department to be filed by the franchisee to initiate the proceedings required for the granting of certification.

(5)~~(7)~~ "Application *for franchise*" means the documents *which are* required by the *department* ~~commission~~ to be filed in *response to the request for proposals and which* ~~order to~~ initiate the proceedings required for the award of a franchise. ~~Each application shall contain both a franchise component and a certification component.~~

(6) "Associated development" means property, equipment, or buildings which are built, installed, or established to provide financing, funding, or revenues for the planning, constructing, managing, and operating of a high-speed rail transportation system and which are directly associated with transit stations. The term includes property, including air rights, necessary for joint development, such as parking lots, stores, retail establishments, restaurants, hotels, offices, or other commercial, civic, residential, or support facilities and may also include property necessary to protect or preserve the station area by reducing urban blight or traffic congestion or property necessary to accomplish any of the above purposes which are reasonably anticipated or necessary.

(7)~~(8)~~ "Board" means the Governor and Cabinet sitting as the Florida Land and Water Adjudicatory Commission.

(8)~~(9)~~ "Bond" means any instrument of indebtedness, whether secured or unsecured, or any revenue bond, note, or other obligation issued on behalf of the *department* ~~commission~~ by the Division of Bond Finance of the Department of General Services.

(9) "Certification" means the order issued by the board which approves a high-speed rail transportation system, or a portion thereof, proposed by the franchisee and constitutes the authorization for, and approval of, the location, construction, operation, and maintenance of the system, or portion thereof, designated in the order, with any modifications the board considers appropriate. Upon the issuance of the certification, all terms and conditions of the franchise become terms and conditions of the certification.

~~(10) "Commission" means the Florida High Speed Rail Transportation Commission.~~

(10)~~(11)~~ "Completeness," with respect to an application *for certification*, means that the application has addressed all applicable sections of the prescribed application *for certification and* ~~format, but does not mean~~ that those sections are sufficient in the comprehensiveness of data *and* ~~or~~ in the quality of information provided.

(11)~~(12)~~ "Corridor" means the proposed area within which a high-speed rail line *or guideway* is to be located. The corridor *must* ~~shall~~ run between the *transit stations* ~~geographic areas established by the commission as the termini~~. The width of the corridor proposed shall not exceed a width of $\frac{1}{2}$mile. After all property interests required for the high-speed rail line *or guideway* have been acquired by the applicant, the boundaries of the area certified shall narrow to bound only that land within the boundaries of the high-speed rail line *or guideway*.

(12) "Department" means the Department of Transportation.

~~(13) "Cost" means any cost of construction or acquisition of a high-speed rail line, including finance charges, interest, provision for working capital, reserves for principal and interest, contributions in aid of construction, expenses necessary to determine the feasibility of a proposed high-speed rail line, and all other costs necessary for placing the high-speed rail line into operation.~~

~~(14) "Development rights" means those rights created pursuant to the award of the franchise.~~

(13)~~(15)~~ "Division" means the Division of Bond Finance of the Department of General Services.

(14)~~(16)~~ "Franchise" means the *document and all concomitant rights* ~~license~~ approved by the *department* ~~commission~~ that provides the holder with the exclusive right to *establish a high-speed rail transportation system and, subject to a grant of certification, the right to* construct and operate a high-speed rail *transportation system* ~~line between the termini selected by the commission~~. The award of the franchise *is* ~~shall be~~ the final order of the *department, but does not authorize the construction or operation of the system, or any part thereof, until the issuance of certification by the board* ~~commission and contain all the terms and conditions of the certification order of the board~~.

(15)~~(17)~~ "Franchisee" means *the* ~~any~~ individual, *corporation, or other entity that has been awarded a franchise* ~~or any nongovernmental entity or corporation that plans, constructs, finances, or operates a high-speed rail line pursuant to a franchise granted by the commission or performs any combination of such planning, construction, financing, or operation~~.

(16)~~(18)~~ "High-speed rail *transportation system* ~~line~~" means any high-speed fixed-guideway transportation system for *transporting people or goods* ~~mass commuting~~, which system is capable of operating at speeds in excess of 120 miles per hour, including a monorail system, dual track rail system, suspended rail system, magnetic levitation system, or pneumatic repulsion system. The term ~~"high-speed rail line"~~ includes a corridor and structures essential to the operation of the line, including the land, structures, improvements, rolling stock, rights-of-way, easements, rail lines, rail beds, guideway structures, stations, platforms, switches, yards, terminals, parking lots, power relays, switching houses, transit station, *associated development*, ~~transit station appurtenant building, ancillary facilities~~, and any other facilities or equipment used or useful for the purposes of high-speed rail transportation construction, operation, or maintenance or the financing of high-speed rail transportation. ~~Each of the facilities of a high-speed rail line shall fall within one of the definitions of the following terms: "rail line," "transit station," "transit station appurtenant building," or "ancillary facilities." The term "high-speed rail line" includes the plural.~~

(17)~~(19)~~ "High-speed rail *transportation system* ~~line~~ right-of-way" means land necessary for the construction, operation, ~~financing,~~ and maintenance of the high-speed rail *transportation system* ~~line~~. The typical width of the right-of-way *must* ~~shall~~ be identified in the application *for certification*. The right-of-way *must* ~~shall~~ be located within the corridor and *must* ~~shall~~ be identified by the applicant subsequent to the award of the franchise *and the granting of certification* in documents filed with the *department* ~~commission~~ prior to construction.

(18)~~(20)~~ "Joint development" means the planning, *managing* ~~management~~, financing, or *constructing* ~~construction~~ of projects adjacent to, or physically related, functionally related, or otherwise related to, a high-speed rail *transportation system* ~~line~~ in order to effect the policy and purposes of *ss. 341.3201-341.386* ~~this act~~ pursuant to agreements between any person, firm, corporation, association, organization, agency, or other entity, public or private.

~~(21) "Level I information" means information elicited from those questions identified in the request for proposal certification component which are to be answered by each applicant in accordance with s. 341.343(2). Level I information includes, among other things, a general description of the high-speed rail line and its impacts on both the environment and local government, including, where applicable, a general discussion of mitigative measures.~~

~~(22) "Level II information" means information elicited from those questions identified in the request for proposal certification component which, at the option of an applicant, may be answered in accordance with a binding written agreement following the selection of applications by the commission for more detailed review. It shall include, among other things, a detailed presentation of the rail line element and the ancillary facilities element, including any mitigative measures for adverse impacts.~~

~~(23) "Level III information" means construction or other detailed plans and programs identified in the request for proposal which shall be provided in response to franchise conditions. Level III information is not required to be submitted as part of the application in response to the request for proposal.~~

(19)~~(24)~~ "License" has the ~~same~~ meaning ~~of the term "license"~~ that appears in *s. 120.52* ~~s. 403.503~~.

(20)~~(25)~~ "Local government" means a municipality or county in which any part of the high-speed rail *transportation system including any associated development* ~~line~~ is proposed to be located.

~~(26) "Master plan for ancillary facilities" means a document included in the application which provides in narrative form the concept and plan for the systematic development over time of each ancillary facility planned by the applicant. The master plan for ancillary facilities shall~~

~~include a description of the proposed land uses and the magnitude of development in terms of acres, different land uses, square footage of commercial space, number of residential units, or other appropriate measurements of quantity for each ancillary facility.~~

(21)~~(27)~~ "Metropolitan Planning Organization" or "M.P.O." means a metropolitan planning organization established pursuant to s. 339.175 *in the jurisdiction of which any part of the high-speed rail transportation system is proposed to be located.*

(22) "Modification of certification" means a change in the certification, or terms and conditions thereof, after the certification has been issued.

(23)~~(28)~~ "Modification *of franchise*" means any material change in the franchise after issuance, including a change in the terms and conditions of the franchise *where such change will not alter the terms and conditions of the certification.*

(24)~~(29)~~ "Modification request" means a request to modify the franchise *or certification* submitted pursuant to s. 341.368~~, including a modification to change transit stations into transit station appurtenant buildings, to relocate or add new transit stations or transit station appurtenant buildings, to change non-site-specific ancillary facilities into site-specific ancillary facilities, to add new ancillary facilities, to modify any part of the franchise component, or to do any combination thereof~~.

~~(30) "More detailed review hearing" or "MDR hearing" means a hearing conducted by the commission to select no more than three applications for more detailed review pursuant to the act.~~

~~(31) "Mutual written agreement" means an agreement on any modification of the terms and conditions of the franchise as referred to in s. 341.368.~~

~~(32) "Non-site-specific ancillary facility" means an ancillary facility included in the master plan for ancillary facilities for which the applicant has not provided a metes and bounds or other legal description.~~

~~(33) "Notice of intent" means that notice which is filed with the appropriate department by the commission on behalf of one or more high-speed rail line applicants prior to submission of an application pursuant to this act.~~

~~(34) "Person" has the same meaning of the term "person" that appears in s. 403.503.~~

(25)~~(35)~~ "Rail line *or guideway*" means the land, *fixed* structures, *and* improvements *on the land*, ~~rolling stock~~, power distribution systems, substations, communication and signaling systems, rights-of-way, easements, roadbeds, guideway structures, bridges, switches, platforms, yards, *fixed* ~~and~~ maintenance equipment and facilities, and ~~any~~ other *fixed* facilities or equipment used for *constructing, operating, maintaining* ~~the construction, operation, maintenance~~, or financing of the high-speed rail *transportation system, excluding associated development* ~~line, exclusive of ancillary facilities, transit stations, and transit station appurtenant buildings~~.

(26) "Regional comprehensive policy plan" means a comprehensive policy plan adopted by a regional planning council under chapter 186.

(27)~~(36)~~ "Regional planning council" means a regional planning council as defined in chapter 186, in the jurisdiction of which council any part of the high-speed rail *transportation system* ~~line~~ is proposed to be located.

(28) "Service area" means a geographical area not smaller than a county which is identified by the department in a request for proposals as an area that is to be served by a high-speed rail transportation system through the establishment of a transit station.

(29) "Terminus" means the transit station serving the service area at the end of the high-speed rail transportation system.

~~(37) "Revenues" means rents, receipts, purchase payments, gifts, donations, bequests, and other income derived by the commission or franchisee from the sale, lease, proceeds from bonds, or other disposition of high-speed rail line facilities; any revenues derived from joint development and ancillary facilities; any tax increment revenues received by municipalities, counties, or other taxing units within certain boundaries adjacent to the route of the high-speed rail line; any land sale revenues received by the commission, franchisee, or other entity through the sale of developed or undeveloped land adjacent to the route of the high-speed rail line; and any income derived from the investment of moneys in any fund or account of the commission.~~

~~(38) "Sale" means a sale of interests in a high-speed rail line for cash, whether in a lump sum or in installments, or pursuant to a lease with option to purchase in which all or part of the rent payments are credited to the purchase price.~~

~~(39) "Site" means, when used in context with ancillary facilities, the location of ancillary facilities as established by certification or, in the case of non-site-specific ancillary facilities, by modification of the franchise.~~

~~(40) "Site-specific ancillary facility" means an ancillary facility for which the applicant has provided a metes and bounds or other legal description and which is designated for construction and operation during a time certain as specified in the franchise.~~

~~(41) "Sufficiency" means that an application is not only complete, but that all sections are sufficient in the comprehensiveness of data or in the quality of information provided.~~

~~(42) "Termini" means geographical areas not smaller than a county, which areas are identified by the commission as the areas to be served by the high-speed rail line through the establishment of a transit station.~~

(30)~~(43)~~ "Transit station" or "station" means any structure or transportation facility that is primarily used, as part of a high-speed rail *transportation system* ~~line~~, for the purpose of loading, unloading, or transferring passengers or accommodating the movement of passengers from one mode of transportation to another.

~~(44) "Transit station appurtenant building" means a structure that is constructed in direct association with the operation of a transit station and that houses the transit station. The transit station appurtenant building may include at grade or structured parking facilities, stores, restaurants, hotels, offices, or other commercial, retail, or civic establishments, but not residential facilities.~~

~~(45) "Transit system" means a transportation facility which is capable of transporting people, or people and property, to and from the transit station or station appurtenant building to an ancillary facility and which is available for use by the public, either alone or in conjunction with another transit system.~~

(31)~~(46)~~ "Water management district" means a water management district created pursuant to chapter 373 in the jurisdiction of which district any part of the high-speed rail *transportation system* ~~line~~ is proposed to be located.

Section 16. Section 341.325, Florida Statutes, is amended to read:

341.325 Special powers and duties of the *department* ~~commission~~.—The *department* ~~commission~~ is empowered to perform any or all of the following special powers and duties:

(1) To engage in the planning for a high-speed rail *transportation system* ~~line~~.

(2) To prepare and issue requests for proposals for the provision of a high-speed rail *transportation system* ~~line~~, specifically addressing qualifications of applicants and information essential to aid the *department* ~~commission~~ in assessing specific capabilities, facilities, procedures, and mechanisms proposed by applicants for the location, innovative financing, construction, management, or operation of *a high-speed rail transportation system* ~~the line~~ and the award of a franchise *in accordance with ss. 341.3201-341.386* ~~for the length and breadth of the state based upon projected feasibility and interest expressed by potential applicants~~.

(3) To review the proposals from the applicants, receive and review the reports of all applicable agencies on all matters addressed by *ss. 341.3201-341.386* ~~this act~~, and issue a franchise to an applicant in accordance with *ss. 341 3201-341.386* ~~this act~~.

(4) To assess a reasonable application fee for each application for a franchise.

(5) To receive notice of the abandonment of a high-speed rail *transportation system or any portion thereof* ~~line~~.

(6) To execute intergovernmental agreements ~~consistent with prevailing statutory provisions~~, including, but not limited to, special benefits or tax-increment financing initiatives.

~~(7) To collect an annual franchise fee in an amount sufficient for the regulation of the high-speed rail line.~~

~~(8) To establish reserve funds for future commission operations.~~

(7)~~(9)~~ To dispose of any interest in property acquired pursuant to this section for high-speed rail *transportation system* ~~line~~ purposes for fair market value. Any conveyance or disposal of an interest in property shall carry such legally binding terms and conditions as to prevent any damage or liability to the *department* ~~commission~~ or the state in the event a franchisee terminates or fails to operate a high-speed rail *transportation system* ~~line~~ under any franchise awarded pursuant to *ss. 341.3201-341.386* ~~this act~~. Notwithstanding the provisions of *ss. 341.3201-341.386* ~~this act~~, any property acquired by eminent domain pursuant to *ss. 341.3201-341.386* ~~this act~~ which is offered for sale because such property is determined to be surplus, or because the franchisee has for any reason abandoned the property, shall be first offered for sale to the owners or heirs of the owners from whom the property was acquired by eminent domain.

(8)~~(10)~~ To adopt rules pursuant to chapter 120 to carry out the purposes of *ss. 341.3201-341.386* ~~this act~~ *to ensure that the high-speed rail transportation system, including associated development, will not unreasonably interfere with the ability of local governments to develop and implement adequate long-range comprehensive plans for well-planned growth and that local interests are balanced against state interests in establishing the high-speed rail transportation system.*

(9)~~(11)~~ To enter into agreements for the joint development of properties contiguous to, and necessary or convenient for the operation of, the high-speed rail *transportation system* ~~line~~.

(10)~~(12)~~ To review and approve a proposed conveyance, lease, or other transfer of property or interest from the franchisee to any other party as provided for in the franchise.

(11)~~(13)~~ To prepare an annual report of operations.

(12)~~(14)~~ To conduct feasibility and planning studies for high-speed rail *transportation* facilities and services.

(13)~~(15)~~ To conduct feasibility studies for the determination of the most promising high-speed rail *transportation system* corridors within the state.

(14) To prepare a written analysis, pursuant to s. 341.348, of the agency reports on a certification application with recommendations as to final disposition, and appropriate terms and conditions of certification.

Section 17. Section 341.327, Florida Statutes, is amended to read:

341.327 Preemption; sole and exclusive determination of need for the high-speed rail *transportation system* ~~line~~.—The Legislature expressly mandates, on the basis of its findings, that *a* high-speed rail *transportation system is* ~~lines are~~ needed in order to effect the public purposes of *ss. 341.3201-341.386* ~~this act~~ and that *ss. 341.3201-341.386 are* ~~this act is~~ the sole and exclusive determination of need for any high-speed rail *transportation system* ~~line~~ established pursuant to *ss. 341.3201-341.386* ~~this act~~, thereby preempting the determination of need and the necessity of assessing or weighing need with the impacts of any high-speed rail *transportation system* ~~line~~. However, *a high-speed rail transportation system may not* ~~no such line shall~~ be authorized, financed, constructed, or operated other than pursuant to the franchise and certification requirements of *ss. 341 3201-341.386* ~~this act~~.

Section 18. Section 341.329, Florida Statutes, is amended to read:

341.329 Bonds; project financing.—

(1) The issuance of bonds, in accordance with applicable federal *and state* laws and regulations, is authorized to provide sufficient funds in order to finance a high-speed rail *transportation system* ~~line~~ and achieve the purposes of *ss. 341.3201-341.386* ~~this act~~; to pay interest on the bonds; to pay expenses incident to the issuance and sale of any bond issued pursuant to *ss. 341.3201-341.386* ~~this act~~, including costs of validating, printing, and delivering the bonds and costs of printing the preliminary and final official statement, publishing notices of sale of the bonds, and related administrative expenses; to refinance or refund any bonds; and to pay all other capital expenditures of the *department* ~~commission~~ incident to, and necessary or convenient to carry out, the purposes and powers granted by *ss. 341.3201-341.386* ~~this act~~. *Except as provided in paragraph (6)(b),* the bonds shall be payable solely from the revenues *of the high-speed rail transportation system.*

(2) The *department* ~~commission~~ is authorized to take appropriate action to provide that the interest on any bonds issued on behalf of the *department* ~~commission~~ and in the name of the *department* ~~commission~~ for the purposes of providing for the financing and construction of a high-speed rail *transportation system* ~~line~~ be exempt from federal income tax. Any exemption granted by this subsection *does* ~~shall~~ not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

(3) The *department* ~~commission~~ may determine the high-speed rail *transportation* ~~line~~ facilities to be financed under this section and may assess reasonable application fees or other fees to reimburse administrative costs incurred in processing applications for financing.

(4) *A* ~~No~~ high-speed rail *transportation* ~~line~~ facility is *not* eligible for financing under this section unless the *department* ~~commission~~ determines ~~by resolution~~ that a proposed facility will serve the public purposes described herein and that an applicant for financing has demonstrated compliance with the conditions of this section.

(5) Prior to the issuance of any bonds or financing under the terms of *ss. 341.3201-341.386* ~~this act~~, the *department* ~~commission~~ shall make a comparison of the feasibility study of the franchisee and the data base study performed by a consulting firm as financed by the Federal Railroad Administration. Such comparison shall be considered in the determination of the issuance of bonds or financing under *ss. 341.3201-341.386* ~~this act~~ for purposes of data comparisons, ridership estimates, and the viability of revenue availability for the retirement of bonds or other financing.

(6) A resolution authorizing any bonds issued on behalf of the *department* ~~commission~~ may contain, without limitation, provisions (which provisions shall be a part of the contracts with the bondholders) as to:

(a) Pledging all or any part of the revenues of the *high-speed rail transportation system* ~~commission~~ to secure the payment of bonds or any issue of the bonds, subject to such agreements with the bondholders as may then exist.

(b) Pledging all or any part of the *revenues* ~~assets~~ of the *department* ~~commission to the extent permitted by the State Constitution~~ to secure the payment of the bonds or of any issue of bonds, subject to such agreements with the bondholders as may then exist. *The department may pledge revenues from taxes and fees only if such taxes and fees are specifically authorized for the purpose of facilitating a high-speed rail transportation system.*

(c) The procedure, if any, by which the terms of any contracts with the bondholders may be amended or abrogated; the amount of bonds the holders of which must consent thereto; and the manner in which such consent must be given.

(d) Vesting in trustees such property, rights, powers, and duties in trusts as the division may solely determine and limiting the rights, powers, and duties of such trustees.

(e) Defining the acts or omissions to act which constitute a default with respect to the bonds; and defining the obligations and duties of the *department* ~~commission~~ to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including, as a matter of right, the appointment of a receiver; however, such rights and remedies *may* ~~shall~~ not be inconsistent with the general laws of the state and other provisions of *ss. 341.3201-341.386* ~~this act~~.

(f) Any other matters, of like or different character, which in any way affect the security or protection of the bondholders.

(7) In no event shall the full faith and credit or the taxing power of the state or any political subdivision of the state be pledged to pay the principal of the bonds, interest on the bonds, and redemption premium, if any, on the bonds or to otherwise secure the bonds.

(8) All bonds issued on behalf of the *department* ~~commission~~ shall state on the face thereof *the sources of revenue from which such bonds* ~~that they~~ are payable ~~solely from revenues~~, both as to the principal and interest and the redemption premium, if any,~~; that the bonds do not constitute a debt, liability, or obligation of the commission or of the state or any political subdivision of the state~~; and that neither the full faith and credit of the *department* ~~commission~~ nor the full faith and credit of the state or any political subdivision of the state is pledged to the payment of the principal of the bonds, the interest on the bonds, and the redemption premium, if any, on the bonds.

(9) All bonds issued on behalf of the *department* ~~commission~~ are declared to have all the qualities and incidents of negotiable instruments under the applicable laws of the Uniform Commercial Code and any other applicable laws of the state.

(10) ~~It is the intention of the Legislature that~~ Any pledge of earnings, revenues, or other moneys made by the *department is* ~~commission be~~ valid and binding from the time when the pledge is made.~~; that~~ The earnings, revenues, or other moneys so pledged and thereafter received by the *department are* ~~commission~~ immediately ~~be~~ subject to the lien of that pledge without any physical delivery of the pledge or further act.~~; and that~~ The lien of the pledge *is* ~~be~~ valid and binding ~~as~~ against the *department* ~~commission~~ irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created needs to be recorded or filed pursuant to the Uniform Commercial Code.

(11) All such bonds shall be issued on behalf of the *department* ~~commission~~, and in the name of the *department* ~~commission~~, by the division as provided by the State Bond Act.

(12) The provisions of the State Bond Act, including, without limitation, the definitions contained in that act, are applicable to all bonds issued pursuant to *ss. 341.3201-341.386* ~~this act~~, when the provisions of the State Bond Act are not in conflict with the provisions of *ss. 341.3201-341 386* ~~this act~~; provided that the basis of the award of sale of such bonds may be either the lowest net interest cost or the lowest true or effective interest cost, as set forth in the resolution authorizing the sale of such bonds. In cases of conflict, the provisions of *ss. 341.3201-341.386* ~~this act~~ are controlling.

~~(13)(a) The bonds issued on behalf of the commission shall be sold at public sale in the manner provided by the State Bond Act. However, if the commission determines by official action at a public meeting that a negotiated sale of the bonds is in the best interest of the commission, the division may negotiate for the sale of the bonds with the underwriter or underwriters designated by the division. In the official action authorizing the negotiated sale, the commission shall provide specific findings as to the reasons for the negotiated sale. The reasons shall include, but shall not be limited to, the characteristics of the bond issue and prevailing market conditions that necessitate a negotiated sale. In the event the commission decides to negotiate for a sale of the bonds, the managing underwriter, or financial consultant or adviser, if applicable, shall provide to the division, prior to the award of the bonds, a disclosure statement containing the following information:~~

~~1. An itemized list setting forth the nature and estimated amounts of expenses incurred by the managing underwriter or underwriters in connection with the issuance of such bonds. Notwithstanding the foregoing, any such list may include an item for miscellaneous expenses, provided the item includes only minor items of expense which cannot be easily categorized elsewhere in the statement.~~

~~2. The names, addresses, and estimated amounts of compensation of any finders connected with the issuance of the bonds.~~

~~3. The amount of underwriting spread expected to be realized.~~

~~4. Any management fee charged by the managing underwriter or underwriters.~~

~~5. Any other fee, bonus, or compensation estimated to be paid by the managing underwriter or underwriters in connection with the bond issue to any person not regularly employed or retained by the underwriter or underwriters.~~

~~6. The name and address of the managing underwriter or underwriters, if any, connected with the bond issue.~~

~~7. Any other disclosure which the division may require.~~

~~This paragraph is not intended to restrict or prohibit the employment of professional services relating to bonds issued under this act or the issuance of bonds by the division under any other act.~~

~~(b) In the event an offer of an issue of bonds at public sale produces no bid, or in the event all bids received are rejected, the division is authorized to negotiate for the sale of the bonds under such rates and terms as are acceptable; except that no bonds shall be so sold or delivered on terms less favorable than the terms contained in any bids rejected at the public sale.~~

~~(c) Upon the failure of the commission or division to comply with the provisions of this section, the division shall sell all future bonds only at public sale as provided for in this section, except as provided in paragraph (b).~~

(13)~~(14)~~(a) *An* ~~No~~ underwriter, commercial bank, investment banker, or financial consultant or adviser *may not* ~~shall~~ pay *a* ~~any~~ finder *a* ~~any~~ bonus, fee, or gratuity in connection with the sale of bonds issued by the *department* ~~commission~~, unless full disclosure is made to the *department* ~~commission~~ prior to, or concurrently with, the submission of a purchase proposal for bonds by the underwriter, commercial bank, investment banker, or financial consultant or adviser and subsequently in the official statement or offering circular, if any, detailing the name and address of any finder and the amount of bonus, fee, or gratuity paid to such finder.

(b) The willful violation of this subsection is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A violation of this subsection *does* ~~will~~ not affect the validity of the bond issue.

(d) As used in this section, the term "finder" means a person who is neither regularly employed by, nor a partner or officer of, an underwriter, bank, banker, or financial consultant or adviser and who enters into an understanding with either the issuer or the managing underwriter, or both, for any paid or promised compensation or valuable consideration, directly or indirectly, expressly or impliedly, to act solely as an intermediary between such issuer and managing underwriter for the purpose of influencing any transaction in the purchase of such bonds.

(14)~~(15)~~ There shall be established, from the proceeds of each issue of bonds, a debt service reserve account in an amount at least equal to the greatest amount of principal and interest to become due on such issue in any ensuing state fiscal year; except that a reserve of a lesser amount may be established if the division determines that such reserve, if any, will adequately protect the interests of bondholders.

(15)~~(16)~~(a) To the extent provided in the bond agreement, the title to all high-speed rail *transportation* ~~line~~ facilities financed by the issuance of the bonds shall be held in the name of the state, and the title to other high-speed rail *transportation* ~~line~~ facilities may be held in the name of the state or encumbered as may be determined by the division in its discretion as necessary to provide for the security of the issuance of the bonds. *If* ~~In the event that~~ the title to any high-speed rail *transportation* ~~line~~ facility financed by the issuance of the bonds is not held by the state, then the title shall be pledged as security for the bonds by the owner of such title.

(b) The *department* ~~commission~~ may lease such facilities to a franchisee or enter into such agreements as are authorized by *ss. 341.3201-341.386* ~~this act~~.

1. Any such lease agreement may provide for the transfer of title to such facilities only when such bonds have been retired and the holders of all outstanding bonds issued to finance such facilities have received all principal, interest payments, and redemption premiums to which the holders are legally entitled.

2. Any lease or other contractual arrangement between the *department* ~~commission~~ and a franchisee qualified under *ss. 341.3201-341.386* ~~this act~~, together with such other fees, rents, or charges imposed ~~by the commission~~ pursuant to *ss. 341.3201-341.386* ~~this act~~, shall provide sufficient revenues to the *department* ~~commission to allow the commission~~ to satisfy all outstanding obligations as the obligations come due.

(16)~~(17)~~(a) The division is authorized to engage the services of investment banking, financial, advisory, legal, or other consultants to plan, review, or structure any financing, bonding, or other financial requirements of a high-speed rail *transportation system* ~~line~~.

(b) If the division is requested to issue bonds to finance all or part of a high-speed rail *transportation system* ~~line~~, the director of the division may contract for the services of commercial or investment banking interests, financial advisory consultants, and bond counsel to plan, review, structure, or advise as to any financing or bonding requirements associated with the high-speed rail *transportation system* ~~line~~.

(17)~~(18)~~ Neither the *employees* ~~members~~ of the *department* ~~commission~~ nor any person executing the bonds of the *department is* ~~commission will be~~ liable personally on the bonds or ~~will be~~ subject to any personal liability or accountability by reason of the issuance of the bonds.

Section 19. Section 341.331, Florida Statutes, is amended to read:

341.331 Service designation; termini.—The *department* ~~commission~~ shall designate in the request for proposals the areas of the state *that* ~~in which~~ the high-speed rail *transportation system* ~~line~~ will *serve. The transit stations serving the ending service areas of the system shall be designated as* ~~operate and shall designate the ends of the high-speed rail line to be~~ the termini. A proposal received from an applicant may propose ~~or suggest to utilize~~ any route or ~~specific~~ station locations *that* ~~which~~ meet the provisions of the request for *proposals* ~~proposal~~ pursuant to *s. 341.3334* ~~s. 341.338~~. *The franchisee may propose to add, relocate, or delete transit stations in a certification application or may propose the segmental construction or operation of the system. Approval of the certification containing such proposals constitutes approval of the proposals.*

Section 20. Section 341.332, Florida Statutes, is amended to read:

341.332 Franchises.—

(1) The award of a franchise by the *department* ~~commission~~ to an applicant *is* ~~will be~~ the sole license and authority for the franchisee to *establish a high-speed rail transportation system, to enter into post-franchise agreements with the department for the planning, engineering, and designing of each phase of the system, and to apply for certification to* construct, ~~and~~ operate, *and maintain* the rail *transportation system, or any segment thereof, including transit stations and associated developments* ~~line, transit station, and transit station appurtenant building; however, the franchisee must comply with the State Minimum Building Codes requirements of s. 553.73 as the requirements apply to transit stations and transit station appurtenant buildings. The franchise shall specify and include such minimum design standards and specifications for the construction, operation, and maintenance of the rail line as are submitted by the franchisee and adopted by the commission. It is the responsibility of the commission, or its designee, to enforce and otherwise assure compliance with the State Minimum Building Codes applicable to transit stations and transit station appurtenant buildings. The award of the franchise will constitute approval of the master plan for the ancillary facilities. However, all permits and licenses, except those under chapter 380, shall be required for ancillary facilities as provided in subsection (2).~~

(2) The *department* ~~commission~~ may ~~make the~~ award ~~of~~ the franchise subject to such terms and conditions, including the posting of a performance bond for the construction and operation of the high-speed rail *transportation system* ~~line~~, as the *department considers* ~~commission deems~~ appropriate and consistent with the provisions of *ss. 341.3201-341.386* ~~this act~~. The *department* ~~commission~~ may not delete, alter, or amend the terms and conditions of the order of the board on the certification ~~component, except as provided for in s. 341.361~~. All of the terms and conditions of the order of the board on the certification ~~component~~ shall *become* ~~be incorporated as~~ the terms and conditions of the award of the franchise. ~~The franchise shall list all permits and licenses necessary for the construction and operation of the ancillary facilities. All agencies shall grant and approve all appropriate permits and licenses necessary for the construction and operation of the ancillary facilities with terms and conditions consistent with the franchise terms and conditions.~~ The franchisee *must* ~~shall~~ comply with all applicable nonprocedural agency rules, regulations, orders, and ordinances unless in the *certification* ~~franchise~~ the franchisee is expressly exempted, or granted a waiver, from the rules, regulations, orders, and ordinances.

(3) A franchise shall be awarded for a period of time of no less than 30 years from the date of the award as provided for in the franchise.

(4) A franchise shall authorize the franchisee to provide service between termini as established by the *franchise* ~~commission in its request for proposals~~. However, the award of the franchise shall not be construed to prohibit new or improved service by any railroad company or any rail passenger route existing on January 1, *1993* ~~1984~~. *The franchisee, with the assistance of the department, shall coordinate its facilities and services, as specified in the franchise, with railroad companies or passenger routes and with commuter rail authorities and public transit providers to make effective transportation services available to the public and to provide access to and from the high-speed rail transportation system.*

(5) The franchise may, at the discretion of the department, authorize the franchisee to construct, improve, operate, and maintain transportation facilities, such as railroads other than high-speed rail, on an interim basis as part of an incremental plan to create and establish the high-speed rail transportation system.

(6)~~(5)~~ A franchisee shall not convey, lease, or otherwise transfer any high-speed rail *transportation system* ~~line~~ property, any interest in such property, or any improvement constructed upon such property to any other person during the term of the franchise *without written approval of the department. The department shall not approve such conveyance, lease, or transfer* if, in the opinion of the *department* ~~commission~~, such conveyance, lease, or transfer will adversely *affect* ~~impact~~:

(a) The overall quality or level of service;

(b) The overall financial feasibility of the high-speed rail *transportation system* ~~line~~; or

(c) The overall continued operation or maintenance of the high-speed rail *transportation system* ~~line~~.

(7) The department shall provide terms and conditions in the franchise to ensure that the franchisee will continue operation of the high-speed rail transportation system for the duration of the term of the franchise or, if the franchise is revoked, suspended, or abandoned, that financial and other necessary resources are available to continue operation of the system until another franchisee is selected or until the department determines that operations must cease.

Section 21. Section 341.3331, Florida Statutes, is created to read:

341.3331 Request for proposals.—

(1) The department shall prepare a request for proposals to obtain the information necessary for the department to select a franchisee and to award a franchise. The citizens' planning and environmental advisory committee created by s. 341.344 shall evaluate the proposed request for proposals about the content and format and make recommendations.

(2) Before issuing the request for proposals, the department shall hold four or more public meetings for the purpose of receiving comments, criticisms, or suggestions.

Section 22. Section 341.3332, Florida Statutes, is created to read:

341.3332 Notice of issuance of request for proposals.—The department shall provide notice in the Florida Administrative Weekly of the issuance of the request for proposals issued pursuant to s. 341.3331. The department shall also provide written notice to the Department of Community Affairs, to the Department of Environmental Regulation, and to those persons who have requested in writing to be notified of the issuance of the request for proposals.

Section 23. Section 341.3333, Florida Statutes, is created to read:

341.3333 Application for franchise.—

(1) The application for franchise, which is the response to the request for proposals, must correspond to the request for proposals. The contents of the application must be in the format and contain the information specified in the request for proposals.

(2) Each applicant, in response to the request for proposals, shall file its application with the department at the location and within the time and date limitations specified in the request for proposals. Applications filed before the deadline shall be kept sealed by the department until the time and date specified for opening. Such sealed applications shall be confidential and exempt from the provisions of s. 119.07(1) until such time as the department provides notice of a decision or intended decision pursuant to s. 120.53(5)(a) or within 10 days after application opening, whichever is earlier. Thereafter, the applications are public. However, the applicant may segregate portions of the application and request the department to maintain those portions as confidential and exempt from the provisions of s. 119.07(1). Such portions shall be confidential and exempt from the provisions of s. 119.07(1) only if the department finds that the information satisfies the criteria established in s. 119.14(4)(b)3. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(3) An application that is not accompanied by the appropriate fee may not be accepted for filing.

(4) Within 7 days after filing an application for franchise with the department, an applicant must file a copy of the application with each agency listed in s. 341.352(2)(a).

(5) An application for a franchise may not be amended before the award of the franchise.

Section 24. Section 341.3334, Florida Statutes, is created to read:

341.3334 Franchise review process.—

(1) In assessing an application for franchise, the department shall consider, but is not limited to, the following:

(a) The qualifications of the applicant in terms of experience and overall ability to implement the proposal, including compliance with state requirements for the participation of women, minorities, and socially and economically disadvantaged individuals;

(b) The validity, clarity, and viability of the applicant's financing plan, including an analysis of the sources of revenue and the ability of those revenue sources to meet the funding requirements of the high-speed rail transportation system;

(c) The legislative changes necessary to implement the applicant's proposal, including any legislation providing for the financing of the high-speed rail transportation system, through bonds, foreign loans, or other means;

(d) The manner in which the applicant will meet the performance criteria specified in the request for proposals including, but not limited to, an examination of the proposed technology, system capacity, trip times, frequency of trains, and locations of transit stations;

(e) The construction, operation, maintenance, and management plan for the high-speed rail transportation system, including the ability of the proposed system to meet state and federal safety requirements and to guarantee the safe operation of the system;

(f) The extent to which the high-speed rail transportation system impacts on, connects with, and complements other transportation facilities and services, including airports, commuter rail systems, the magnetic levitation demonstration project certified pursuant to ss. 341.401-341.422, and other public transit systems, and the type, location, and financing of any transit connections with associated developments or joint developments in which the franchisee has an interest;

(g) The positive or negative fiscal impacts on local governments and the demand for additional local infrastructure as a result of the high-speed rail transportation system;

(h) The extent to which a proposed high-speed rail line, guideway, or transit station is consistent with the goals and policies of the state comprehensive plan, affected comprehensive regional policy plans, and affected local government comprehensive plans; and, if not consistent, how the applicant proposes that the high-speed rail line, guideway, or transit stations and such plans will be made consistent, to the maximum extent feasible, with each other and how any inconsistency with a proposed associated development will be resolved; and

(i) The impact that the high-speed rail transportation system or associated development will have on the unique environmental or cultural qualities of particular areas of the state and on the natural resources of the state, including measures proposed to mitigate any adverse effects.

(2) Within 60 days after receipt of an application, each agency that may be affected by an application shall file with the department any comments on the application in relation to the criteria contained in subsection (1) on matters within its jurisdiction.

(3) Within 90 days after the deadline for the receipt of applications, the department shall hold at least four public meetings on the applications in accordance with s. 341.3336.

(4) Within 120 days after the deadline for the receipt of applications, the department shall issue a notice of proposed agency action on the applications, in accordance with s. 341.3337.

Section 25. Section 341.3335, Florida Statutes, is created to read:

341.3335 Interagency coordination of franchise application review.—The department shall establish procedures to ensure coordination and communication among state agencies, regional entities, local governments affected by a proposed high-speed rail transportation system, the public, and the Citizens' Planning and Environmental Advisory Committee created under s. 341.344.

Section 26. Section 341.3336, Florida Statutes, is created to read:

341.3336 Public meeting on the franchise application.—

(1) Before issuing a notice of proposed agency action on the selection of a franchisee, the department shall hold one or more public meetings.

(2) At least 21 days before the meeting, the department shall publish a notice of the meeting in the Florida Administrative Weekly, briefly describing each application and generally describing the proceedings that are required by ss. 341.3201-341.386.

(3) The public meeting is for the purpose of receiving comments, information, and evidence on each proposed application and the criteria specified in subsection 341.3334(1).

Section 27. Section 341.3337, Florida Statutes, is created to read:

341.3337 Determination and award of franchise.—

(1) The department, after assessing each franchise application and after the public meeting required by s. 341.3336, shall preliminarily determine the best applicant or shall reject all applications. Upon such determination, the department shall disseminate the proposed agency action in regard to each application.

(2) The department shall provide notice of the proposed agency action to the agencies listed in s. 341.352(2)(a) and to any person who has requested to receive such notice. Such request must be in writing and filed with the department no later than the date of the last public meeting held pursuant to s. 341.3336.

(3) The notice of proposed agency action is a point of entry for a person whose substantial interest is or may be affected or determined by the department's proposed action to file a petition for an administrative proceeding under chapter 120.

(4) The provisions of chapter 120 govern the actions of the department, except that s. 120.53(5), relating to protests arising from the contract-bidding process, does not apply to the award of the franchise or the selection of a franchisee.

(5) After the conclusion of the administrative proceeding or after the expiration of the time period for filing a petition, if no petition has been filed, the department shall award the franchise to the best applicant or shall reject all applications. The award of a franchise is a final order of the department and may contain terms and conditions in accordance with the provisions of ss. 341.3201-341.386.

Section 28 Section 341.3338, Florida Statutes, is created to read:

341.3338 Effect of franchise.—The franchise shall grant to the franchisee the exclusive right to plan and establish a high-speed rail transportation system and, upon the grant of certification, to construct, operate, and maintain the system or a segment thereof within the service area and between the termini specified in the certification. No other permit, license, approval, or precondition, except as provided for in the franchise or certification, is required.

Section 29. Section 341.3339, Florida Statutes, is created to read:

341.3339 Post-franchise agreements.—

(1) The department and the franchisee shall enter into one or more post-franchise agreements to delineate in accordance with the terms and conditions of the franchise such matters as:

(a) The schedules for planning and engineering phases or segments of the high-speed rail transportation system.

(b) The schedule for obtaining certification for each segment of the system.

(c) The duties and responsibilities of the franchisee for planning, engineering, and designing the parts of the system.

(d) The arrangements for financing the phases of the system.

(e) The determination of whether a proposed associated development is consistent with the applicable comprehensive plans and, if not, a schedule and method by which the franchisee proposes to make the proposed associated development consistent.

(f) Any other item the department considers appropriate to include in a post-franchise agreement.

(2) At the issuance of a certification for the high-speed rail transportation system or a segment thereof, the post-franchise agreements become terms and conditions of the certification.

Section 30. Section 341.334, Florida Statutes, is amended to read:

341.334 Department of Transportation; powers and duties.—

(1) The Department of Transportation *may* ~~is directed to~~ grant, consistent with applicable state and federal laws, ~~multiyear vehicle operation~~ easements within state-owned *transportation facility* ~~highway~~ rights-of-way to the franchisee of a high-speed rail *transportation system* ~~line~~. The terms of any such easements *must* ~~shall~~ coincide with the term of the franchise.

(2) ~~Upon request of the commission,~~ The Department of Transportation *may* ~~shall~~ exercise the power of eminent domain to obtain title to real property necessary to accomplish the purposes of *ss. 341.3201-341.386* ~~this act~~, including property necessary for the rail *or guideway* line, transit station, *or associated development* ~~appurtenant transit station building, or ancillary facilities, for the purpose of conveyance of the property to the commission~~. The title to such property shall be held in the name of the state and shall be administered by the *department* ~~commission~~ under such terms and agreements as provided for in *a post-franchise agreement or in the certification* ~~the franchise~~.

~~(3) The Department of Transportation shall provide for the maintenance of records and accounts of the commission relating to all financial transactions of the commission. Such records and accounts shall at all times disclose the receipts accruing to the commission and the distribution thereof as relates to the applicable provisions of this act.~~

~~(4) The Department of Transportation shall be reimbursed for expenditures made on behalf of the High-Speed Rail Transportation Commission.~~

Section 31. Section 341.335, Florida Statutes, is amended to read:

341.335 Powers and duties of the board.—The board has the following powers and duties:

(1) To adopt reasonable procedural rules to carry out its duties under *ss. 341.3201-341.386* ~~this act~~ and to give effect to the legislative intent of *ss. 341.3201-341.386* ~~this act~~.

(2) To delegate authority to the appropriate jurisdictional agency to administer *and enforce provisions of the certification* ~~the approval of activities occurring after the award of a franchise~~.

(3) To take final action on an application for certification, including final resolution of any conflicts between a proposed high-speed rail transportation system or associated development and the state comprehensive plan, a regional comprehensive policy plan, or a local government comprehensive plan.

Section 32. Section 341.336, Florida Statutes, is amended to read:

341.336 Department of Environmental Regulation and Department of Community Affairs; *other affected agencies;* powers and duties.—

(1) For the purposes of *ss. 341.3201-341.386* ~~this act~~, the Department of Environmental Regulation, ~~and~~ the Department of Community Affairs, *and any other agency that may be affected by a certification application* have the following powers and duties:

(a) To receive and review applications for franchise in regard to the criteria listed in s. 341.3334 as to matters within each department's respective jurisdiction.

(b) To be a party to an administrative or judicial proceeding involving an application for a franchise, a certification application, a franchise, or a certification.

~~(1) To adopt or amend reasonable procedural rules to implement the provisions of this act.~~

~~(2) For their respective elements of the certification component, to prescribe the form, content, and necessary supporting documentation for the elements, and any required studies to be prepared by the applicant for a franchise. All such data and studies shall be related to the matters under the jurisdiction of affected agencies required to evaluate the application.~~

(c)~~(3)~~ To receive the ~~respective elements of the~~ certification *applications,* ~~component of applications for franchise from the commission and initially~~ to determine the completeness of the applications, *to review the applications for compliance with nonprocedural requirements of the agency, to prepare and file a report in accordance with s. 341.348, and to be a party to the certification proceedings.*

(d)~~(4)~~ To make, or contract for, studies of *matters within its jurisdiction in regard to* ~~their respective elements of~~ the certification ~~component~~.

~~(5) To administer the processing of their respective elements of the certification component and ensure that the applications are processed as expeditiously as possible.~~

~~(6) To notify all affected agencies of the filing of their respective elements of the certification component, and of the filing of subsequent amendments, within 15 days after receiving the complete elements, or subsequent amendments, and to provide such agencies with copies of the filed elements or amendments.~~

~~(7) To receive the reports of all agencies on their respective elements of the certification component of each application.~~

~~(8) To prepare a written analysis, which analysis shall be filed with the designated hearing officers and all parties no later than 10 months after the complete and sufficient element of the certification component is filed with the department, and which analysis shall include:~~

~~(a) The reports and studies required by s. 341.348, including the recommendations of the department relating to the disposition of the application.~~

~~(b) The comments received from any other agency.~~

~~(9) To provide public notice of the filing of their respective elements of the certification component and of the proceedings conducted pursuant to this act.~~

(e)~~(10)~~ To assist the *department* ~~commission~~ in monitoring the effects arising from the location of the high-speed rail *transportation system* ~~line~~ corridor and the construction, operation, and maintenance of the high-speed rail *transportation system* ~~line~~, in order to assure continued compliance with the terms of the certification.

(2) The Department of Environmental Regulation, is responsible for assisting affected agencies in analyzing the environmental impacts of a proposed high-speed rail transportation system and for providing data and other information to those agencies for use in the preparation of the reports required by s. 341.348, shall coordinate with other state agencies having jurisdiction over environmental matters, and shall provide information and technical assistance on environmental issues to the Citizens' Planning and Environmental Advisory Committee at the request of the chairman.

(3) The Department of Community Affairs is responsible for assisting affected agencies in analyzing the land use, growth management, comprehensive-planning aspects of a proposed high-speed rail transportation system, and for providing data and other information to those agencies for use in the preparation of the reports required by s. 341.348, and shall provide information and technical assistance on land use, growth management, and comprehensive-planning issues to the Citizens' Planning and Environmental Advisory Committee at the request of the chairman.

Section 33. Section 341.3365, Florida Statutes, is created to read:

341.3365 Certification procedures.—

(1) The department shall adopt a rule for processing a certification application and shall develop an application form that requires the submission of information necessary for the affected agencies to review in determining whether an application is entitled to certification in accordance with the requirements of ss. 341.3201-341.386. The application form may incorporate, by reference, the appropriate application forms adopted by other agencies. The application form must require that any associated development that the franchisee wishes to have included in the certification be identified as provided for by s. 341.365 and must require that sufficient information be provided for the agencies to review and determine whether any proposed associated development is entitled to certification.

(2) The franchisee shall file the certification application, in the form and manner specified by department rule, with the department and with each affected agency, together with any required fee.

Section 34. *Section 341.338, Florida Statutes, is repealed.*

Section 35. *Section 341.339, Florida Statutes, is repealed.*

Section 36. *Section 341.341, Florida Statutes, is repealed.*

Section 37. Section 341.342, Florida Statutes, is amended to read:

341.342 Agreements concerning contents of certification ~~component of~~ application and supporting documentation.—The *Department of Transportation, with the concurrence of the* Department of Environmental Regulation and the Department of Community Affairs ~~shall establish by rule a procedure by which an applicant~~, after public notice, may enter into binding written agreements with *the franchisee* ~~such departments~~ and other affected agencies as to the scope, quantity, and level of information to be provided in the certification ~~component of the~~ application, as well as the methods to be used in providing such information and the nature of the supporting documents to be included in the certification ~~component of the~~ application.

Section 38. Section 341.343, Florida Statutes, is amended to read:

341.343 Review of application.—

(1) The department *shall coordinate the review of the certification application with the other affected agencies* ~~of Environmental Regulation has the responsibility for coordinating the review of the rail line element of the certification component and for reviewing such element for completeness; and the Department of Community Affairs has the responsibility to do likewise for the ancillary facilities element. The commission has the responsibility for reviewing the franchise component for completeness.~~

(2) If *an agency* ~~the commission, the Department of Environmental Regulation, or the Department of Community Affairs~~ determines that its respective part of the *certification* application is incomplete, *that agency* ~~the commission or department making such determination~~ shall provide in writing to the applicant a statement of the desired additional information within 30 days *after* ~~of~~ the receipt of the application. The applicant may supply the information requested and, if the applicant intends to supply the information, shall communicate its intention to do so in writing to the agency requesting the information within 5 working days *after* ~~of~~ the receipt of the statement requesting such information; or the applicant shall notify the appropriate agency in writing that the requested information will not be supplied, *in which case the application shall be processed as filed. Unless otherwise agreed upon by the agency requesting the information and by the applicant, the information must be provided within 60 days after the request.* Within 30 days after receipt of such additional information, the respective agency shall review such additional information and may request only that information needed to clarify such additional information or to answer new questions raised by, or directly related to, such additional information. If an applicant does not provide the information requested within 120 days *after* ~~of~~ the *initial* request for the applicant to provide it, or within a time *period* agreed upon by the applicant and the respective agency, the application *is* ~~shall be~~ considered withdrawn.

(3) *The certification application is deemed complete when each agency having jurisdiction:*

(a) Finds the application complete; or

(b) Fails to notify the applicant within 30 days after the receipt of the application or a request for additional information that the application is incomplete. ~~When the Department of Environmental Regulation and the Department of Community Affairs determine that the rail line element and ancillary facilities element, respectively, are complete, the departments shall notify the Franchise and Environmental Review Committee and forward copies of the certification component to that committee.~~

~~(4) The commission shall review all the applications within 60 days of receipt of the recommendation of the committee, but it may extend the 60-day period for selection for more detailed review if required in order to accommodate amendments or for other good cause. In reviewing applications, the commission shall utilize the criteria set out in s. 341.338, select no more than three applications for more detailed review pursuant to the provisions of this act. However, if there are fewer than three applications, there is no necessity for the committee to make recommendations to the commission.~~

(4) Within 10 days after receipt of a certification application, the department

~~(5) Upon selecting the applications for more detailed review, the commission~~ shall request the Division of Administrative Hearings to designate a ~~panel of three~~ hearing *officer* ~~officers~~ to conduct the *certification hearing* ~~hearings required by this act~~.

~~(6) Within 30 days of the selection of the applications for a more detailed review, the commission, the Department of Environmental Regulation, and the Department of Community Affairs shall review their respective parts of each of the selected applications for sufficiency. Should the commission, the Department of Environmental Regulation, or the Department of Community Affairs determine that its respective part of the application is insufficient for it to discharge its responsibilities under this act, it shall provide in writing to the applicant a statement of the desired additional information within such 30-day period. The applicant may supply the information requested and, if the applicant intends to supply the information, shall communicate its intention to do so in writing to the agency requesting the information within 5 working days of the receipt of the statement requesting such information; or the applicant shall notify the appropriate agency in writing that the requested information will not be supplied. Within 30 days after receipt of such additional information, the respective agency shall review such additional information and may request only that information needed to clarify such additional information or to answer new questions raised by, or directly related to, such additional information. If an applicant does not provide the information requested within 120 days of the request for the applicant to provide it, or within a time agreed upon by the applicant and the respective agency, the application shall be considered withdrawn.~~

(5)~~(7)~~ If an amendment *to a certification application* is proposed and deemed *complete* ~~sufficient~~ more than 30 days prior to the local government hearings held pursuant to s. 341.347, each agency must conduct a review of the amendment and include its comments in its report under this section and s. 341.348, and the amendment must be reviewed in the local government hearings under s. 341.347.

(6)~~(8)~~ If an amendment *to a certification application* is proposed later than the time *period* described in subsection *(5)*~~(7)~~, the proposed amendment must be reviewed by the Department of Environmental Regulation, ~~to determine the impact of the amendment on the rail line element of the certification component and by~~ the Department of Community Affairs, and the *Department of Transportation to determine the impact of the amendment on matters within their respective jurisdictions* ~~commission to do likewise for the ancillary facilities of the certification component and the franchise component, respectively~~. Within 30 days after the receipt of the proposed amendment, if any of the foregoing ~~administering~~ agencies *determines* ~~determine~~ that the amendment is such that either additional time or information is required in order to adequately review and analyze the proposed amendment or additional local government hearings are appropriate, the agency shall advise the hearing *officer* ~~officers~~ and *all parties* ~~commission~~ in writing of the need for the additional time. Upon receipt, the hearing *officer* ~~officers and commission~~ shall *delay* ~~enter appropriate orders delaying~~ the date of the certification hearing ~~or the hearing on the franchise component~~ in order to give all parties ample opportunity to review and analyze the impacts of the proposed amendment or to conduct the necessary local government hearing.

~~(9) The commission shall have the sole responsibility for the review and assessment of the franchise component.~~

Section 39. Section 341.344, Florida Statutes, is amended to read:

341.344 *Citizens' Planning* ~~Franchise~~ and Environmental *Advisory* ~~review~~ Committee.—

(1) *The department shall establish the Citizens' Planning and Environmental Advisory Committee to review the requests for proposals and the applications for franchise and to make recommendations to the department.* ~~There is established a Franchise and Environmental Review Committee to provide recommendations to the commission on the certification component of the application for franchise. The committee shall be composed of the Executive Director of the Department of Natural Resources, the Executive Director of the Game and Fresh Water Fish Commission, the Secretary of Environmental Regulation, the Secretary of Community Affairs, the Secretary of Commerce, and the Secretary of Transportation, or their respective designees. In addition,~~ The Governor shall appoint two members as representatives of environmental organizations, two members as representatives of local general-purpose governments, two members as minority representatives with equal employment opportunity and disadvantaged business enterprise experience, and two members as representatives of the business community of the state. *The chairman of the committee shall be elected by the members of the committee.* ~~The chairmanship of the committee shall rotate annually in the order of the naming of the committee members specified in this subsection.~~

(2) The committee shall hold periodic meetings at the request of the chairman. The Department of *Transportation* ~~Environmental Regulation~~ shall provide primary support staff to the committee and ensure that committee meetings are electronically recorded. Such recordings shall be preserved pursuant to chapters 119 and *257* ~~267~~.

(3) Within *3* ~~6~~ months after receipt of the notification that the certification *application* ~~component~~ is complete, the committee shall provide the *department and each affected agency* ~~commission~~ with its written recommendation on the certification. In making its recommendation, the committee shall consider:

(a) Whether, and the extent to which, the proposed high-speed rail *transportation system* ~~line~~ will have a favorable or unfavorable impact on the environment and natural resources of the state;

(b) The extent to which the proposed high-speed rail *transportation system* ~~line~~ will enhance or adversely affect existing communities contiguous to or within the corridor of the proposed high-speed rail *transportation system* ~~line~~;

(c) Whether, and the extent to which, the proposed high-speed rail *transportation system* ~~line~~ will comply with the provisions of *ss. 341.3201-341.386* ~~this act~~; and

(d) The extent to which local governments and the economy of the area within which the high-speed rail *transportation system* ~~line~~ is located will be *affected* ~~impacted~~.

(4) The committee, prior to making its recommendations to the *department* ~~commission~~, shall hold public meetings in the vicinity of the proposed corridors so as to provide the public with an opportunity to comment on the applications.

(5) *The report of the committee is admissible as evidence in any certification proceeding or administrative hearing.* ~~Within 60 days after the committee renders its written recommendation to the commission, and prior to the selection by the commission of the applicants for a more detailed review, an applicant may amend its application in response to the comments presented to, or the recommendations of, the committee.~~

Section 40. Section 341.345, Florida Statutes, is amended to read:

341.345 Alternate corridors or transit station locations.—

(1) Within 60 days after the publication of the notice of the certification application ~~Prior to the selection by the commission of applications for more detailed review~~, any party may propose alternate high-speed rail *transportation system* ~~line~~ corridor routes or transit station locations for consideration pursuant to the provisions of *ss. 341.3201-341.386* ~~this act~~ by filing a notice of a proposed alternate corridor or transit station location with the *department, the hearing officer, all parties to the proceeding,* ~~commission~~ and any local governments in the jurisdictions of which the alternate corridor or transit station location is proposed. Such filing *must* ~~shall~~ include a description of the proposed corridor, a statement of the reasons the proposed alternate should be certified, ~~and~~ the most recent United States Geological Survey quadrangle maps on the scale of 1:24,000 that specifically delineate the corridor boundaries of the corridor or facility in question, *and all information and data that is required for a certification application.*

(2) If the franchisee accepts a proposed alternative as part of its certification application, the franchisee shall file an amendment to its application adopting that alternative.

Section 41. Section 341.346, Florida Statutes, is amended to read:

341.346 Appointment of hearing *officer* ~~officers~~; powers and duties; ~~alteration of times.~~—

(1) Within 10 days after receipt of a request by the *department* ~~commission~~ to designate a ~~panel of~~ hearing *officer* ~~officers~~, the director of the Division of Administrative Hearings shall designate *a* ~~three~~ hearing *officer* ~~officers~~ to conduct the hearings required by *ss. 341.3201-341.386* ~~this act~~. Whenever practicable, the division director shall assign *a* hearing *officer* ~~officers~~ who *has* ~~have had~~ prior experience or training in this type of certification proceeding. Upon being advised that *a* hearing *officer has* ~~officers have~~ been designated, the *department* ~~commission~~ shall immediately file a copy of the certification *application* ~~component~~ and all supporting documents with the hearing *officer* ~~officers~~, who shall docket the application.

(2) The hearing *officer* ~~officers~~ shall have all powers and duties granted to hearing officers by chapter 120 and by the laws and rules of the department, including the authority to resolve disputes over the completeness ~~and sufficiency~~ of *a certification* ~~an~~ application ~~for franchise~~.

~~(3) Any time limitation in this act may be altered by the hearing officers upon stipulation among the Department of Environmental Regulation and the Department of Community Affairs and an applicant unless objected to by any party within 5 days after notice or for good cause shown by any party.~~

Section 42. Section 341.3465, Florida Statutes, is created to read:

341.3465 Alteration of time limitations.—Any time limitation specified in ss. 341.3201-341.386 may be altered by stipulation by the department and the applicant, if approved by a hearing officer, if the hearing officer has jurisdiction over the proceeding; by the department, if no hearing officer has jurisdiction; or by the board, if it has jurisdiction; unless objected to by any party within 5 days after notice, or for good cause shown by any party.

Section 43. Section 341.347, Florida Statutes, is amended to read:

341.347 Local government hearings.—

(1) Within *3* ~~4~~ months after *a certification application has been determined to be* ~~receipt of a copy of any one or more~~ complete ~~and sufficient applications~~, each local government shall conduct at least one combined public meeting and land use and zoning hearing to assure that there is substantial input from the affected community, in order to:

(a) Receive public input on matters within the jurisdiction of the local government on *the* ~~one or more~~ proposed high-speed rail *transportation system* ~~lines~~;

(b) Determine whether *the* ~~any one or more~~ proposed high-speed rail *transportation system is* ~~lines will be~~ consistent with the local government comprehensive plan and any *land development regulation* ~~zoning ordinance~~ enacted pursuant to such plan and prepared pursuant to s. 163.3184;

(c) Correct any deficiencies or make any changes necessary in the plan or *in* the *land development regulation* ~~zoning ordinance~~ to assure compliance or *to* make a clear statement that *the* high-speed rail *transportation system, including any transit station or associated development, is* ~~lines are~~ inappropriate in certain land use categories or zoning districts; and

(d) Formulate its recommendation with respect to ~~each of~~ the proposed high-speed rail *transportation system* ~~lines~~.

(2) The local government shall arrange for publication of notice of the local land use and zoning hearing in accordance with the requirements of s. 125.66(5)(b) or s. 166.041(3)(c), whichever is applicable. The cost of such notice *shall be paid by the franchisee* ~~may be charged against the application fee~~.

(3) A transcript or written record of the hearing shall be made to be included as evidence at the certification hearing. The cost of such transcript or written record *shall be paid by the franchisee* ~~may be charged against such application fee on a prorated basis~~.

(4) A specific finding of consistency or lack of consistency shall be made and shall be included in the report required of the local government pursuant to s. 341.348.

Section 44. Section 341.348, Florida Statutes, is amended to read:

341.348 Reports and studies.—

(1) In order to verify or supplement the *information in a certification application* ~~studies made by each applicant in support of its rail line element and ancillary facilities element~~, reports of the agencies *specified* ~~as listed~~ in s. 341.352(2) shall be prepared, ~~and~~ submitted to the ~~appropriate~~ department *and the hearing officer, and made available for other parties to review or copy.* Neither the failure to submit a report nor the inadequacy of the report *is a ground* ~~will be grounds~~ to deny or condition certification. Each reviewing agency shall initiate the activities required by this section as soon as each application is received. Each agency shall keep *the franchisee* ~~each applicant~~ informed as to the progress of its studies and any issues raised by the studies.

(2)~~(1)~~ The reports shall be submitted to the ~~appropriate~~ department no later than *4* ~~8~~ months after the applications have been determined *to be complete* ~~sufficient~~ for inclusion in the agency analysis. The failure of any agency to submit a report, or to submit its report within the allowed time, *is* ~~will~~ not ~~be~~ a ground for the alteration of any time limitation in *ss. 341.3201-341.386* ~~this act~~. Each report *must* ~~shall~~ contain:

(a) An assessment of the impacts of *the* ~~each~~ proposed high-speed rail *transportation system* ~~line~~ as determined by the studies required by this section.

(b) An assessment of the expected compliance with the standards of the agency and an identification of any nonprocedural requirements not specifically listed in any ~~one such~~ application, from which requirements a variance or exemption is needed in order for the board to certify the *high-speed rail transportation system* ~~corridor~~.

(c) The conclusions and recommendations regarding certification, including the reasons for recommendations of denial, if the agency recommends denial of certification.

(d) The proposed conditions of certification, if the agency *is of the opinion that* ~~feels~~ certification should be granted, including an identification of areas in which more data may be needed to be reviewed after certification in order to assure the compliance of the features of the high-speed rail *transportation system* ~~line~~ with agency standards when specific design criteria were not available until after certification.

(3)~~(2)~~ Each agency shall prepare a report on *the certification application* ~~each element~~ as to the impact of *the* ~~each~~ proposed high-speed rail *transportation system* ~~line~~ as it relates to matters within the jurisdiction of the agency. The *Department of Transportation, the* Department of Environmental Regulation, and the Department of Community Affairs may request that any other agency perform studies and prepare reports as to matters within the jurisdiction of that other agency, which matters may be affected by *the* ~~each~~ proposed high-speed rail *transportation system* ~~line~~.

(4) The Department of Transportation shall prepare a written analysis of the agency reports on the certification application, which analysis shall be filed with the designated hearing officer and all parties no later than 30 days after the due date for receipt of the local government reports prepared pursuant to this section. The analysis must include:

(a) In regard to the reports and studies required by s. 341.348, a list and a summary of the reports and studies and the location where the reports or study results are available for public inspection and copying;

(b) The comments received from a party which is not an agency;

(c) The reports and recommendations of the planning and environmental advisory committee;

(d) The conditions of certification considered appropriate by the department.

(e) The recommendations of the department relating to the disposition of the certification application.

Section 45. Section 341.351, Florida Statutes, is amended to read:

341.351 Publication of notice of *certification* application and proceedings ~~relating to high speed rail line~~; contents of notice.—

(1) *Upon the filing of a certification application* ~~No later than 15 days after the receipt of each application selected for a more detailed review~~, the Department of *Transportation* ~~Environmental Regulation and the Department of Community Affairs~~ shall arrange for ~~simultaneous~~ publication of a notice of *the* ~~each~~ application and of the proceedings required by *ss. 341.3201-341.386* ~~this act~~ and of the deadline for filing notice of intent to be a party. *The notice must be published within 30 days after the filing of the application.*

(2) The department ~~of Environmental Regulation and the Department of Community Affairs~~ shall arrange for publication of a notice of the certification hearing ~~and other public hearings provided for in this section and a notice of the deadline for filing notice of intent to be a party~~. Such notices shall be published at least *30* ~~80~~ days before the date set for the hearing.

(3) Notices shall be published:

(a) In a newspaper of general circulation within each county crossed by the high-speed rail *transportation system* ~~line~~ corridor. The required newspaper notices *must*~~, other than the reminder notice, each shall~~ be one-half *of a* page ~~in size~~ in a standard-size newspaper or a full page in a tabloid-size newspaper. *Each notice must* ~~These notices each shall~~ include a map generally depicting *the* ~~all~~ proposed high-speed rail *transportation system* ~~line~~ corridors. A newspaper of general circulation within a county *is* ~~shall be~~ the newspaper that has the largest daily circulation in that county and has its principal office in that county. If the newspaper with the largest daily circulation has its principal office outside the county, the notices *must* ~~shall~~ appear in both the newspaper having the largest circulation in that county and in a newspaper authorized to publish legal notices in that county;

(b) In the Florida Administrative Weekly; and

(c) ~~By giving notice~~ To any persons who have requested to be placed on the departmental mailing lists for this purpose.

(4) ~~The departments shall adopt rules specifying the contents of notices required by this section.~~ The applicant shall pay for *the* ~~all published~~ notices, which payment *is* ~~shall be~~ in addition to the application fee. The departments shall arrange for publication of the notices required by this section.

Section 46. Section 341.352, Florida Statutes, is amended to read:

341.352 Certification hearing.—

(1) No later than *6* ~~11~~ months after ~~receipt of~~ the applications ~~that~~ have been determined *to be complete* ~~sufficient~~, the hearing *officer* ~~officers~~ shall conduct a certification hearing, pursuant to s. 120.57, at a *convenient* ~~central~~ location *in the vicinity of the proposed high-speed rail transportation system.*

(2)(a) The parties to the *certification* proceeding *are* ~~shall be~~:

1. *The franchisee* ~~Each applicant~~.
2. The Department of Commerce.
3. The Department of Environmental Regulation.
4. The Department of Transportation.
5. The Department of Community Affairs.
6. The Department of Natural Resources.
7. The Game and Fresh Water Fish Commission.
8. Each water management district.
9. Each local government.
10. Each regional planning council.
11. Each metropolitan planning organization.

(b) Any party listed in paragraph (a) may waive its right to participate in the proceeding. If any listed party fails to file, on or before the 30th day prior to the certification hearing, a notice of its intent to be a party, such party *is* ~~shall be~~ deemed to have waived its right to be a party, unless its participation in the proceeding would not prejudice the rights of any party to the proceeding.

(c) Notwithstanding the provisions of chapter 120 to the contrary, *after* ~~upon~~ the filing with the hearing *officer* ~~officers~~ of a notice of intent to be a party by an agency or corporation or association described in subparagraph 1. or subparagraph 2., or a petition for intervention by a person described in subparagraph 3., no later than 30 days prior to the date set for the certification hearing, any of the following entities also shall be a party to the proceeding:

1. Any state agency not listed in paragraph (a), as to matters within its jurisdiction.

2. Any domestic nonprofit corporation or association that is formed, in whole or in part, to promote conservation of natural beauty; to protect the environment, personal health, or other biological values; to preserve historical sites; to promote consumer interests; to represent labor, commercial, or industrial groups; or to promote the orderly development, or maintain the residential integrity, of the area in which the proposed high-speed rail *transportation system* ~~line~~ is to be located.

3. Any person whose substantial interests are affected and being determined by the proceeding.

(d) Any agency, the property or works of which agency may be affected by the proceeding, shall be made a party upon the request of the agency or any party to this proceeding.

(3) When appropriate, any person may be given an opportunity to present oral or written communications to the hearing *officer* ~~officers~~. If the hearing *officer proposes* ~~officers propose~~ to consider such communications, all parties shall be given an opportunity to cross-examine with respect to, or to challenge or rebut, such communications.

(4) At the conclusion of the certification hearing, the hearing *officer* ~~officers~~ shall, after consideration of all the evidence of record, issue a recommended order to the board disposing of the applications.; The hearing *officer* ~~officers~~ shall issue the recommended order no later than 60 days after the transcripts of the certification hearing and the public hearings are filed with the Division of Administrative Hearings.

Section 47. Section 341.353, Florida Statutes, is amended to read:

341.353 Final disposition of certification *application* ~~component~~.—

(1) Within 30 days after receipt of the hearing *officer's* ~~officers'~~ recommended order, the board shall act upon *the* ~~each~~ certification *application* ~~component~~ by written order, which order shall approve the certification ~~component~~ in whole, approve the certification ~~component~~ with ~~such~~ modifications and conditions *that* ~~as~~ the board *considers* ~~deems~~ appropriate, or deny the certification. *The* ~~and which~~ order *must* ~~shall~~ state the reasons for issuance or denial of certification.

(2) In determining whether *the* ~~a~~ certification *application* ~~component~~ should be approved in whole, approved with modifications or conditions, or *denied* ~~not approved~~, the board shall consider whether, and the extent to which, the location, construction, operation, and maintenance of the high-speed rail *transportation system* ~~line~~ will:

(a) Comply with nonprocedural requirements of agencies;

(b) Be consistent with applicable local government comprehensive plans and *land development regulations as defined in s. 163.3164* ~~zoning ordinances~~;

(c) Have a favorable or unfavorable impact on the environment and natural resources of the state;

(d) Efficiently use or unduly burden water, sewer, solid waste disposal, or public transportation facilities or other necessary public facilities; and

(e) Be consistent with the applicable criteria and related policies adopted by local governments, regional planning councils, and the state.

(3) The terms and conditions of the certification order become terms and conditions of the franchise.

(4) If the board incorporates in its final certification order a term or condition that requires the franchisee to modify or revise a post-franchise agreement, the department shall provide the franchisee with a reasonable period of time to enter into a modified agreement.

(5) If the board incorporates in its final certification order a term or condition that results in the necessity for a local government to amend or modify its local comprehensive plan, the board shall allow the local government a reasonable period of time to amend or modify the plan.

Section 48. *Section 341.355, Florida Statutes, as amended by section 34 of chapter 90-227, Laws of Florida, is repealed.*

Section 49. *Section 341.358, Florida Statutes, is repealed.*

Section 50. *Section 341.361, Florida Statutes, is repealed.*

Section 51. *Section 341.362, Florida Statutes, is repealed.*

Section 52. Section 341.363, Florida Statutes, is amended to read:

341.363 Effect of *certification* ~~franchise~~; *ss. 341.3201-341.386* ~~act~~ to take precedence.—

(1) With respect to the rail line, *guideway, and any* transit station *identified in the certification,* ~~and transit station appurtenant building,~~ and subject to the conditions set forth in the franchise *and certification,* the franchise *and the certification constitute* ~~constitutes~~ the sole license of the state, and of any agency, as to the approval of the location of these facilities and the construction, operation, and maintenance of these facilities. The certification *is* ~~will be~~ valid for the term of the franchise, *if* ~~provided~~ construction is commenced within *3 years and operation is commenced within 6* ~~5~~ years *after* ~~of~~ the date of *certification* ~~franchise~~ or *a* ~~such~~ later date ~~as may be~~ authorized by the *board* ~~commission~~.

(2) With respect to the *associated developments specified in the certification or in any modification to the certification* ~~ancillary facilities~~, the *certification is* ~~franchise shall be~~ the ~~commission's~~ license and authority for the franchisee to construct and operate the *associated developments* ~~ancillary facilities~~. The *certification must* ~~franchise shall~~ list *any additional post-certification* ~~all~~ permits and licenses necessary for the construction, operation, and maintenance of the *associated developments* ~~ancillary facilities~~. *The certification must also list any exemption from a permitting or licensing requirement. The franchisee shall obtain any permit or license, otherwise required by law, before post-certification approval, unless, in the certification, the permit or license is exempted.* Upon application by the franchisee, all agencies shall grant and approve all appropriate permits and licenses necessary for the construction, operation, and maintenance of the *associated developments* ~~ancillary facilities~~, with terms and conditions consistent with the franchise *and certification* terms and conditions. The franchisee shall comply with all applicable agency rules, regulations, orders, and ordinances in constructing, operating, and maintaining the *associated developments* ~~ancillary facilities~~, unless in the *certification* ~~franchise~~ the franchisee is expressly exempted, or granted a waiver, from the rules, regulations, orders, and ordinances.

(3) The *certification authorizes* ~~franchise shall authorize~~ the *franchisee* ~~applicant~~ to locate, ~~the rail line, transit station, and transit station appurtenant building and to~~ construct, operate, and maintain, *the high-speed rail transportation system* ~~these~~ facilities subject only to the conditions of *certification* ~~franchise set forth in the franchise~~ and to all nonprocedural standards or regulations of any agency, unless a variance to such requirements or any requirements and conditions of the *certification* ~~franchise~~ is granted by the board. The *certification* ~~franchise~~ may include conditions *that* ~~which~~ constitute variances and exemptions, otherwise allowed by law, from nonprocedural standards or rules of any other agency, which conditions were expressly considered during the proceeding, unless there is a waiver by the agency as provided ~~below~~ in this subsection, and which conditions otherwise would be applicable to the location, ~~of the rail line, transit station, or transit station appurtenant building or to the~~ construction, operation, and maintenance of *the high-speed rail transportation system* ~~these~~ facilities. The conditions of the *certification or* franchise relative to the actual operation of the train, including, but not limited to, train speed, control, vibration, electrification systems, rail structures, vehicles, safety, noise, or noise barriers, ~~shall~~ take precedence over any inconsistent nonprocedural standards, rules, or local regulations. Each party shall notify the applicant and other parties at least 60 days prior to the certification hearing of any nonprocedural requirement not specifically listed in the application from which a variance or exception is necessary in order for the board to certify any corridor proposed for certification. ~~The failure to provide such notification shall be treated as a waiver, variance, or exception, otherwise allowed by law, from nonprocedural standards or regulations of the department or any other agency.~~

(4)(a) Pursuant to specific conditions of the *certification, a franchisee* ~~franchise, an applicant~~ may be required to file site-specific technical data after the award of the franchise in order to facilitate the monitoring of the *franchisee's* ~~applicant's~~ compliance with the conditions of the franchise *and certification* and to provide reasonable assurance that substantive agency standards will be met. Accordingly, data requirement provisions which would be required in the absence of a franchise process shall be followed, and an approval or denial statement shall be issued, within the *time period* ~~timeframe~~ provided by agency rules for such permitting or as otherwise provided in the condition of *certification or* franchise; however, any person whose substantial interests are determined by such a statement shall not have the right to contest the statement or to have an administrative proceeding in order to determine the propriety of such action beyond that already provided by *ss. 341.3201-341.386* ~~this act~~ as part of the franchise *or certification* proceedings.

(b) Since the site of the high-speed rail *transportation system* ~~line~~ will have been established by certification, the issue of postcertification approval or denial *is* ~~shall be~~ limited to the technical merits of providing

reasonable assurance of compliance with substantive agency standards or to the onsite location of a facility feature, but not to the location of the site itself. Construction may occur on other components of the facility prior to action on postcertification review conditions so long as no construction occurs which will affect the feature or component at issue. The agency *having* ~~in the~~ jurisdiction of ~~which~~ the matter at issue ~~resides~~ shall review construction plans to determine whether such construction will or will not affect the feature or component at issue. Postcertification review may be the basis for the imposition or modification of other conditions or amendments to the conditions.

(c) With respect to the rail *transportation system* ~~line, transit station, and transit station appurtenant building~~, the *board* ~~commission~~ may delegate the authority to approve or deny construction or operation plans *submitted pursuant to a condition of certification* which are submitted after the award of *certification* ~~franchise pursuant to a condition of the franchise~~. Such delegation shall be made to the agency which requested, and has the authority for administration of, that condition of the *certification* ~~franchise~~. Disputes over such approvals or denials shall be resolved in accordance with chapter 120. Copies of all approval or denial letters shall be sent to the *department* ~~commission~~ for recordkeeping purposes. *The department shall,* ~~and the applicant or delegating agency may request that the commission~~ coordinate the scheduling of hearings *to ensure that a dispute is timely processed in accordance with chapter 120*; however, the *department* ~~commission~~ is not responsible for arbitration of disputes over any approvals or denials.

(5) With respect to the *high-speed rail transportation system, the certification may exempt the franchisee from* ~~rail line, transit station, and transit station appurtenant building, the franchise will be in lieu of~~ any license, permit, certificate, or similar document required by any agency pursuant to, but not limited to, chapter 125, chapter 161, chapter 163, chapter 166, chapter 253, chapter 258, chapter 298, chapter 370, chapter 373, chapter 380, chapter 381, chapter 387, chapter 403, ~~or~~ chapter 404, or the Florida Transportation Code. On the award of the *certification* ~~franchise~~, any license, easement, or other interest in state lands, except those lands the titles of which lands are vested in the Board of Trustees of the Internal Improvement Trust Fund, shall be issued by the appropriate agency as a ministerial act. The applicant shall be required to seek any necessary interest in state lands the titles to which lands are vested in the Board of Trustees of the Internal Improvement Trust Fund from the board of trustees before, during, or after the franchise *or certification* proceeding; and the award of the franchise *or certification* may be made contingent upon the issuance of the appropriate interest in realty. However, in any proceeding before the Board of Trustees of the Internal Improvement Trust Fund in which proceeding the applicant is seeking a necessary interest in state lands, neither the applicant nor any party to the franchise *or certification* proceeding may directly or indirectly raise or relitigate a matter which was or could have been an issue in the franchise *or certification* proceeding; but the information presented in the franchise *or certification* proceeding shall be available for review by the board of trustees and its staff.

(6) *A* ~~No~~ term or condition of franchise *or certification may not* ~~shall be~~ interpreted to preclude the postcertification exercise by any party of whatever procedural rights the party may have under chapter 120, including those rights related to rulemaking proceedings.

(7) The award by the *department* ~~commission~~ of the franchise is a final agency action appealable *under* ~~pursuant to~~ s. 120.68. *Also, the award by the board of certification is a final agency action appealable under s. 120.68.*

Section 53. Section 341.364, Florida Statutes, is amended to read:

341.364 Appeals to board.—*If* ~~In the event~~ any agency renders a development order, as defined in chapter 380, that is inconsistent with the terms and conditions of the franchise *or certification*, the franchisee *has* ~~will have~~ the right to appeal the development order to the board. Such review *is* ~~will be~~ a de novo proceeding.

Section 54. Section 341.365, Florida Statutes, is created to read:

341.365 Associated development.—

(1) The franchisee, alone or as part of a joint development, may undertake any associated development included in the certification.

(2) To be eligible for inclusion in the certification, an associated development must:

(a) Be proposed by the franchisee;

(b) Be adjacent to or physically connected to a transit station having pedestrian ingress to and egress from the station;

(c) Be a source of revenue for the establishment, construction, operation, or maintenance of the rail line or the operation and maintenance of service; and

(d) Be consistent with applicable local government comprehensive plans and local land development regulations; and

(e) Otherwise be in compliance with the provisions of ss. 341.3201-341.386.

(3) Where possible, potential inconsistencies between associated developments and local government comprehensive plans should be resolved through nonadversarial dispute resolution prior to final disposition of the certification application by the board.

(4) Sections 341.3201-341.386 do not prohibit the franchisee or a party to a joint venture with a franchisee from obtaining approval, pursuant to any other law, for any associated development that has been determined to be reasonably related to the high-speed rail transportation system.

Section 55. Section 341.366, Florida Statutes, is amended to read:

341.366 Recording of notice of certified corridor route.—Within 60 days after the award of *certification* ~~a franchise~~ for a high-speed rail *transportation system* ~~line~~ pursuant to *ss. 341.3201-341.386* ~~this act~~, the *department* ~~commission~~ shall, in accordance with s. 28.222, file a notice of the certified route with the clerk of the circuit court for each county through which the corridor will pass. The notice *must* ~~shall~~ consist of maps or aerial photographs on the scale of 1:24,000 that clearly show the location of the certified route, and the notice *must* ~~shall~~ state that the certification of the corridor will result in the acquisition of rights-of-way within the corridor. Each clerk shall record and maintain the filing of the notice in the official record of the county *until* ~~for the period that is the duration of~~ the certification *expires* or ~~for the period~~ until ~~such time as~~ the applicant certifies to the clerk that all lands required for the high-speed rail *transportation system* ~~line~~ rights-of-way within the corridor have been acquired within such county, whichever *event occurs first* ~~period expires sooner~~. The recording of this notice *does* ~~will~~ not constitute a lien, cloud, or encumbrance on real property.

Section 56. Section 341.368, Florida Statutes, is amended to read:

341.368 Modification of *certification or* franchise.—

(1) ~~Following award of a franchise,~~ The franchise *and the certification* may be modified in any one of the following ways:

(a) Upon its own motion, the *department* ~~commission~~ may initiate proceedings to modify specific conditions in the franchise *or certification* when the modification is deemed essential for the protection of the public health, safety, or welfare.

(b) The franchisee may request modification of the franchise *or certification* at any time.

(2) If no party to the *franchise proceeding objects in writing to the proposed modification of the franchise, if no party to the* certification proceeding objects in writing to the *proposed modification* ~~modifications set forth in a modification request~~ within 45 days after notice mailed to the last address of record, and if no other person whose substantial interest is affected by the modifications objects in writing within 30 days after the issuance of public notice, the *department* ~~commission~~ may modify the terms and conditions of the franchise.

(3) If the modification affects lands located within the jurisdiction of a local government, notice of the modification shall be provided to the governing body of said local government. Each affected local government *is* ~~shall be~~ entitled to participate in the modification proceeding regardless of whether the local government participated in the ~~original~~ certification proceeding.

(4) If the *department* ~~commission~~ finds that the modification request requires no changes or additions to the terms and conditions in the certification ~~component~~, then within 90 days after publication of notice of the modification request the *department* ~~commission~~ shall act upon the modification request by rendering a written order. The order shall modify the terms and conditions of the franchise *or certification*, provided that:

(a) No written objection has been filed pursuant to subsection (2);

(b) The *department* ~~commission~~ has considered~~, as applicable,~~ the criteria enumerated in *s. 341.3334* ~~s. 341.355 or s. 341.353(2)~~; and

(c) The *department* ~~commission~~, based on the record presented, concludes that the modification request should be granted.

(5) If the parties to the franchise *or certification* proceeding are not able to reach a mutual written agreement on any modification of the terms and conditions of the franchise, the applicant may file a petition for modification with the *department* ~~commission~~. The petition *must* ~~shall~~ set forth:

(a) The proposed modification;

(b) The factual reasons asserted for the modification; and

(c) The anticipated additional environmental effects of the proposed modification.

(6) If the proposed modification requires changes or additions to the terms and conditions in the certification, *the board must make final disposition of the petition, unless otherwise agreed in writing by all parties. The department is responsible for processing the petition in accordance with chapter 120 and, if necessary, presenting the matter to the board for final disposition* ~~component, the proposed modification shall be subject to additional requirements as specified in rules adopted by the commission. After an initial review by the commission, the proposed modification shall be forwarded to the board for consideration.~~

~~(a) The board shall render an order on the proposed modification.~~

~~(b) In the event the board approves the modification subject to terms and conditions, such terms and conditions shall be included by the commission in its final order on the modification request.~~

~~(c) Upon receipt of the board's order, the commission shall consider whether any modification of the franchise terms and conditions is required by reason of the board's order. The commission's action on the modification request shall be in the form of a final order which shall constitute final agency action.~~

(7) The effect of the *department's* ~~commission's~~ final order modifying the terms and conditions of the franchise shall be *that* ~~as follows:~~

~~(a)~~ the terms and conditions of the final order *are* ~~shall be~~ incorporated into and made a part of the terms and conditions of the franchise as if granted by the original award of franchise.

~~(b) With regard to ancillary facilities, upon application by the franchisee or its designee, all agencies shall grant and approve all appropriate permits and licenses necessary for the location, construction, operation, and maintenance of the ancillary facilities. All agency permits and licenses shall be consistent with the terms and conditions of the franchise as modified. The order shall list all applicable agency rules, regulations, orders, and ordinances from which the franchise is expressly exempted or granted a waiver, as the case may be.~~

(8) The terms and conditions of a final order of the board on a proposed modification shall be incorporated into and made a part of the terms and conditions of certification.

Section 57. Section 341.369, Florida Statutes, is amended to read:

341.369 Fees; disposition.—The *department* ~~commission~~ shall charge each applicant the following fees:

(1) An initial *nonrefundable franchise* application fee of *$25,000* ~~$5,000~~, to be submitted to the *department* ~~commission in order to pay for those costs associated with the conduct of the Franchise and Environmental Review Committee~~.

~~(2) Application fees, including:~~

~~(a) A franchise component fee in an amount determined by the commission, not to exceed $30,000 per applicant.~~

(2)(a)~~(b)~~ A certification *application* ~~component~~ fee ~~at the rate~~ of $2,000 for each mile of proposed high-speed rail *transportation system* ~~line~~ corridor, to be paid to the *department* ~~commission~~ upon the filing of the certification *application* ~~component after the selection of the applicants for more detailed review~~. A minimum fee of $60,000 *is* ~~shall be~~ required for each application.

1. The certification *application* ~~component~~ fee shall be used *first* to pay those expenses associated with the costs of the preparation and conduct of the hearings, the recording and transcription of the proceedings, ~~the studies required by this act,~~ and agency travel and per diem. ~~Salaries for full-time state agency employees, excluding other personal services employees, may not be charged against the fee.~~

2. If any sums remain after the payment of such expenses, the ~~certification component~~ fee shall be applied pro rata to reimburse all reasonable expenses pursuant to *ss. 341.3201-341.386* ~~this act~~ incurred by the agencies *that prepared and filed reports pursuant to s. 341.348*. Any sums remaining after the payment of all authorized costs shall be refunded to the applicant within 90 days after the issuance or denial of the *certification* ~~franchise~~ or the withdrawal of the application. The applicant shall be provided with an itemized accounting of the expenditures.

~~3. Agencies entitled to receive reimbursement from the fee are those agencies required to prepare the reports required by this act, and any other agencies from which the departments request special studies.~~

(b)~~(c)~~ If a corridor alignment change is proposed by the applicant, *an* ~~a required~~ application amendment fee *is required*. The minimum amount of the fee *is* ~~will be~~ $3,000 plus $2,000 for each mile of realignment. *An* ~~No~~ additional fee *may not* ~~shall~~ be required if *a* ~~no~~ corridor alignment change is *not* proposed.

(c)~~(d)~~ A certification modification fee, to be submitted to the *department* ~~commission~~ upon notification by the applicant that modification pursuant to s. 341.368(2) and (3) is sought, and to be used, disbursed, and accounted for in the same manner as the certification *application* ~~component~~ fee. If *a* ~~no~~ corridor alignment change is *not* proposed, the certification modification fee *is* ~~will be~~ $3,000. If a corridor alignment change is proposed by the applicant, the certification modification fee *is* ~~will be~~ $3,000 plus $2,000 for each mile of realignment.

~~(3) A franchise fee in an annual amount determined by the commission to be sufficient to cover the cost associated with the regulation of the high-speed rail line.~~

Section 58. Section 341.371, Florida Statutes, is amended to read:

341.371 Revocation or suspension of franchise *or certification*.—A franchise *or certification* may be revoked or suspended for:

(1) Any material false statement in the application or in the supplemental or additional statements of fact or studies required of the applicant, *if* ~~when~~ a true answer would have warranted a refusal by the *department* ~~commission~~ to award the franchise in the first instance.

(2) The failure to comply with the terms or conditions of the franchise *or certification*.

(3) The violation of the provisions of *ss. 341.3201-341.386* ~~this act~~ or rules or orders issued under *ss. 341.3201-341.386* ~~this act~~.

Section 59. Section 341.372, Florida Statutes, is amended to read:

341.372 Administrative fine in lieu of revocation or suspension of franchise.—

(1) If the *department* ~~commission~~ finds that one or more grounds exist for the discretionary revocation or suspension of a franchise *or certification* issued pursuant to *ss. 341.3201-341.386* ~~this act~~, the *department* ~~commission~~ may, in lieu of such revocation or suspension, impose a fine upon the franchisee.

(2) With respect to any willful violation, such fine *may* ~~shall~~ not exceed $25,000 per violation per day.

(3) With respect to any nonwillful violation, such fine *may* ~~shall~~ not exceed $2,500 per violation per day. ~~In no event shall~~ Such fine, for all nonwillful violations, *may not* exceed an aggregate amount of $10,000 per day ~~for all nonwillful violations~~.

(4) This section does not prohibit the department, or other agencies for matters within their respective jurisdictions, from enforcing the terms and conditions of the franchise or certification by civil action in a court of competent jurisdiction, including seeking injunctive relief.

Section 60. Section 341.375, Florida Statutes, is amended to read:

341.375 Participation by women, minorities, and socially and economically disadvantaged individuals encouraged; plan for compliance.—It is the intent of the Legislature and the public policy of this state that women, minorities, and socially and economically disadvantaged business enterprises be encouraged to participate fully in all phases of economic and community development. Accordingly, to achieve such purpose, the franchisee of a high-speed rail *transportation system* ~~line~~ shall, in accordance with applicable state and federal law, involve and utilize women, minorities, and socially and economically disadvantaged business enterprises in all phases of the design, construction, maintenance, and operation of the high-speed rail *transportation system* ~~line~~ developed under the auspices of *ss. 341.3201-341.386* ~~this act~~. Each applicant for a franchise shall provide to the *department* ~~commission~~ a plan for compliance with the intent and requirements of this section; and each franchisee shall regularly provide to the *department* ~~commission~~ such proof of its continuing compliance as the *department* ~~commission~~ requires to ensure that the franchisee remains in compliance with the provisions of this section.

Section 61. Section 341.381, Florida Statutes, is amended to read:

341.381 Applicability.—The provisions of *ss. 341 3201-341.386* ~~this act~~ apply to *the* ~~each~~ high-speed rail *transportation system, including transit stations and associated developments* ~~line~~.

Section 62. Section 341.382, Florida Statutes, is amended to read:

341.382 Superseded laws and regulations.—If any provision of *ss. 341.3201-341 386* ~~this act~~ is in conflict with any other provision, limitation, or restriction which is now in effect under a law of this state or an ordinance of a local government, political subdivision, or municipality, or a rule or regulation adopted under such law or ordinance, *ss. 341.3201-341.386 control* ~~this act controls~~.

Section 63. Section 341.383, Florida Statutes, is amended to read:

341.383 Authority of local government to assess fees.—*Sections 341.3201-341.386 do not prohibit* ~~Nothing in this act prohibits~~ a local government from assessing reasonable impact fees, special assessments, service charges, or user fees with respect to a rail *transportation system* ~~line~~, transit station, or *associated development* ~~transit station appurtenant building~~.

Section 64. *Section 341 385, Florida Statutes, is hereby repealed.*

Section 65. Section 341.386, Florida Statutes, is amended to read:

341.386 Award of franchise *and certification* admissible in eminent domain proceedings; attorney's fees and costs.—

(1) The award of a franchise *and of a certification* pursuant to *ss. 341.3201-341 386 are* ~~this act is~~ admissible as evidence of public need and necessity in proceedings under chapter 73 or chapter 74.

(2) *A* ~~No~~ party may *not* rely on this section or any provision of chapter 73 or chapter 74 to request the award of attorney's fees or costs that *incur* ~~are incurred~~ as a result of participation in the *franchise or* certification proceeding.

Section 66. Subsections (9) and (10) of section 341.031, Florida Statutes, are amended to read:

341.031 Definitions.—As used in ss. 341.011-341.061, the term:

(9) *"Commuter assistance program" means financial and technical assistance by the department to promote alternatives to the use of automobiles by a single commuter. The term includes the following program areas:*

(a) "Ridesharing," *which* means an arrangement between persons with a common destination, or destinations, within the same proximity, to share the use of a motor vehicle on a recurring basis for round-trip transportation to and from their place of employment or other common destination. For purposes of ridesharing, employment shall be deemed to commence when an employee arrives at the employer's place of employment to report for work and shall be deemed to terminate when the employee leaves the employer's place of employment, excluding areas not under the control of the employer. However, an employee shall be deemed to be within the course of employment when the employee is engaged in the performance of duties assigned or directed by the employer, or acting in the furtherance of the business of the employer, irrespective of location.

(b) "Transportation demand management," which means techniques that can be used to increase the efficiency of existing transportation systems by influencing demand on the systems and by reducing the number of automobile trips during peak hours of highway use.

(c) "Transportation management association," which means an organization which helps solve transportation problems by encouraging businesses and governments to implement ridesharing and demand management strategies.

(10) "Transit corridor project" means a project that is undertaken by a public agency and designed to relieve congestion and improve capacity within an identified transportation corridor~~, as designated in accordance with the provisions of s. 339.155(1)(d),~~ by increasing people-carrying capacity of the system through the use and facilitated movement of high-occupancy conveyances. The service duration of such a project shall not exceed a period of 2 years unless the Legislature, on the basis of documentation by the department that the project is the most cost-effective method of relieving congestion and improving capacity within the identified corridor, reauthorizes the project for an additional 2 years.

Section 67. Subsection (10) of section 341.041, Florida Statutes, is amended to read:

341.041 Transit responsibilities of the department.—The department shall, within the resources provided pursuant to chapter 216:

(10) Administer federal and state *commuter assistance* ~~ridesharing~~ programs and related federal-aid funds apportioned to the department, *which promote the use of ridesharing arrangements and transportation demand management strategies, and the creation of transportation management associations. Public agencies, and private organizations established pursuant to chapter 617 and approved by the local government and the department as being consistent with local, regional, and state transportation plans, are eligible to receive funds under this program.* The department shall establish adequate insurance requirements based on passenger capacity for each vehicle used in ridesharing.

Section 68. Paragraph (a) of subsection (5) of section 341.051, Florida Statutes, is amended to read:

341.051 Administration and financing of public transit programs and projects.—

(5) FUND PARTICIPATION; CAPITAL ASSISTANCE.—

(a) The department may fund up to 50 percent of the nonfederal share of the costs, *not to exceed the local share,* of any eligible public transit capital project that is local in scope; except, however, that departmental participation in the final design, right-of-way acquisition, and construction phases of an individual fixed-guideway project which is not approved for federal funding shall not exceed an amount equal to 12.5 percent of the total cost of each phase. ~~Departmental participation shall not exceed 10 percent of the total project costs of federally assisted projects approved for federal funding prior to January 6, 1983, and 12.5 percent of the total project costs of such projects approved for federal funding after January 6, 1983, except that the department may participate in federally assisted ridesharing programs in an amount which shall not exceed 15 percent of the total project costs.~~

The term "net operating costs" means all operating costs of a project less any federal funds, fares, or other sources of income to the project.

Section 69. Paragraph (b) of subsection (2), paragraph (b) of subsection (3), and subsection (6) of section 341.052, Florida Statutes, are amended, and subsection (7) is added to said section, to read:

341.052 Public transit block grant program; administration; eligible projects; limitation.—

(2) Costs for which public transit block grant program funds may be expended include:

(b) Costs of public bus transit service development and transit corridor projects. *Whenever block grant funds are used for a service development project or a transit corridor project, the use of such funds is governed by s. 341.051.* Local transit service development projects and transit corridor projects currently operating under contract with the department shall continue to receive state funds according to the contract until such time as the contract expires. Transit corridor projects, wholly within one county, meeting or exceeding performance criteria as described in the contract shall be continued by the transit provider at the

same or a higher level of service until such time as the department, the M.P.O., and the service provider, agree to discontinue the service. The provider may not increase fares for services in transit corridor projects wholly within one county without the consent of the department.

All projects shall be consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government comprehensive plans of local government in which the project is located.

(3) The following limitations shall apply to the use of public transit block grant program funds:

(b) State participation in eligible public transit *operating* ~~operation~~ costs may not exceed 50 percent of such costs *or an amount equal to the total revenue, excluding farebox, charter, and advertising revenue and federal funds, received by the provider for operating costs, whichever amount is less.*

(6) The department shall distribute 85 percent of the public transit block grant funds to "Section 9" and "Section 18" providers designated by the United States Department of Transportation. ~~as follows:~~

~~(a) All eligible "Section 9" providers shall receive $20,000 or an amount equal to the amount of local government tax revenue received by such provider, whichever is less.~~

~~(b)~~ The ~~remaining~~ funds shall be distributed to "Section 9" providers, and *to* "Section 18" providers that are not designated as community transportation *coordinators* ~~providers~~ pursuant to chapter 427, according to the following formula, *except that at least $20,000 shall be distributed to each eligible provider if application of the formula provides less than that amount for any such provider*:

(a)~~1.~~ One-third shall be distributed according to the percentage that an eligible provider's county population in the most recent year for which those population figures are available from the state census repository is of the total population of all counties served by eligible providers.

(b)~~2.~~ One-third shall be distributed according to the percentage that the total revenue miles provided by an eligible provider, as verified by the most recent "Section 15" report to the Urban Mass Transportation Administration or a similar audited report submitted to the department, is of the total revenue miles provided by eligible providers in the state in that year.

(c)~~3.~~ One-third shall be distributed according to the percentage that the total passengers carried by an eligible provider, as verified by the most recent "Section 15" report submitted to the Urban Mass Transportation Administration or a similar audited report submitted to the department, is of the total number of passengers carried by eligible providers in the state in that year.

(7)(a) Any funds distributed to an eligible provider pursuant to subsection (6) which cannot be expended within the limitations of the block grant program shall be returned to the department for redistribution to other eligible providers pursuant to that subsection.

(b) The department may consult with an eligible provider, before distributing funds to that provider pursuant to subsection (6), to determine whether the provider can expend its total block grant within the limitations of the block grant program. If the department and the provider agree that the total block grant cannot be expended, the provider may agree to accept a block grant of less than the total amount, in which case the funds that exceed such lesser agreed-upon amount shall be redistributed to other eligible providers pursuant to subsection (6).

(c) If an audit reveals that an eligible provider expended block grant funds on unauthorized uses, the provider must repay to the department an amount equal to the funds expended for unauthorized uses. The department shall redistribute such repayments to other eligible providers pursuant to subsection (6).

Section 70. Section 341.053, Florida Statutes, is amended to read:

341.053 Intermodal Development Program; administration; eligible projects; limitations.—

(1) There is created *within the Department of Transportation* an Intermodal Development Program *the primary purpose of which is* to provide for major capital investments in fixed-guideway transportation systems.; *Secondary objectives of the program include providing* access to seaports, airports and other transportation terminals, *providing for the construction of intermodal or multimodal terminals;* and to *otherwise facilitate the intermodal or multimodal movement of people and goods* ~~assist in the development of dedicated bus lanes~~.

(2) The Intermodal Development Program shall be administered by the department.

(3) The department shall review funding requests from a rail authority created pursuant to chapter 343. The department may include projects of the authorities, including planning and design, in the tentative work program.

(4) In any fiscal year, a minimum of one-third of intermodal development funds shall be distributed in accordance with the distribution formula defined in s. 339.135(4)(a). No single transportation authority operating a fixed-guideway transportation system, or single fixed-guideway transportation system not administered by a transportation authority, receiving funds under the Intermodal Development Program shall receive more than 33⅓ percent of the total intermodal development funds appropriated between July 1, 1990, and June 30, 2015. In determining the distribution of discretionary funds under the Intermodal Development Program in any fiscal year, the department shall assume that future appropriation levels will be equal to the current appropriation level. If in any fiscal year the appropriation level is such that meeting the requirements of this subsection becomes impossible, the requirements of this subsection are suspended.

(5) The department is authorized to fund projects within the Intermodal Development Program, which are consistent, to the maximum extent feasible, with approved local government comprehensive plans of the units of local government in which the project is located, according to the following priorities:

(a) First, major capital investments in public rail and fixed-guideway transportation facilities and systems which provide intermodal access and which, if approved after July 1, 1991, have complied with the requirement of the department's major capital investment policy.

(b) Second, *road, rail or fixed-guideway access to, from or between seaports, airports and other transportation terminals; construction of intermodal or multimodal terminals; development and construction of dedicated bus lanes; and projects which otherwise facilitate the intermodal or multimodal movement of people and goods* ~~other major capital investments in fixed guideway transportation facilities and systems which, if approved after July 1, 1991, have complied with the department's major capital investment policy~~.

~~(c) Third, investments in dedicated bus lanes and road access to seaports and airports.~~

Section 71. Effective April 1, 1992, or upon becoming a law, whichever occurs later, section 341.102, Florida Statutes, is amended to read:

341.102 Regulation of nonpublic-sector buses.—

(1) No local governmental entity shall unduly restrict or impose any economic regulation upon the use of nonpublic-sector buses engaged solely in intercounty transportation, or engaged in intracity transportation routes if the owner of such bus can establish that such intracity transportation route has been operated continuously from January 1, 1990, through April 1, 1991, and such intracity transportation has been conducted in compliance with applicable safety rules and regulations promulgated under s. 316.70. The partial exemption from local governmental regulation afforded the intracity transportation routes specified in the preceding sentence shall be limited to the routes maintained continuously from January 1, 1990, through April 1, 1991, and such authority shall expire April 1, 2011, or 10 years after any change in ownership of such bus, whichever occurs first. Any existing restrictions inconsistent with this section are invalid. However, local governmental entities may enact necessary safety, insurance, and traffic ordinances. ~~This section shall not apply to any private sector contract transportation agreements, or any nonrouted work involving nonpublic sector buses.~~

(2) Except for contract agreements awarded pursuant to chapter 427, a county, as defined in s. 125.011(1), or a local governmental entity located within such a county, may not unduly restrict or impose any economic regulation upon any private-sector contract transportation agreement. A private-sector contract transportation agreement is a prearranged written contract between a bus owner and a public-sector or private-sector entity for the prearranged transporation of specific pas-

sengers, not including street hails, by a nonpublic-sector bus over public roads that do not overlap public transportation corridors by more than 70 percent; provided, such passengers are employees, patients, or clients of the public-sector or private-sector entity, and such entity has a legitimate business or governmental purpose in transporting such employees, patients, or clients; and such entity's primary business is not transportation of passengers by motor vehicle, as defined in s. 320.01. For the purpose of this subsection, a nonpublic-sector bus is defined as a vehicle designed for carrying more than 10 passengers. A public transportation corridor consists of those public roads within one-quarter mile of, and including, existing public transporation routes. Nothing contained in this subsection shall restrict local governmental entities from enacting necessary safety, insurance, and traffic ordinances.

Section 72. Paragraph (a) of subsection (2) of section 339.08, Florida Statutes, is amended to read:

339.08 Use of moneys in State Transportation Trust Fund.—

(2) Such rules shall provide that the use of such moneys 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.*

Notwithstanding any other provision of law, the department may match any federal-aid highway funds allocated for any other transportation purpose.

Section 73. Subsections (3) and (17) of section 341.302, Florida Statutes, are amended to read:

341.302 Rail program, duties and responsibilities of the department.—The department, in conjunction with other governmental units and the private sector, shall develop and implement a rail program of statewide application designed to ensure the proper maintenance, safety, revitalization, and expansion of the rail system to assure its continued and increased availability to respond to statewide mobility needs. Within the resources provided pursuant to chapter 216, the department shall:

(3) Develop and periodically update the rail *system* ~~component of the state transportation~~ plan, on the basis of an analysis of statewide transportation needs. The rail *system plan* ~~component~~ shall include an identification of priorities, programs, and funding levels required to meet statewide needs. The rail *system plan* ~~component~~ shall be developed in a manner that will assure the maximum use of existing facilities and the optimum integration and coordination of the various modes of transportation, public and private, in the most cost-effective manner possible. *The rail system plan shall be updated at least every 2 years and include plans for both passenger rail service and freight rail service.*

(17) Exercise such other functions, powers, and duties in connection with the rail *system* ~~component of the state transportation~~ plan as *are* ~~may be~~ necessary to develop a safe, efficient, and effective statewide transportation system.

Section 74. Subsection (1) of section 341.3025, Florida Statutes, is amended to read:

341.3025 Multicounty public rail system fares and enforcement.—

(1) Any entity *that* ~~created pursuant to s. 163.01(7) which~~ owns or operates a public rail system in two or more counties of the state *may* ~~shall have the authority to~~ adopt rules and regulations relating to the operation and management of its rail system, including regulations relating to fares, fees, and charges for the use of the facilities and services of the system.

Section 75. Subsections (2), and (4) of section 341.303, Florida Statutes, are amended to read:

341.303 Funding authorization and appropriations; eligibility and participation.—

(2) PROJECT ELIGIBILITY.—Any project that is necessary to carry out those duties and responsibilities enumerated in s. 341.302, that is consistent with the *approved local government comprehensive plan of the unit of government of the areas served by the rail service* ~~Florida Transportation Plan~~, and that is contained in the adopted work program is eligible for the expenditure of state funds in accordance with the fund participation rates established in this section.

(4) FUND PARTICIPATION; SERVICE DEVELOPMENT.—

(a) The department is authorized to fund up to 50 percent of the ~~capital and~~ net operating costs of any eligible intercity or commuter rail service development project that is local in scope, *not to exceed the local match.*

(b) The department is authorized to fund up to 100 percent of the ~~capital and~~ net operating costs of any eligible intercity or commuter rail service development project that is statewide in scope or involves more than one county if no other governmental unit of appropriate jurisdiction exists. *For commuter rail service, after the 5th year of operation, the department's participation is limited to a maximum of 50 percent of the net operating costs of the service, and after the 7th year of operation, the department's participation is limited to a maximum of 25 percent of the net operating costs of the service for a maximum of 3 years.*

(c) Each such local or statewide service development project shall be identified in the appropriation request of the department in a manner that defines project objectives, the assigned operational and financial responsibilities, the timeframe required to develop the service, and the criteria by which the success of the project can be judged.

(d) Any service development project funded under this section shall continue to be eligible for such funds ~~in the third year of operation~~ only if the project reaches *a systemwide* ~~an~~ operating ratio of *25* ~~60~~ percent or more during the *5th* ~~second~~ year~~, or, for a tri-county commuter rail, an operating ratio of 40 percent or more during the second year~~. ~~All intercity and commuter rail service development projects shall be limited to 3 years except for a tri-county commuter rail, which shall be limited to 5 years.~~

(e) The term "net operating costs" means all operating costs of the project less any federal funds, fares, or other sources of income to the project.

Section 76. Subsection (2) of section 343.53, Florida Statutes, is reenacted to read:

343.53 Tri-County Commuter Rail Authority.—

(2) The governing board of the authority shall consist of nine voting members, as follows:

(a) The county commissions of Dade, Broward, and Palm Beach Counties shall each elect a commissioner as that commission's representative on the board. The commissioner must be a member of the county commission when elected and for the full extent of his term.

(b) The county commissions of Dade, Broward, and Palm Beach Counties shall each appoint a citizen member to the board who is not a member of the county commission but who is a resident of the county from which he is appointed and a qualified elector of that county. Insofar as practicable, the citizen member shall represent the business and civic interests of the community.

(c) The secretary of the Department of Transportation shall appoint one of the district secretaries, or his designee, for the districts within which the area served by the tri-county rail is located.

(d) The other eight members of the board shall elect, by a simple majority vote, an at-large member who is a resident and qualified elector in the area served by the tri-county rail.

(e) The Governor shall appoint one member to the board who is a resident and qualified elector in the area served by the tri-county rail.

Section 77. Subsection (4) of section 343.54, Florida Statutes, is amended to read:

343.54 Powers and duties.—

(4) The authority shall~~, by February 1, 1990,~~ develop and adopt a plan for the operation, maintenance, and expansion of the tri-county commuter rail service. Such plan shall address the authority's plan for the development of public and private revenue sources, and the service to be provided, including expansions of current service *which are consistent, to the maximum extent feasible, with approved local government comprehensive plans.* The plan shall be reviewed and updated annually.

Section 78. Subsection (2) of section 343.63, Florida Statutes, is reenacted to read:

343.63 Central Florida Commuter Rail Authority.—

(2) The governing board of the authority shall consist of nine voting members, as follows:

(a) The county commissions of Seminole, Orange, and Osceola Counties shall each elect a commissioner as that commission's representative on the board. The commissioner must be a member of the county commission when elected and for the full extent of his term. The terms of the county commissioners on the governing board of the authority shall be 2 years.

(b) The Governor shall appoint five members to the board who are residents and qualified electors in the area served by the authority. One of the members appointed by the Governor shall be the mayor of a municipality within the area served by the authority, whose term as mayor expires on or after the expiration of his term on the authority. The mayor shall serve a term of 2 years. Of the remaining members initially appointed by the Governor, two members shall serve a term of 2 years and two members shall serve a term of 4 years. Thereafter all members appointed by the Governor shall serve a term of 4 years, except for the mayor who shall serve a term of 2 years.

(c) The Secretary of Transportation shall appoint the district secretary, or his designee, for the district within which the area served by the authority is located.

Section 79. Subsection (2) of section 343.64, Florida Statutes, is amended, and a new subsection (3) is added to that section, to read:

343.64 Powers and duties.—

(2) The authority may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of the aforesaid purposes, including, but not limited to, the following rights and powers:

(a) To sue and be sued, implead and be impleaded, complain and defend in all courts in its own name.

(b) To adopt and use a corporate seal.

(c) To have the power of eminent domain for acquisition of the commuter rail system.

(d) To acquire, purchase, hold, lease as a lessee, and use any franchise or property, real, personal, or mixed, tangible or intangible, or any interest therein, necessary or desirable for carrying out the purposes of the authority.

(e) To sell, convey, exchange, lease, or otherwise dispose of any real or personal property acquired by the authority, including air rights.

(f) To fix, alter, establish, and collect rates, fares, fees, rentals, and other charges for the use of any commuter rail system or facilities owned or operated by the authority.

(g) To develop and provide feeder transit services to rail stations.

(h)~~(g)~~ To adopt bylaws for the regulation of the affairs and the conduct of the business of the authority. The bylaws shall provide for quorum and voting requirements, maintenance of minutes and other official records, and preparation and adoption of an annual budget.

(i)~~(h)~~ To lease, rent, or contract for the operation or management of any part of a commuter rail system or commuter rail facility, including concessions. In awarding a contract, the authority shall consider, but is not limited to, the following:

1. The qualifications of each applicant.

2. The level of service.

3. The efficiency, cost, and anticipated revenue.

4. The construction, operation, and management plan.

5. The financial ability to provide reliable service.

6. The impact on other transportation modes, including the ability to interface with other transportation modes and facilities.

(j)~~(i)~~ To enforce collection of rates, fees, and charges; and to establish and enforce fines and penalties for violations of any rules.

(k)~~(j)~~ To advertise and promote commuter rail systems, commuter facilities, and activities of the authority.

(l)~~(k)~~ To employ an executive director, attorney, staff, and consultants.

(m)~~(l)~~ To cooperate with other governmental entities and to contract with other governmental agencies, including the Department of Transportation, the Federal Government, counties, and municipalities.

(n)~~(m)~~ To enter into joint development agreements.

(o)~~(n)~~ To accept funds from other governmental sources, and to accept private donations.

(p) To purchase directly from local, national, or international insurance companies liability insurance which the authority is contractually and legally obligated to provide, the requirements of s. 287.022(1) notwithstanding.

(3) The authority shall, by February 1, 1993, develop and adopt a plan for the development of the Central Florida Commuter Rail. Such plan shall address the authority's plan for the development of public and private revenue sources, funding of capital and operating costs, the service to be provided, and the extent to which counties within the area of operation of the authority are to be served. The plan shall be reviewed and updated annually. The plan shall be consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government served by the authority.

Section 80. Subsection (2) of section 343.73, Florida Statutes, is reenacted and amended to read:

343.73 Tampa Bay Commuter Rail Authority.—

(2) The governing board of the authority shall consist of *the following eight* ~~seven~~ voting members~~, as follows~~:

(a) The Metropolitan Planning Organizations of Hillsborough, Pinellas, and Pasco Counties shall each elect a member as their representative on the board. The member must be an elected official and a member of the Metropolitan Planning Organization when elected and for the full extent of his term.

(b) The county commissions of Hillsborough, Pinellas, and Pasco Counties shall each appoint a citizen member to the board who is not a member of the county commission but who is a resident of the county from which he is appointed and a qualified elector of that county. Insofar as is practicable, the citizen member shall represent the business and civic interests of the community.

(c) The Secretary of Transportation shall appoint as *a* ~~an ex officio nonvoting~~ member of the board the district secretary, or his designee, for the district within which the area served by the Tampa Bay Commuter Rail Authority is located.

(d) The local transit authority in each member county shall elect as an ex officio nonvoting member of the board a member of the authority.

(e) The Governor shall appoint one member to the board who is a resident and qualified elector in the area served by the Tampa Bay Commuter Rail Authority.

Section 81. Paragraph (p) is added to subsection (2) of section 343.74, Florida Statutes, to read:

343.74 Powers and duties.—

(2) The authority may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of the aforesaid purposes, including, but not limited to, the following rights and powers:

(p) To purchase directly from local, national, or international insurance companies liability insurance that the authority is contractually and legally obligated to provide, the requirements of s. 287.022(1) notwithstanding.

Section 82. Paragraph (a) of subsection (2) of section 287.042, Florida Statutes, is amended to read:

287.042 Powers, duties, and functions.—The division shall have the following powers, duties, and functions:

(2)(a) To plan and coordinate purchases in volume and to negotiate and execute purchasing agreements and contracts for commodities and contractual services under which the division shall require state agencies to make purchases and under which a county, municipality, *private non-*

profit community transportation coordinator designated pursuant to chapter 427, while conducting business related solely to the Transportation Disadvantaged Commission, or other local public agency may make purchases. Purchases by any county, municipality, *private nonprofit community transportation coordinator designated pursuant to chapter 427, while conducting business related solely to the Transportation Disadvantaged Commission,* or other local public agency under the provisions in the state purchasing contracts, and purchases, from the corporation operating the correctional work programs, of products or services that are subject to paragraph (1)(f), are exempt from the competitive sealed bid requirements otherwise applying to their purchases.

Section 83. Subsection (1) of section 427.011, Florida Statutes, is amended, and subsection (13) is added to that section to read:

427.011 Definitions.—For the purposes of ss. 427.011-427.017:

(1) "Transportation disadvantaged" means those persons who because of physical or mental disability, income status, or age ~~or who for other reasons~~ are unable to transport themselves or to purchase transportation and are, therefore, dependent upon others to obtain access to health care, employment, education, shopping, social activities, or other life-sustaining activities, or children who are handicapped or high-risk or at-risk as defined in s. 411.202.

(13) "Nonsponsored transportation disadvantaged services" means transportation disadvantaged services that are not sponsored or subsidized by any funding source other than the Transportation Disadvantaged Trust Fund.

Section 84. Present paragraphs (f), (g), (h), (i), (j), and (k) of subsection (1) of section 427.012, Florida Statutes, are redesignated as paragraphs (g), (h), (i), (j), (k), and (l), respectively, and new paragraphs (f) and (m) are added to that subsection to read:

427.012 Transportation Disadvantaged Commission.—There is created a Transportation Disadvantaged Commission in the Department of Transportation.

(1) The commission shall consist of the following members:

(f) The secretary of the Department of Elderly Affairs or his designee.

(m) Two representatives of current private for-profit or private not-for-profit transportation operators each of which have a minimum of 5 years of continuous experience operating a broad-based system of ambulatory and wheelchair/stretcher type transportation, utilizing not less than 50 vehicles and including dispatch and scheduling responsibilities. Such person shall be appointed by the Commissioner of Agriculture and Consumer Services to serve a term of 4 years.

Section 85. The introductory paragraph of section 427.013, Florida Statutes, is amended, and subsections (22), (23), and (24) are added to said section, to read:

427.013 Transportation Disadvantaged Commission; purpose and responsibilities.—The purpose of the commission is to accomplish the coordination of transportation services provided to the transportation disadvantaged. *The goal of this coordination shall be to assure the cost-effective provision of transportation by qualified transportation operators for the transportation disadvantaged without any bias or presumption in favor of multioperator systems or not-for-profit transporation operators over single operator systems or for-profit transporation operators.* In carrying out this purpose, the commission shall:

(22) Develop needs-based criteria that must be used by all community transportation coordinators to prioritize the delivery of nonsponsored transportation disadvantaged services that are purchased with Transportation Disadvantaged Trust Fund moneys.

(23) Establish a review procedure to compare the rates proposed by alternate transportation operators with the rates charged by a community transportation coordinator to determine which rate is more cost-effective.

(24) Conduct a cost-comparison study of single-coordinator, multi-coordinator, and brokered community transportation coordinator networks to ensure that the most cost-effective and efficient method of providing transportation to the transportation disadvantaged is programmed for development.

Section 86. Present subsection (8) of section 427.0155, Florida Statutes, is renumbered as subsection (9), and a new subsection (8) is added to that section to read:

427.0155 Community transportation coordinators; powers and duties.—Community transportation coordinators shall have the following powers and duties:

(8) In cooperation with the coordinating board and pursuant to criteria developed by the Transportation Disadvantaged Commission, establish priorities with regard to the recipients of nonsponsored transportation disadvantaged services that are purchased with Transportation Disadvantaged Trust Fund moneys.

Section 87. Present subsections (4) and (5) of section 427.0157, Florida Statutes, are redesignated as subsections (5) and (6), respectively, and a new subsection (4) is added to that section to read:

427.0157 Coordinating boards; powers and duties.—The purpose of each coordinating board is to develop local service needs and to provide information, advice, and direction to the community transportation coordinators on the coordination of services to be provided to the transportation disadvantaged. The commission shall, by rule, establish the membership of coordinating boards. The members of each board shall be appointed by the metropolitan planning organization or designated official planning agency. The appointing authority shall provide each board with sufficient staff support and resources to enable the board to fulfill its responsibilities under this section. Each board shall meet at least quarterly and shall:

(4) Assist the community transportation coordinator in establishing priorities with regard to the recipients of nonsponsored transportation disadvantaged services that are purchased with Transportation Disadvantaged Trust Fund moneys.

Section 88. Subsection (3) of section 427.0159, Florida Statutes, is amended to read:

427.0159 Transportation Disadvantaged Trust Fund.—

(3) Funds deposited in the trust fund may be used by the commission to subsidize a portion of a transportation disadvantaged person's transportation costs which is not sponsored by an agency, only if a cash or in-kind match is required. *Funds for nonsponsored transportation disadvantaged services shall be distributed based upon the need of the recipient and according to criteria developed by the Transportation Disadvantaged Commission.*

Section 89. Section 427.016, Florida Statutes, is amended to read:

427.016 Expenditure of local government, state, and federal funds for the transportation disadvantaged.—

(1) All transportation disadvantaged funds shall be expended to purchase transportation services from public, private, or private nonprofit transportation operators, *except when the rates charged by proposed alternate operators are proven, pursuant to review procedures established by the Transportation Disadvantaged Commission, to be more cost-effective and are not a risk to the public health, safety, or welfare* ~~unless otherwise prohibited by law~~. However, in areas where transportation suited to the unique needs of a transportation disadvantaged person cannot be purchased, the service may be provided directly by the appropriate agency.

(2) Each state agency, whether or not it is a member of the Transportation Disadvantaged Commission, shall inform the commission in writing, before the beginning of each fiscal year, of the specific amount of any money the agency allocated for transportation disadvantaged services.

Section 90. Section 339.135, Florida Statutes, is amended to read:

339.135 Work program; legislative budget request; definitions; preparation, adoption, execution, and amendment.—

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

(a) "Fiscal year" of the department means the period beginning July 1 of each year and ending June 30 of the succeeding year. Such fiscal year constitutes a budget year for all operating funds of the department.

(b) "District work program" means the 5-year listing of transportation projects planned for each fiscal year which is prepared by *the Office of*

the Florida Turnpike and each of the ~~seven~~ districts ~~of the department~~ and which must be submitted to the central office for review and development of the tentative work program.

(c) "Tentative work program" means the 5-year listing of all transportation projects planned for each fiscal year which is developed by the central office based on the district work programs.

(d) "Adopted work program" means the 5-year work program adopted by the department as provided in subsection *(5)*~~(6)~~.

(2) SUBMISSION OF LEGISLATIVE BUDGET REQUEST.—The department shall file the legislative budget request in the manner required by chapter 216, setting forth the department's proposed revenues and expenditures for operational and fixed capital outlay needs to accomplish the objectives of the department in the ensuing fiscal year. The right-of-way, construction, preliminary engineering, maintenance, and all grants and aids programs of the department shall be set forth only in program totals. The legislative budget request must include a balanced 36-month forecast of cash and expenditures and a 5-year finance plan. The legislative budget request shall be amended to conform to the tentative work program ~~that shall be submitted annually by January 15~~. The department may amend its legislative budget request and the tentative work program based on the most recent revenue estimate by the Transportation Estimating Conference and the most recent federal aid apportionments.

(3) NATURE AND SCOPE OF THE TENTATIVE AND ADOPTED WORK PROGRAMS.—

(a) The tentative and adopted work programs required by subsections (4) and *(5)*~~(6)~~ shall be based on a complete, balanced financial plan for the State Transportation Trust Fund and the other funds managed by the department. The tentative and adopted work programs shall set forth the proposed commitments and planned expenditures, respectively, of the department classified by major program and fixed capital appropriation categories to accomplish the objectives of the department included in the program and resource plan of the Florida Transportation Plan required in s. 339.155(6)(a)6.

(b) The tentative and adopted work programs for the State Transportation Trust Fund and other funds managed by the department, except as otherwise provided by law, must be so planned as to deplete the estimated resources of each fund for the fiscal year. An emergency reserve may be requested in the legislative budget request for the purpose of performing emergency work necessary during the fiscal year in order to prevent the stoppage of travel over any transportation facility over which the department has jurisdiction and control.

(c) No anticipated funds estimated to be received from various federal-aid acts of Congress shall be budgeted in excess of the amount which may be earned by the amount of state funds set aside to match such federal aid; and the state funds thus set aside to match federal-aid funds shall be used only for such matching purposes. The department shall, prior to the preparation of the tentative work program, ascertain the amount of apportionments of federal-aid funds which are estimated to be available to the department for expenditure in the fiscal years for which the tentative work program is prepared; and the department shall budget sufficient funds for matching purposes.

(4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.—

(a) To assure that no district or county is penalized for local efforts to improve the State Highway System, the department shall, for the purpose of developing a tentative work program, allocate funds for new construction to the ~~various~~ districts based on equal parts of population and motor fuel tax collections. Funds for resurfacing, bridge repair and rehabilitation, bridge fender system construction or repair, public transit projects except public transit block grants as provided in s. 341 052, and other programs with quantitative needs assessments shall be allocated based on the results of these assessments. The department *may* ~~shall~~ not transfer any funds allocated to a district under this paragraph to any other district except as provided in subsection *(7)*~~(8)~~. Funds for public transit block grants shall be allocated to the districts pursuant to s. 341.052.

(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* ~~shall~~ 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 program and resource plan of the Florida Transportation Plan required in s. 339.155(6)(a)6. and *must* ~~shall~~ comply with the program funding levels contained in the program and resource plan. ~~The department shall not in any year include any project or allocate any funds to a program or project in the tentative work program that is contrary to existing law for that particular year.~~

3. The tentative work program *must* ~~shall~~ specifically identify advanced right-of-way acquisition projects and *must separately allocate* ~~shall contain segregated allocations of~~ funds for advanced right-of-way acquisition phases in each fiscal year, as provided in s. 337.276. Each right-of-way phase that is to be funded through these programs shall be specifically identified in the work program, and the year, *if known,* in which construction utilizing the right-of-way is projected to begin shall be identified.

4. The department *may* ~~is authorized to~~ include in the tentative work program proposed changes to the programs contained in the previous work program adopted pursuant to subsection *(5)*~~(6)~~; however, the department shall~~, to the maximum extent feasible,~~ 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* ~~said~~ year. ~~Any~~ Such changes and adjustments shall be clearly identified, and ~~reflect~~ the effect on the 4 common fiscal years contained in ~~both~~ the previous adopted work program and the tentative work program *shall be shown.* It is the intent of the Legislature that the first 3 years of the adopted work program stand as the commitment of the state to undertake transportation projects that local governments may rely on for planning purposes and in the development and amendment of the capital improvements elements of their local government comprehensive plans.

5. The tentative work program *must* ~~shall~~ include a balanced 36-month forecast of cash and expenditures and a 5-year finance plan supporting the tentative work program.

(c)1. For purposes of this section, the board of county commissioners shall serve as the metropolitan planning organization in those counties which are not located in a metropolitan planning organization and shall be involved in the development of the district work program to the same extent as *a* ~~the~~ metropolitan planning organization.

2. The district work program shall be developed cooperatively from the outset with the various metropolitan planning organizations of the state and ~~shall~~ include, to the maximum extent feasible, the transportation improvement programs of metropolitan planning organizations, and changes to the improvement programs *that* ~~which~~ have been submitted to the department at least *120* ~~90~~ days prior to the submission of the tentative work program to the Florida Transportation Commission.

3. *Prior to submittal of the district work program to the central office,* the district shall provide *the affected* ~~a~~ metropolitan planning organization with written justification *for any project proposed to be rescheduled or deleted* ~~no less than 14 days prior to the rescheduling or deletion of any project~~ from the district work program which *project* is part of the metropolitan planning organization's transportation improvement program and is contained in the last 4 years of the previous adopted work program. *By no later than 14 days after submittal of the district work program to the central office,* the affected metropolitan planning organization may file an objection to such rescheduling or deletion. When ~~such~~ an objection is filed with the secretary, *the* ~~such~~ rescheduling or deletion shall not be included in the district work program unless the inclusion of such rescheduling or deletion is specifically approved by the secretary. The Florida Transportation Commission shall include such objections in its evaluation of the tentative work program only when the secretary has approved the rescheduling or deletion.

(d) Prior to the submission of the district work program to the central office, each district office shall hold a public hearing in at least one urbanized area in the district and shall make a presentation at a meeting of each metropolitan planning organization in the district to determine the necessity of making any changes to projects included or to be included in the district work program and to hear requests for new projects to be added to, or existing projects to be deleted from, the district work program.; However, the district and metropolitan planning organization shall~~, to the maximum extent feasible,~~ minimize changes to, deletions from, or adjustments to projects or project phases contained in the 4 common years of the previous adopted work program and the district work program. The district shall provide the metropolitan planning organization with a written explanation for any project which is contained in the metropolitan planning organization's transportation improvement program and which is not included in the district work program. The metropolitan planning organization may request in writing to the appropriate district secretary further consideration of any specific project not included or not adequately addressed in the district work program. The district secretary shall acknowledge and review all such requests prior to the submission of the district work program to the central office and shall forward a copy of such requests to the secretary and the Florida Transportation Commission. The commission shall include such requests in its evaluation of the tentative work program.

(e) Following submission of each district work program to the central office, the department shall develop the tentative work program based on the district work programs, review the individual district work programs for compliance with the work program instructions prepared by the department, and ensure that the tentative work program complies with the requirements of paragraph (b).

(f) The central office shall submit *a preliminary copy of* the tentative work program to the *Executive Office of the Governor, the legislative appropriations committees, the* Florida Transportation Commission and the Department of Community Affairs at least *14* ~~30~~ days prior to *the convening of the regular legislative session* ~~submission to the Governor and Legislature. The department shall provide the Department of Community Affairs with copies of the preliminary tentative work program for review as soon as feasible.~~ *Prior to the statewide public hearing required by paragraph (g),* the Department of Community Affairs shall transmit to the Florida Transportation Commission a list of those projects and project phases contained in the tentative work program which are identified as being inconsistent with approved local government comprehensive plans. For urbanized areas of metropolitan planning organizations, *the* ~~said~~ list *may* ~~shall~~ not contain any project or project phase *that* ~~which~~ is scheduled in a transportation improvement program unless such inconsistency has been previously reported to the affected metropolitan planning organization. The commission shall consider *the* ~~said~~ list as part of its evaluation of the tentative work program *conducted pursuant to s. 20.23.*

(g) The Florida Transportation Commission shall conduct a statewide public hearing on the tentative work program and shall advertise the time, place, and purpose of the hearing in the Administrative Weekly at least 7 days prior to the hearing. As part of the statewide public hearing, the commission shall, at a minimum:

1. Conduct an in-depth evaluation of the tentative work program as required in s. 20.23 for compliance with applicable laws and departmental policies; and

2. Hear all questions, suggestions, or other comments offered by the public.

By no later than 14 days after the regular legislative session begins, the commission shall submit to the Executive Office of the Governor and the legislative appropriations committees a report that evaluates the tentative work program for:

a. Financial soundness;

b. Stability;

c. Production capacity;

d. Accomplishments, including compliance with program objectives in s. 334.046;

e. Compliance with approved local government comprehensive plans;

f. Objections and requests by metropolitan planning organizations;

g. Policy changes and effects thereof;

h. Identification of statewide or regional projects; and

i. Compliance with all other applicable laws.

(h) Following evaluation by the Florida Transportation Commission, the department shall submit the tentative work program to the Executive Office of the Governor and the legislative appropriations committees no later than 14 days after the regular legislative session begins.

~~(g) The tentative work program prepared under the provisions of this subsection following evaluation by the Florida Transportation Commission shall be submitted to the Executive Office of the Governor and the legislative appropriations committees no later than January 15 of each year.~~

~~(h) The department shall submit with its tentative work program a report that includes:~~

~~1. How its legislative budget request and tentative work program comply with the program objectives set forth in s. 334.046 and compare to the needs quantified pursuant to s. 339.155(5).~~

~~2. How commitments from the prior fiscal year and the projection of the current fiscal year comply with those same program objectives.~~

~~3. An analysis of the variance between the dollars and numbers of projects committed in the most recently completed fiscal year and the adopted work program for that year and of the variance in projections for the current fiscal year and the current year of the adopted work program. The analysis shall include the number and dollar amount of projects committed or projected to be committed in each year that were not in the adopted work program.~~

~~4. An analysis of the variance in the actual and planned construction contract time and the planned construction contract time for the most recently completed 6 quarters.~~

~~5. A comparison of the department's manpower utilization and the accomplishments of the department for the current fiscal year and the last completed fiscal year.~~

~~6. A summary of work program categories to show the amounts programmed in each appropriation category by district.~~

~~7. A manpower report that indicates the department's current production capacity and that projects the production capacity needed for each year of the tentative work program and for compliance with paragraph (j). The report shall indicate the portion of production that is to be performed by department personnel and the portion that is to be performed by consultants.~~

~~8. A statement of proposed program changes and related policy changes and the effects of such changes on the programs in the tentative work program.~~

~~9. A project comparison, by project phase and cost, for the 4 common years between the tentative work program and the previous work program adopted pursuant to subsection (6).~~

~~10. A list of projects in the tentative work program organized and presented:~~

~~a. By fiscal year;~~

~~b. By department district;~~

~~c. By county;~~

~~d. By project phase; and~~

~~e. By fixed capital appropriation category and fund.~~

~~11. A summary of funding allocations and right-of-way phases by district and by county for each fiscal year in the tentative work program that are part of the advanced right-of-way acquisition programs set forth in s. 337.276. The report shall separately identify right-of-way phases for projects which are future transportation corridors to be acquired at least 5 years in advance of construction.~~

~~(i) Prior to or during each regular session of the Legislature, the department shall make a presentation of the tentative work program and the report required in paragraph (h) as submitted to the Executive Office of the Governor and the Legislature, to the transportation committees of the Senate and House of Representatives.~~

(i)1.~~(j)~~ The department shall ~~develop and~~ maintain *at all times* a list of projects *on which construction could begin* ~~that could be made production ready~~ within the *next 2 years if* ~~biennium to use~~ additional sources of revenue *become available*. The list *must* ~~shall~~ consist of projects defining programs for the interstate system; *arterial highway construction;* ~~noninterstate road and~~ bridge rehabilitation and replacement; *highway preservation;* traffic operations; *and* public transportation~~; and major new road and bridge construction. Program amounts shall equal approximately 50 percent of the corresponding funded program in the first 2 years of the tentative work program, except that higher limits may be established by the department to accommodate anticipated federal funding actions.~~ Program amounts *must* ~~shall~~ include all project *phase costs required to complete construction, including construction engineering inspection at present cost* ~~phases~~. If any of these stated programs is not funded in the tentative work program, the department may determine an appropriate program amount not to exceed $50 million. Projects within each program shall be *placed in order of priority* ~~prioritized~~ based on need. The project list *is* ~~shall be~~ independent of the tentative work program, except that funded projects in later years of such program may be included in the project list and advanced to an earlier year if justified by priority. The list shall be submitted to the Executive Office of the Governor and the legislative appropriations committees no later than *14 days after the date on which the regular legislative session begins* ~~January 15 of each year~~.

2. The department shall maintain at all times a list of projects on which construction could begin immediately if additional sources of revenue become available. The adopted work program shall be protected and systematically advanced as revenue becomes available. The list of projects may include not more than 50 percent of the annual construction program. The list must include state and federal projects.

Preconstruction activity by consultants and by department staff must provide a reasonable supply of projects on which construction could begin within the next 2 years if additional sources of revenue become available. The amount of preconstruction activity shall be determined by the department based on financing, staffing, and other resources.

~~(k) Beginning with the legislative budget request for fiscal year 1989-1990, The department shall develop proposals to assist local governments with their unfunded transportation needs. The department, in conjunction with the Department of Community Affairs, shall develop criteria for a local government cooperative program to plan, design, or construct transportation projects as required pursuant to the Growth Management Act, but which cannot be funded with local government revenues. The department shall provide a list of projects that qualify under these criteria to the Legislature for consideration. This list of projects shall be prioritized based upon the criteria developed pursuant to this paragraph and shall not reduce funds requested by the department under the other provisions of this chapter.~~

~~(5) STATEWIDE PUBLIC HEARING ON THE TENTATIVE WORK PROGRAM. The Florida Transportation Commission shall appoint a time and place for a statewide public hearing on the tentative work program, at which time it shall hear all questions, suggestions, or other comments offered by the public. The commission shall advertise the time, place, and purpose of the hearing in the Administrative Weekly at least 7 days prior to the hearing.~~

(5)~~(6)~~ ADOPTION OF THE WORK PROGRAM.—The original approved budget for operational and fixed capital expenditures for the department shall be the Governor's budget recommendation and the first year of the tentative work program, as both are amended by the General Appropriations Act and any other act containing appropriations. In accordance with the appropriations act, the department shall, prior to the beginning of the fiscal year, adopt a final work program which shall only include the original approved budget for the department for the ensuing fiscal year together with any roll forwards approved pursuant to paragraph *(6)(c)*~~(7)(c)~~ and the portion of the tentative work program for the following 4 fiscal years revised in accordance with the original approved budget for the department for the ensuing fiscal year together with said roll forwards. The adopted work program may include only those projects submitted as part of the tentative work program developed under the provisions of subsection (4) plus any projects which are separately identified by specific appropriation in the General Appropriations Act and any roll forwards approved pursuant to paragraph *(6)(c)*~~(7)(c)~~. However, any transportation project of the department which is identified by specific appropriation in the General Appropriations Act shall be deducted from the funds annually distributed to the respective district pursuant to paragraph (4)(a). In the event that additional funds are appropriated in excess of those required to fund the projects contained in the tentative work program developed pursuant to this subsection, such funds shall be utilized only on projects developed under paragraph (4)*(i)*~~(j)~~. In addition, the department shall not in any year include any project or allocate funds to a program in the adopted work program that is contrary to existing law for that particular year. Projects shall not be undertaken unless they are listed in the adopted work program.

(6)~~(7)~~ EXECUTION OF THE BUDGET.—

(a) The department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The department shall require a statement from the comptroller of the department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the department which are for an amount in excess of $25,000 and which have a term for a period of more than 1 year.

(b) In the operation of the State Transportation Trust Fund, the department shall have on hand at the close of business, which closing shall not be later than the 10th calendar day of the month following the end of each quarter of the fiscal year, an available cash balance (which shall include cash on deposit with the treasury and short-term investments of the department) equivalent to not less than $50 million, or 5 percent of the unpaid balance of all State Transportation Trust Fund obligations at the close of such quarter, whichever amount is less. In the event that this cash position is not maintained, no further contracts or other fund commitments shall be approved, entered into, awarded, or executed until the cash balance, as defined above, has been regained.

(c) Notwithstanding the provisions of ss. 216.301(3) and 216.351, any unexpended balance remaining at the end of the fiscal year in the appropriations to the department for special categories; aid to local governments; lump sums for project phases which are part of the adopted work program, and for which contracts have been executed or bids have been let; and for right-of-way land acquisition and relocation assistance for parcels from project phases in the adopted work program for which appraisals have been completed and approved, may be certified forward as fixed capital outlay under the provisions of s. 216.301(2)(a). Any project phases in the adopted work program not certified forward under the provisions of s. 216.301(2)(a) shall be available for roll forward for the next fiscal year of the adopted work program. Spending authority associated with such project phases may be rolled forward to the next fiscal year pursuant to paragraph (f). Any project phase certified forward for which bids have been let but subsequently rejected shall be available for roll forward in the adopted work program for the next fiscal year. Spending authority associated with such project phases may be rolled forward into the current year from funds certified forward pursuant to paragraph (f). The amount certified forward may include contingency allowances for right-of-way acquisition and relocation, asphalt and petroleum product escalation clauses, and contract overages, which allowances shall be separately identified in the certification detail. Right-of-way acquisition and relocation and contract overages contingency allowances shall be based on documented historical patterns. These contingency amounts shall be incorporated in the certification for each specific category, but when a category has an excess and another category has a deficiency, the Executive Office of the Governor is authorized to transfer the excess to the deficient account.

(d) The department shall allocate resources provided in the General Appropriations Act to the districts prior to July 31 of each year. The allocation shall be promptly reported to the Executive Office of the Governor and the legislative appropriations committees, and all subsequent amendments shall be reported promptly to the secretary of the department. The secretary shall require each district secretary to submit a

monthly report on the status of his budgets which shall indicate, by major budget category within each budget entity, the monthly expenditure, the cumulative expenditures to date, and the remaining balance of the regional allocations. Quarterly summaries of these reports shall be provided to the Executive Office of the Governor and the legislative appropriations committees.

(e) This subsection does not apply to any bonds issued on behalf of the department pursuant to the State Bond Act.

(f) Notwithstanding the provisions of ss. 216.181(1), 216.292, and 216.351, the Executive Office of the Governor may amend that portion of the department's original approved fixed capital outlay budget which comprises the work program pursuant to subsection *(7)*~~(8)~~. Increase in spending authority in paragraph (c) shall be limited to amounts of unexpended balances by appropriation category.

(7)~~(8)~~ AMENDMENT OF THE ADOPTED WORK PROGRAM.—

(a) Notwithstanding the provisions of ss. 216.181(1), 216.292, and 216.351, the adopted work program may be amended only pursuant to the provisions of this subsection.

(b) The department *may* ~~shall~~ not transfer any funds for any project or project phase between department districts. However, a district secretary may agree to a ~~temporary~~ loan of funds to another district, *if* ~~provided that~~:

1. *The* ~~Such~~ funds are used solely to maximize the *use or* amount of *funds* ~~federal aid~~ available to the state;

2. *The* ~~Such~~ loan *agreement* is executed in writing and is signed by the district secretaries of the respective districts;

3. Repayment of *the* ~~such~~ loan is to be made *within 3 years after the date on which the agreement was entered into* ~~no later than the end of the next fiscal year~~; *and*

4. The *adopted work program of the* district loaning *the* ~~such~~ funds *would not be substantially impaired if the loan were made* ~~does not have the ability~~, according to the district secretary.~~, to utilize such funds during the current fiscal year; and~~

~~5. Such~~

The loan *constitutes* ~~shall constitute~~ an amendment to the adopted work program and *is* ~~shall be~~ subject to the procedures *specified* in paragraph (c).

(c) The department may amend the adopted work program to transfer appropriations within the department, except that the following amendments shall be subject to the procedures in paragraph (d):

1. Any amendment which deletes any project or project phase;

2. Any amendment which adds a project estimated to cost over $150,000;

3. Any amendment which advances or defers *to another fiscal year* ~~for a period of 6 months or more~~, a right-of-way phase, a construction phase, or a public transportation project phase estimated to cost over $500,000, *except an amendment advancing or deferring a phase for a period of 90 days or less*; ~~however, any such phase may not be deferred for more than 1 year during any fiscal year of the department from the year in which it is scheduled in the adopted work program;~~ or

4. Any amendment which advances or defers *to another fiscal year* ~~for a period of 6 months or more~~, any preliminary engineering phase or design phase estimated to cost over $150,000, *except an amendment advancing or deferring a phase for a period of 90 days or less*~~; however, any such phase may not be deferred for more than 1 year during any fiscal year of the department from the year in which it is scheduled in the adopted work program~~.

(d)1. Whenever the department proposes any amendment to the adopted work program, which amendment is defined in subparagraphs 1., 2., 3., or 4. of paragraph (c), it shall submit the proposed amendment to the Governor for approval and shall immediately notify the chairmen of the legislative appropriations committees, the chairmen of the legislative transportation committees, each member of the Legislature who represents a district affected by the proposed amendment, each metropolitan planning organization affected by the proposed amendment, and each unit of local government affected by the proposed amendment. Such proposed amendment shall provide a complete justification of the need for the proposed amendment.

2. The Governor shall not approve a proposed amendment until 14 days following the notification required in subparagraph 1.

3. If either of the chairmen of the legislative appropriations committees or the President of the Senate or the Speaker of the House of Representatives objects in writing to a proposed amendment within 14 days following notification and specifies the reasons for such objection, the Governor shall disapprove the proposed amendment or shall submit the proposed amendment to the Administration Commission. The proposed amendment may be approved by the Administration Commission by a two-thirds vote of the members present with the Governor voting in the affirmative. In the absence of approval by the commission, the proposed amendment shall be automatically disapproved.

(e) Notwithstanding the requirements in paragraph (d) and ss. 216.177(2) and 216.351, the secretary may request the Executive Office of the Governor to amend the adopted work program when an emergency exists, as defined in s. 252.34(2), and the emergency relates to the repair or rehabilitation of any state transportation facility. The Executive Office of the Governor may approve the amendment to the adopted work program and amend that portion of the department's approved budget in the event that the delay incident to the notification requirements in paragraph (d) would be detrimental to the interests of the state. However, the department shall immediately notify the parties specified in paragraph (d) and shall provide such parties written justification for the emergency action within 7 days of the approval by the Executive Office of the Governor of the amendment to the adopted work program and the department's budget. In no event may the adopted work program be amended under the provisions of this subsection without the certification by the comptroller of the department that there are sufficient funds available pursuant to the 36-month cash forecast and applicable statutes.

(8)~~(9)~~ PERFORMANCE MONITORING.—The department shall continuously monitor and annually report to the Executive Office of the Governor and the Legislature on the compliance with and accomplishment of the adopted work program compared to the guidelines of the program and resource plan of the Florida Transportation Plan required in s. 339.155(6)(a)6.

Section 91. Paragraph (l) of subsection (3) of section 119.07, Florida Statutes, is amended to read:

119.07 Inspection and examination of records; exemptions.—

(3)

(l) Any information provided to an agency of state government or to an agency of a political subdivision of the state for the purpose of forming ridesharing arrangements, which information reveals the identity of an individual who has provided his name for ridesharing, ~~arrangements~~ as defined in *s. 341.031* ~~s. 341.031(9)~~, is exempt from the provisions of subsection (1).

Section 92. Subsections (6) and (7) of section 334.045, Florida Statutes, are amended to read:

334.045 Transportation performance and productivity standards; development; measurement; application.—

(6) Beginning October 1, 1992, the department shall also be evaluated annually for performance and productivity based upon the department's fiscal year ending the previous June 30. The commission shall, by a majority vote, make findings regarding the standards, measures, and goals applicable to the department as soon thereafter as practicable. In the event the department fails to meet the assigned performance and productivity standards, measures, or goals, funding authorized to the department from the State Transportation Trust Fund for the current fiscal year shall not exceed the funding level from the trust fund for fiscal year 1989-1990, except as necessary pursuant to subsection (7). In such event, the department shall proceed to amend the adopted work program pursuant to *s. 339.135(7)* ~~s. 339.135(8)~~, except that all amendments, as defined in *s. 339.135(7)(c)* ~~s. 339.135(8)(c)~~, necessary to the adopted work program to accomplish such reduction shall be submitted to the Governor for approval as individual amendments which shall be subject to the provisions of *s. 339.135(7)(d)* ~~s. 339.135(8)(d)~~. Notice for said amendments shall be provided for each amendment, as defined in *s 339 135(7)(c)* ~~s. 339.135(8)(c)~~, which is a component of the amendment necessary to accomplish said reduction pursuant to *s. 339.135(7)(d)* ~~s. 339.135(8)(d)~~.

(7) Funds necessary for the following shall not be subject to the reductions required in subsection (6):

(a) Any funds necessary to honor construction and consultant contracts entered by the department prior to the determination of the commission that the department failed to meet its assigned productivity and performance objectives for the previous fiscal year;

(b) Any funds necessary to qualify for federal matching funds that, if a reduction were made, would be irrevocably lost to the state;

(c) Any funds necessary to resolve any emergency requiring amendment to the adopted work program pursuant to *s. 339.135(7)(e)* ~~s. 339.135(8)(e)~~;

(d) Any funds necessary to honor any supplemental agreement or change orders on projects and project phases related to contracts entered by the department prior to the determination of the commission that the department failed to meet its assigned productivity and performance objectives for the previous fiscal year;

(e) Any funds necessary to pay any judgment in any action brought by or against the department pursuant to chapter 73 or chapter 74, or settlement entered relating to the acquisition of right-of-way prior to the determination of the commission that the department failed to meet its assigned productivity and performance objectives for the previous fiscal year;

(f) Any funds, including any bond proceeds or funds appropriated to the Florida Intrastate Highway System, necessary to any turnpike project authorized in s. 338.2275;

(g) Any proceeds from any bonds issued pursuant to s. 17, Art. VII of the State Constitution;

(h) Any funds necessary to pay debt service on any bonds authorized pursuant to chapter 338 or s. 17, Art. VII of the State Constitution; and

(i) Any funds necessary for projects in the first 3 years of the adopted work program included in the capital improvements element of an approved local government comprehensive plan.

Section 93. Subsection (4) of section 339.12, Florida Statutes, is amended to read:

339.12 Aid and contributions by governmental entities for rights-of-way, construction, or maintenance of roads in State Highway System; federal aid.—

(4)(a) Prior to accepting the contribution of road bond proceeds, time warrants, or cash for which reimbursement is sought, the department shall enter into agreements with the governing body of the governmental entity for the project or project phases of the roads and bridges in accordance with specifications agreed upon between the department and the governing body of the governmental entity. The department in no instance is to receive from such governmental entity an amount in excess of the actual cost of the project or project phase of such state roads. By specific provision in the written agreement between the department and the governing body of the governmental entity, the department may agree to reimburse the governmental entity for the actual amount of the bond proceeds, time warrants, or cash used on a project or project phases in the State Highway System that are not revenue producing and are contained in the department's adopted work program. Subject to appropriation of funds by the Legislature, the department may commit state funds for reimbursement of such projects or project phases in the State Highway System. Reimbursement to the governmental entity for such a project or project phase must be made from funds appropriated by the Legislature, and reimbursement for the cost of the project or project phase is to begin in the year the project or project phase is scheduled in the work program as of the date of the agreement. Funds advanced pursuant to this section, which were originally designated for transportation purposes and so reimbursed to a county or municipality, shall be used by the county or municipality for any transportation expenditure authorized under s. 336.025(7). Also, cities and counties may receive funds from persons, and reimburse those persons, for the purposes of this section. Such persons may include, but are not limited to, those persons defined in s. 607.108(1)(l).

(b) Prior to entering an agreement to advance a project or project phase pursuant to this subsection and subsection (5), the department shall first update the estimated cost of the project or project phase and certify that the estimate is accurate and consistent with the amount estimated in the adopted work program. If the original estimate and the updated estimate vary, the department shall amend the adopted work program according to the amendatory procedures for the work program set forth in *s. 339.135(7)* ~~s. 339.135(8)~~. The amendment shall reflect all corresponding increases and decreases to the affected projects within the adopted work program.

Section 94. Subsection (4) of section 218.32, Florida Statutes, is amended to read:

218.32 Financial reporting; units of local government.—

(4) *The Department of Transportation shall recommend to the Department of Banking and Finance no later than April 1 of each year, uniform program data to be furnished by each local government as a part of its annual financial report submitted pursuant to this section. Such data shall include, but is not limited to, miles of new construction and total miles of roads for which a local government is responsible.* The Department of Transportation shall compile *the data and shall furnish the compilation of data to any interested person, upon request* ~~an annual comprehensive transportation report for presentation to the Legislature no later than March 15 of each year~~.

Section 95. Subsection (5) of section 335.074, Florida Statutes, is amended to read:

335.074 Safety inspection of bridges.—

(5) ~~On or before November 1 of each even-numbered year,~~ The department shall prepare a report of its findings with respect to each such bridge or other structure whereon significant structural deficiencies were discovered and *transmit a summary of the findings as part of the report required in s. 334.046(3)* ~~file such report with the Governor and the presiding officer of each house of the Legislature. A copy of the report shall be furnished by the department to each member of the Legislature requesting it~~.

Section 96. *Subparagraph 5. of paragraph (b) of subsection (1) of section 335.04, Florida Statutes, is hereby repealed.*

Section 97. Subsection (3) of section 334.046, Florida Statutes, is amended to read:

334.046 Department program objectives.—

(3) *By no later than 14 days prior to the convening of each regular legislative session, the department shall issue a report showing how commitments from the prior fiscal year, estimates of the current fiscal year, and projections for the first year of the tentative work program comply with the program objectives set forth in subsection (1).* ~~The department in its budget request shall report how its request complies with the program objectives set forth in subsection (1) and how commitments from the prior fiscal year and the projection of the current fiscal year comply with those same program objectives.~~

Section 98. *Section 339.136, Florida Statutes, as created by chapter 90-136, Laws of Florida, is hereby repealed.*

Section 99. Section 73.071, Florida Statutes, is amended to read:

73.071 Jury trial; compensation; severance damages.—

(1) When the action is at issue, and only upon notice and hearing to set the cause for trial, the court shall impanel a jury of *6* ~~12~~ persons as soon as practical considering the reasonable necessities of the court and of the parties, and giving preference to the trial of eminent domain cases over other civil actions, and submit the issue of compensation to them for determination, which issue shall be tried in the same manner as other issues of fact are tried in the circuit courts.

Section 100. *Section 73.091, Florida Statutes, as amended by chapters 90-136 and 90-303, Laws of Florida, is hereby repealed.*

Section 101. Section 73.092, Florida Statutes, is amended to read:

73.092 Attorney's fees*; costs of the proceedings*.—

(1) Reasonable attorney fees, expert fees, and costs shall only be awarded to the defendant to pay for the defendant's necessary expenses incurred to prepare for and conduct the eminent domain valuation trial, when the defendant prevails at trial. In order to prevail under this section one of the following must occur:

(a)1. The defendant's award at trial must exceed the condemning authority's last written pretrial offer by more than half of the difference between the last written pretrial offer and the highest valuation attested to for the defendant at trial.

2. However, the defendant may require the condemning authority to provide an advance pretrial offer by, at least 60 days before trial:

a. Providing an appraisal under subsection (4); and

b. If claiming business damages, providing business damage reports and allowing the condemning authority to examine business books and records.

If this subparagraph is complied with, the condemning authority shall make a pretrial offer within 60 days of the defendant's compliance, which shall be deemed the last written pretrial offer for the purpose of making the prevailing party determination under subparagraph 1. In addition, the condemning authority shall provide the defendant with the basis for its pretrial offer. If a defendant opts to use this subparagraph to require an advance pretrial offer and, to support a claim for compensation, offers evidence introducing issues, claims, or elements of damage, additional to those contained in the materials provided pursuant to sub-subparagraphs a. and b., the condemning authority may make a subsequent offer prior to the jury being charged which shall be deemed to be the last written offer for the purpose of making the prevailing party determination under subparagraph 1. However, if the existence of such additional evidence could not have been known with the exercise of due diligence and the introduction of such evidence is allowed at trial, the condemning authority may increase its last pretrial offer only to the extent such additional evidence relates to an increased valuation, and such increased offer shall be deemed the last written offer for the purpose of making the prevailing party determination under subparagraph 1. If the condemning authority offers evidence introducing issues, claims, or elements of damage, additional to those provided as a basis for its pretrial offer and the introduction of such evidence is allowed at trial, the court shall reduce the condemning authority's last written pretrial offer to the extent such additional evidence relates to a decreased valuation solely for the purpose of making the prevailing party determination under subparagraph 1.

3. Awards for business damages shall only be included for the purpose of making the prevailing party determination under subparagraph 1. if the defendant meets the requirements of subparagraph 2. Interest on a judgment shall be excluded from the prevailing party determination in all cases.

(b) There must be a final adjudication that the condemnor cannot acquire any of the real property sought by condemnation.

(c) In an action for inverse condemnation, the court must find that a taking has occurred. Following the court's finding, reasonable attorney fees, expert fees and costs for establishing the taking shall be awarded. However, the condemning authority shall make an offer under this section, subsequent to the court finding that a taking has occurred, which shall be used to determine the prevailing party for awards of attorney fees, expert fees and costs incurred after the court's finding that a taking has occurred.

(2) Except as provided in subsection (4), no attorney fees, expert fees, or costs shall be awarded to a defendant who rejects the last written pretrial offer and subsequently fails to prevail at trial. No attorney fees, expert fees, or costs relating to a business damage claim shall be awarded to a defendant except when a defendant complies with the requirements of subparagraph (1)(a)2. and prevails at trial.

(3) As part of any settlement agreement or stipulated final judgment made between the parties, the condemning authority may agree to pay all or part of the defendant's attorney fees, expert fees, and costs.

(4)(a) Notwithstanding the provisions of subsection (1), the condemning authority shall pay a reasonable fee for one appraisal performed for the defendant by an appraiser of the defendant's choice and, if the defendant meets the business damage eligibility requirement of s. 73.071, for one business damages report performed by an accountant of the defendant's choice. Payment for such an appraisal shall only be made when the appraisal is performed by a state-certified appraiser, as defined in s. 475.611, unless the condemning authority gives prior approval for the use of another appraiser based on the unavailability of state-certified appraisers. Payment for such a business damages report shall only be made when the report is prepared by a certified public accountant licensed in the State of Florida and the report meets the Standards of the American Institute of Certified Public Accountants for preparing special reports.

(b) The appraiser for the defendant shall submit to the condemning authority a quote for the appraisal prior to beginning the appraisal. The quote shall include reasonable fees for any subcontracted expert services necessary to perform the appraisal along with sufficient explanation of the need for such additional services. The total cost of the additional expert services shall not exceed $5,000. The accountant for the defendant, if any, shall submit to the condemning authority a quote for the business damages report prior to beginning the report. The condemning authority may approve the accountant's quote or the appraiser's quote including subcontracted expert services, negotiate for a different amount, or find the quote unreasonable. Upon a finding that the quote is unreasonable, the defendant may select another accountant or appraiser, agree to accept responsibility for any fee above the quote approved by the condemning authority, or petition the circuit court to find the quote submitted reasonable. In determining reasonable fees for purposes of this subsection, the court shall award fees that do not exceed the general or customary fee for experts in the community and would be considered reasonable if the defendant and not the condemning authority were responsible for payment.

(c) The condemning authority shall provide the defendant with a copy of any appraisal report on the property no later than the time it receives the defendant's appraisal report.

(d) In addition to the appraisal and business damages report paid for under this subsection, upon request, the condemning authority shall provide the defendant with up to a total of $1,000 in reasonable attorney fees for consultation to evaluate the condemning authority's appraisal, any business damages report, the defendant's appraisal, and any pretrial offer from the condemning authority.

(e) The specific dollar amounts identified in paragraphs (b) and (d) shall be adjusted each year on January 1 by the percentage change in the average Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30, compared to the base year average, which is the average for the 12-month period ending September 30, 1991.

(5) In determining reasonable fees as authorized by subsection (1), the court shall only apply the following criteria:

(a) The reasonable hourly rate for attorneys shall not exceed the customary hourly rate in the community for general trial work and trial preparation, and no multiplier factor or bonus based on benefits obtained shall be included in the attorney fee award.

(b) The reasonable hourly rate for experts preparing appraisals or reports shall not exceed the general or customary hourly rate for experts in the community, and the fee award for trial and trial preparation for any particular expert retained by the landowner shall not exceed the amount paid to any such type of expert retained by the condemning authority for trial and trial preparation unless the trial court makes specific findings that expressly justify an additional fee award.

(c) The number of hours claimed by attorneys and experts shall be documented in detailed time records and shall not exceed the hours necessary to render adequate services to the defendant.

(6) The amount of attorney fees to be paid by the defendant pursuant to a fee agreement entered into between the defendant and his attorney must be reduced by the amount of any attorney fees awarded by the court.

(7) All appraisals performed under contract for the condemning authority shall be performed by state-certified appraisers, as defined in s. 475.611, unless the condemning authority determines that no such appraiser is available.

(8) The court shall require the defendant to disclose to the condemning authority his social security number or federal employee identification number before disbursing funds pursuant to any court order in any eminent domain action.

~~(1) In assessing attorney's fees in eminent domain proceedings, the court shall give greatest weight to the benefits resulting to the client from the services rendered.~~

~~(a) As used in this section, the term "benefits" means the difference between the final judgment or settlement and the last written offer made by the condemning authority before the defendant hires an attorney. If no written offer is made by the condemning authority before the defendant hires an attorney, benefits must be measured from the first written offer after the attorney is hired.~~

~~1. In determining attorney's fees in prelitigation negotiations, benefits do not include amounts awarded for business damages unless the business owner provided financial records to the condemning authority, upon written request, prior to litigation.~~

~~2. In determining attorney's fees subsequent to the filing of litigation, if financial records are not provided to the condemning authority prior to litigation, benefits for amounts awarded for business damages must be based on the first written offer made by the condemning authority within 120 days after the filing of the eminent domain action. If the condemning authority makes no written offer to the defendant for business damages within 120 days after the filing of the eminent domain action, benefits for amounts awarded for business damages must be based on the difference between the final judgment or settlement and the last written offer made by the condemning authority before the defendant hired an attorney.~~

~~(b) The court may also consider nonmonetary benefits which the attorney obtains for the client.~~

~~(2) In assessing attorney's fees in eminent domain proceedings, the court shall give secondary consideration to:~~

~~(a) The novelty, difficulty, and importance of the questions involved.~~

~~(b) The skill employed by the attorney in conducting the cause.~~

~~(c) The amount of money involved.~~

~~(d) The responsibility incurred and fulfilled by the attorney.~~

~~(e) The attorney's time and labor reasonably required adequately to represent the client in relation to the benefits resulting to the client.~~

~~(3) At least 30 days prior to a hearing to assess attorney's fees under this section, the condemnee's attorney shall submit to the condemning authority and to the court complete time records and a detailed statement of services rendered by date, nature of services performed, time spent performing such services, costs incurred, and a copy of any fee agreement which may exist between the condemnee and his attorney.~~

~~(4) In determining the amount of attorney's fees to be paid by the petitioner, the court shall be guided by the fees the defendant would ordinarily be expected to pay if the petitioner were not responsible for the payment of fees and costs.~~

~~(5) The amount of attorney's fees to be paid by the defendant pursuant to a fee agreement entered into between the defendant and his attorney must be reduced by the amount of any attorney's fees awarded by the court.~~

(9)~~(6)~~ Notwithstanding any other provision of law, if an offer of judgment made by the petitioner, pursuant to s. 73.032, is rejected and the verdict or judgment is less than or equal to the offer of judgment, no attorney's fees or costs shall be awarded for time spent by the attorney or costs incurred after the time of rejection of the offer, except for apportionment or other supplemental proceedings.

Section 102. Section 74.061, Florida Statutes, is amended to read:

74.061 Vesting of title or interest sought.—Immediately upon the making of the deposit, the title or interest specified in the petition shall vest in the petitioner, and the said lands shall be deemed to be condemned and taken for the use of the petitioner, and the right to compensation for the same shall vest in the persons entitled thereto. Compensation shall be determined in accordance with the provisions of chapter 73, except that interest shall be allowed ~~at the same rate as provided in all circuit court judgments~~ from the date of surrender of possession to the date of payment on the amount that the verdict exceeds the estimate of value set forth in the declaration of taking. *Such interest shall be calculated at a rate equal to the coupon issue yield equivalent, as determined by the United States Secretary of the Treasury, of the average accepted auction price for the last auction of 52-week United States Treasury Bills settled immediately prior to the date of the judgment allowing the interest.*

Section 103. *Sections of this bill relating to chapters 73 and 74, Florida Statutes, and to s. 337.271, Florida Statutes, shall apply to all eminent domain actions, including, but not limited to, those actions filed prior to the effective date of this act, except those in which there is a final order as to damages, attorney fees, or costs from which no appeal has been taken. This provision shall not operate to impair interest already earned by a defendant as of the effective date of this act, or impair payment by a condemning authority of reasonable attorney fees and costs for services rendered prior to the effective date of this act.*

Section 104. Section 337.271, Florida Statutes, is amended to read:

337.271 Negotiations for acquisitions.—

(1) The department shall negotiate in good faith with the owner of a parcel to be acquired and shall attempt to arrive at an agreed amount of compensation to be paid for the parcel.

(2) At the inception of negotiation for acquisition, the department shall notify the fee owner of the following:

(a) That all or a portion of his property is necessary for a transportation facility or transportation corridor;

(b) The nature of the project for which the parcel is deemed necessary, the project number, and the parcel designation of the property to be acquired;

(c) The district office of the department from which the owner may obtain right-of-way maps reflecting the proposed taking;

(d) The fee owner's statutory rights under ss. 73.091 and 73.092; and

(e) The fee owner's rights and responsibilities under *this section* ~~subsections (3), (4), (5), and (6)~~.

(3) The notice shall be sent by certified mail, return receipt requested, to the fee owner's last known address listed on the county ad valorem tax roll. Notice to one owner constitutes notice to all owners on multiple-ownership property. The return of the notice as undeliverable by the postal authorities constitutes compliance with this provision. The department is not required to give notice to a person who acquires title to the property subsequent to the notice required by this section.

~~(4) The fee owner may, within 120 days after receipt of the notice required by subsection (2) or at a later date specified by the department, submit a complete appraisal report relating to the parcel to be acquired. The fee owner may waive his right to the 120 days to obtain an appraisal by providing the department with written notice of such waiver. If a report is submitted, it shall contain all data and information upon which the appraiser's conclusions are based and shall be prepared by a state-certified real estate appraiser as defined in chapter 475 and who has been qualified by the department. A list of those state-certified real estate appraisers, as defined in chapter 475, currently qualified by the department shall be attached to the letter submitted to the fee owner. On multiple-ownership property, the fee owner is collectively entitled to only one appraisal report.~~

~~(5) If the business owner intends to claim business damages pursuant to s. 73.071(3)(b), he may, within 120 days after receipt of the notice required by subsection (2) or at a later time specified by the department, submit to the department a complete estimate of business damages to the property. The fee owner may waive his right to the 120 days to obtain an estimate of business damages by providing the department with written notice of such waiver. If an estimate is submitted, it shall explain the nature and extent of such damages and shall be prepared by either the owner or a certified public accountant. If the business owner elects to submit an estimate of business damages to the department, he shall also permit the department to copy and examine, at the owner's convenience, such of his business records as the department determines to be necessary for it to arrive at an estimate of business damages.~~

~~(6) Upon submission of an invoice which complies with the requirements of this subsection, the department shall pay all reasonable costs, including reasonable attorney's fees, incurred on behalf of a property owner who proceeds to prelitigation negotiation settlement pursuant to the provisions of this section. The attorney's fees shall be based upon the criteria of s. 73.092. The invoice shall include complete time records and a detailed statement of services performed and time spent performing such services. Reasonable appraisal or accountant fees as authorized by this section shall not exceed the general or customary hourly rate for appraisal or accounting fees in the community. If the parties cannot agree on the amount of costs and attorney's fees to be paid by the department, the property owner may file a complaint in the circuit court in the county where the property is located to recover reasonable attorney's fees and costs.~~

~~(7) Within 30 days after receipt of the fee owner's appraisal report and the estimate of business damages if submitted, the department shall submit to the owner all appraisal reports prepared for the department which relate to the owner's parcel and any estimate of business damages prepared.~~

~~(8) After receipt of the appraisal report prepared for the fee owner and the estimate of business damages if submitted, the department shall make a written offer of purchase to the fee owner and business owner, if any, which includes the value of the land and improvements taken and any business or severance damages.~~

(4)~~(9)~~ *Prior to litigation* ~~After exchanging appraisal reports and business damage reports~~, the parties may jointly agree to submit the compensation and business damage claims to nonbinding mediation. The mediation may be held after the eminent domain action is filed, if the department must file the action to meet construction schedules. The parties shall agree upon a mediator certified pursuant to s. 44.302.

~~(10) If the department agrees to mediation, the fee owner or business owner may submit to the department an invoice, which complies with this section, for payment for the appraisal reports, business damage reports, and other reasonable costs. Upon receipt of such invoice, the department shall promptly pay a reasonable appraisal fee, reasonable accountant's fee, and other reasonable costs. If the parties cannot agree on the amount of costs to be paid by the department, the property owner may file a complaint in the circuit court in the county in which the property is located to recover reasonable costs.~~

(5)~~(11)~~ Evidence of negotiations, or evidence of any written or oral statements used in mediation, conducted by the parties pursuant to this section is not admissible in any subsequent proceeding.

Section 105. Section 335.18, Florida Statutes, is amended to read:

335.18 Short title.—Sections *335.18-335.188* ~~335.18-335.189~~ may be cited as the "State Highway System Access Management Act."

Section 106. Section 335.181, Florida Statutes, is amended to read:

335.181 Regulation of access to State Highway System; legislative findings, policy, and purpose.—

(1) It is the finding of the Legislature that:

(a) Regulation of access to the State Highway System is necessary in order to protect the public health, safety, and welfare, to preserve the functional integrity of the State Highway System, and to promote the safe and efficient movement of people and goods within the state.

(b) The development of an access management program, in accordance with this act, *will assist in the coordination of* ~~which coordinates~~ land-use planning decisions by local governments *with* ~~and~~ investments in the State Highway System *and will serve to enhance managed growth and the overall development of commerce within the state as served by*; ~~will serve to control the proliferation of connections and other access approaches to and from~~ the State Highway System. Without such a program, the health, safety, and welfare of the residents of this state *may be placed* ~~are~~ at risk, due to the fact that *unregulated* ~~uncontrolled~~ access to the State Highway System is *one of the* ~~a significant~~ contributing *factors* ~~factor~~ to the congestion and functional deterioration of the system.

(c) The Legislature further finds and declares that the development of an access management program in accordance with this act will enhance the development of an effective transportation system and increase the traffic-carrying capacity of the State Highway System and thereby reduce the incidences of traffic accidents, personal injury, and property damage or loss; mitigate environmental degradation; promote sound economic growth and the growth management goals of the state; reduce highway maintenance costs and the necessity for costly traffic operations measures; lengthen the effective life of transportation facilities in the state; prevent delays in public evacuations for natural storms and emergencies; enhance *disaster-response* ~~disaster response~~ readiness; and shorten response time for emergency vehicles.

(2) It is the policy of the Legislature that:

(a) Every owner of property which abuts a road on the State Highway System has a right to reasonable access to the *abutting state highway* ~~State Highway System of this state~~ but *does* ~~may~~ not have the right of *unregulated* ~~a particular means of~~ access *to such highway. The operational capabilities of an access connection may be restricted by the department. However, a means of reasonable access to an abutting state highway may not be denied by the department, except on the basis of safety or operational concerns as provided in s. 335.184.* ~~The right of access to a road on the State Highway System may be restricted if reasonable access may be provided pursuant to local regulations to another public road which abuts the property.~~

(b) The access rights of an owner of property abutting the State Highway System are *subject to reasonable regulation to ensure* ~~subordinate to~~ the public's right and interest in a safe and efficient highway system. *This paragraph does not authorize the department to deny a means of reasonable access to an abutting state highway, except on the basis of safety or operational concerns as provided in s. 335.184. Property owners are encouraged to implement the use of joint access where legally available.*

(3) The Legislature further declares that it is the purpose of this act to provide a coordinated planning process for the permitting of access points on the State Highway System to effectuate the findings and policy of this act.

(4) Nothing in this act shall affect the right to full compensation under s. 6, Art. X of the State Constitution.

(5) Nothing in this act limits the power of eminent domain vested in the department pursuant to s. 337.27.

(6) This act does not create any additional property rights. The denial of reasonable direct access to an abutting state highway pursuant to s. 335.184 is not compensable under the provisions of this act unless the denial would be otherwise compensable absent the provisions of this act. The denial in and of itself of an access permit by the Department of Transportation shall not be the only substantive allegation in support of a petition to state a cause of action pursuant to s. 6, Art. X, of the State Constitution.

(7) Nothing in this act prohibits the construction of service roads along a highway on the State Highway System so long as such service roads provide reasonable access to such highway. A property owner whose land abuts a service road is entitled to reasonable access to such service road pursuant to s. 335.184. However, nothing in this act requires that a property owner whose land abuts a service road be given direct access across the service road to the state highway served thereby.

Section 107. Section 335.182, Florida Statutes, is amended to read:

335.182 Regulation of connections to roads on State Highway System; definition.—

(1) Vehicular access and connections to or from the State Highway System shall be regulated by the department in accordance with the provisions of this act in order to protect the public health, safety, and welfare.

~~(2) Counties, municipalities, or transportation or expressway authorities may adopt standards for access permitting on the State Highway System which meet or exceed the department's standards, provided that such standards may not be inconsistent with standards adopted by the department. Except when the department has delegated its access permitting function to another permitting authority pursuant to s. 335.189, permits from both the department and the other permitting authority shall be required for connections to the State Highway System. Where the permit conditions of such permitting authority are inconsistent with the permit conditions required by the department, the department's requirements shall control.~~

(2)~~(3)~~ The department shall, no later than July 1, 1989, adopt, by rule, administrative procedures for its issuance and modification of access permits, closing of unpermitted connections, and revocation of permits in accordance with this act.

(3)~~(4)~~ As used in this act, the term:

(a) "Connection" means driveways, streets, turnouts, or other means of providing for the right of *reasonable* access to or from ~~controlled access facilities on~~ the State Highway System.

(b) *"Significant change" means a change in the use of the property, including land, structures or facilities, or an expansion of the size of the structures or facilities causing an increase in the trip generation of the property exceeding 25 percent more trip generation (either peak hour or daily) and exceeding 100 vehicles per day more than the existing use.* ~~"Permitting authority" means the department or any county, municipality, or transportation or expressway authority authorized to regulate access to the State Highway System pursuant to this act.~~

Section 108. Section 335.1825, Florida Statutes, is amended to read:

335.1825 Access permit required; authority to close unpermitted connections.—

(1) *A* ~~No~~ connection *may not* ~~shall~~ be constructed or *substantially* altered without obtaining an access permit in accordance with this act in advance of such action. *The department* ~~A permitting authority~~ has the authority to *restrict or* deny access to the State Highway System, *in accordance with the provisions of this act,* at the location specified in the permit until the permittee constructs or alters the connection in accordance with the permit requirements.

(2) The cost of construction or alteration of a connection shall be borne by the permittee, except for alterations which are not required by law, but are made at the request of and for the convenience of the *department* ~~permitting authority~~. The permittee, however, shall bear the cost of alteration of any connection which is required by the *department* ~~permitting authority~~ due to increased or altered traffic flows generated by changes in the facilities or nature of business conducted at the location specified in the permit, *if the department establishes the need for such alteration.*

(3) Except as otherwise provided in this act, an unpermitted connection is subject to closure by the *department* ~~appropriate permitting authority~~ which shall have the right to install barriers across or remove the connection. When the *department* ~~permitting authority~~ determines that a connection is unpermitted and subject to closure, it shall provide reasonable notice of its impending action to the owner of property served by the connection. The department's procedures for providing notice and preventing the operation of unpermitted connections shall be adopted by rule.

(4) The *department* ~~permitting authority~~ may initiate injunctive proceedings as provided in s. 120.69 to enforce *the* provisions of this section or any rule or order issued or entered pursuant thereto.

Section 109. Section 335.183, Florida Statutes, is amended to read:

335.183 Permit application fee.—The department shall establish, by rule, a *graduated* schedule of fees for permit applications made to the department. *Such fees* ~~The fee~~ shall be nonrefundable and shall be used to offset the costs of administering the access permit review process and the costs associated with administering the provisions of this act. In no event shall *a* ~~the~~ fee be ~~less than $25 or~~ more than $5,000.

Section 110. Section 335.184, Florida Statutes, is amended to read:

335.184 Access permit review process by the department; *permit denial, justification; administrative review.*—The review process for access permit applications made by the department shall be as follows:

(1) Any person seeking an access permit shall file an application with the department *in the district in which the property for which the permit being requested is located.* The department, by rule, shall establish application form and content requirements. The fee as required by s. 335.183 must accompany the application.

(2) All permit applications shall be reviewed in conformity with s. 120.60.

(3) A property owner shall be granted a permit for an access connection to the abutting state highway, unless the permitting of such access connection would jeopardize the safety of the public or have a negative impact upon the operational characteristics of the highway. Such access connection and permitted turning movements shall be based upon standards and criteria adopted, by rule, by the department.

(a) In making the determination of whether to deny access to an abutting property owner, the department may consider, but is not limited to considering:

1. The number or severity of traffic accidents occurring on the segment of the highway to which access is sought, and the impact thereon from providing such access;

2. The operational speed on the segment of the highway to which such access is sought and the level and amount of deceleration which such access would cause;

3. The geographic location of the segment of the highway to which such access is sought;

4. The operational characteristics of the segment of the highway to which such access is sought and the impact thereon from providing such access; or

5. The level of service of the segment of the highway to which such access is sought and the impact thereon from providing such access.

(b) If the department denies an application for an access permit, it must send written notification of such denial to the applicant. Such notification must include the specific reasons for the denial and inform the applicant of his rights under paragraphs (c) and (d).

(c) An applicant whose permit has been denied may, within 7 days after the receipt of notification of such denial, request a meeting with department personnel to determine whether any means exist by which the reasons for denial of a permit may be mitigated so that the permit may be issued. Upon the timely receipt of a written request for such meeting, the appropriate department personnel shall meet with the applicant to attempt such mitigation. Such request or the failure to make such request, any statements made during such meeting, and the results of such meeting shall not be admissible in any subsequent judicial or administrative proceeding regarding the denial of an access permit.

(d) The denial of an access permit pursuant to this section shall be subject to administrative review under the provisions of chapter 120.

Nothing in this subsection limits the department's authority to restrict the operational characteristics of a particular means of access.

Section 111. Section 335.185, Florida Statutes, is amended to read:

335.185 Permit conditions; expiration.—

(1) The *department* ~~permitting authority~~ may issue a permit subject to any *reasonable* conditions necessary to carry out the provisions of this act~~, including, but not limited to, requiring the use of a joint use connection~~. The *department* ~~permitting authority~~ may revoke a permit if the applicant fails to comply with the conditions upon which the issuance of the permit was predicated.

(2) All permits issued pursuant to this act shall automatically expire and become invalid if the connection is not constructed within 1 year after the issuance of the permit, *unless the department extends the date of expiration, for good cause, upon its own initiative or upon the request of a permittee.*

Section 112. Section 335.187, Florida Statutes, is amended to read:

335.187 Unpermitted connections; existing access permits; nonconforming permits; modification and revocation of permits.—

(1) Unpermitted connections to the State Highway System in existence on July 1, 1988, which have been in continuous use for a period of 1 year or more shall not require the issuance of a permit and may continue to provide access to the State Highway System. However, *the department* ~~a permitting authority~~ may require that a permit be obtained for such a connection if a significant change occurs in the use, design, or traffic flow of the connection ~~or of the state highway to which it provides access~~. If a permit is not obtained, the connection may be closed pursuant to s. 335.1825(3).

(2) Access permits in effect on July 1, 1988, shall remain valid until modified or revoked. The *department* ~~permitting authority~~ may, after written notification and a hearing, as provided for in s. 120.60, modify or revoke an access permit granted prior to July 1, 1988, by requiring relocation, alteration, or closure of the connection if a significant change occurs in the use, design, or traffic flow of the connection.

(3) The *department* ~~permitting authority~~ may issue a nonconforming access permit after finding that to deny an access permit would leave the property without a reasonable means of access to the *State Highway System* ~~public roads of this state~~. *The department may* ~~Every nonconforming access permit shall~~ specify limits on the maximum vehicular use of the connection and *may* ~~shall~~ be conditioned on the availability of future alternative means of access for which access permits can be obtained.

(4) After written notice and the opportunity for a hearing, as provided for in s. 120.60, the *department* ~~permitting authority~~ may modify or revoke an access permit issued after July 1, 1988, by requiring relocation, alteration, or closure of an existing connection if a significant change occurs in the use, design, or traffic flow of the connection.

(5) A means of reasonable access to an abutting state highway may not be denied to a property owner, except on the basis of safety or operational concerns as provided in s. 335.184.

Section 113. Section 335.188, Florida Statutes, is amended to read:

335.188 Access management standards; access control classification system; criteria.—

(1) The department shall develop, adopt, and maintain an access control classification system for all routes on the State Highway System, the purpose of which shall be to provide for the implementation and continuing application of the provisions of this act.

(2) The principal component of the access control classification system shall be access management standards, the purpose of which shall be to provide specific ~~minimum~~ standards *and criteria* to be adhered to in the planning for and approval of access to roads on the State Highway System.

(3) The control classification system shall be developed consistent with the following:

(a) The department shall, no later than July 1, 1990, adopt rules setting forth procedures governing the implementation of the access control classification system required by this act. The rule shall provide for input from the entities described in paragraph (b) as well as for public meetings to discuss the access control classification system. Nothing in this act *affects* ~~shall affect~~ the validity of the department's existing or subsequently adopted rules concerning access to the State Highway System. Such rules shall remain in effect until repealed or replaced by the rules required by this act.

(b) The access control classification system shall be developed in cooperation with counties, municipalities, the state land planning agency, regional planning councils, metropolitan planning organizations, and other local governmental entities.

(c) The rule required by this section shall provide *for notification by publication in a local newspaper of general circulation prior to a change in the assignment of a road segment to a specific access category. The* ~~that~~ assignment *or reassignment* of a road segment to a specific access category *shall* be made in consideration of the following criteria:

1. The current functional classification ~~as well as potential future functional classification~~ of each road on the State Highway System;

2. Existing and projected traffic volumes;

3. Existing and projected state, local, and metropolitan planning organization transportation plans and needs;

4. Drainage requirements;

5. The character of lands adjoining the highway;

6. Local land-use plans and zoning, as set forth in comprehensive plans;

7. The type and volume of traffic requiring access;

8. Other operational aspects of access;

9. The availability of reasonable access *to a state highway* by way of county roads and city streets, *as applicable to the classification of such roadway segment only* ~~to a state highway as an alternative to a connection to a state highway~~; and

10. The cumulative effect of existing and projected connections on the State Highway System's ability to provide for the safe and efficient movement of people and goods within the state.

(d) Access management standards shall include, but not be limited to, connection location standards, safety factors, design and construction standards, traffic control devices, and effective maintenance of the roads. The standards shall also contain *criteria* ~~minimum requirements~~ for the spacing of connections, intersecting streets, roads, and highways.

(e) An access control category shall be assigned to each segment of the State Highway System by July 1, *1993* ~~1992~~.

Section 114. *Section 335.189, Florida Statutes, is hereby repealed.*

Section 115. *Section 337.241, Florida Statutes, is hereby repealed.*

Section 116. Section 348.68, Florida Statutes, is amended to read:

348.68 Consultation with Hillsborough County City-County Planning Commission.—In determining the route or routes, and the design and type of construction in connection with constructing the expressway system or any extension thereof, consideration shall be given by the authority to the comprehensive plans and the economic needs of the city and county and the usage for which the properties abutting thereon is best suited. In the furtherance of this purpose, the authority shall consult with the Hillsborough County City-County Planning Commission, hereinafter referred to as the commission. The authority may employ a firm of nationally recognized consultants and traffic engineers and the traffic engineers of the Florida Department of Transportation. In conducting their studies and in preparing surveys and estimates in connection with the location of the route or routes and with such construction, the consultants and traffic engineers shall consult with the commission for the purpose of considering any traffic studies, the comprehensive plan and other pertinent information which the commission may have available. After the studies and recommendations of the authority's traffic engineers, consulting engineers, and other advisers have been made, the authority shall transmit such studies and recommendations to the commission. The commission, within 45 days after receipt thereof, shall transmit to the authority its written recommendations as to the consistency of such proposed route or routes with the adopted comprehensive plan or element or portion thereof. The authority shall thereafter hold a public hearing, on at least 10 days' notice which shall be published in a newspaper designated by the authority and of general circulation in Hillsborough County, at which all interested persons may be heard with respect to the recommended route or routes or alternate routes of the expressway system. After such public hearing, the authority shall by resolution determine the route or routes of the expressway system or any extension thereof. However, the commission may request additional review of the approved route or routes for the purpose of commenting on continued consistency with the adopted comprehensive plan, element, or portion thereof if:

(1) Within 5 years of approval of the route or routes, the authority does not reserve or acquire the proposed rights-of-way within the route or routes as provided by *s.* ~~ss. 337.241 and~~ 337.27; or

(2) The authority reserves or acquires rights-of-way under *s.* ~~ss. 337.241 or~~ 337.27, but fails to comply with the statutory requirements for land acquisition or design commencement or completion.

If an additional review is requested the commission shall conduct its review and transmit its recommendations within 45 days.

Section 117. Subsection (7) of section 337.273, Florida Statutes, is amended to read:

337.273 Transportation corridors.—

(7) Governmental entities are encouraged to cooperate in the protection and acquisition of transportation corridors by designation in each entity's plans and by entering into a Transportation Corridor Protection and Acquisition Agreement. The agreement between the parties shall specify the rights and responsibilities of the parties and must include, but is not limited to:

(a) A description of the corridor or corridors;

(b) The local government's commitment to protect existing and future rights-of-way from building encroachment;

(c) The appropriateness of establishing building setbacks from the corridor;

(d) The responsibilities of each party in the management of current and future access to the corridors;

(e) The responsibility of the owner of the system to be liable for claims and to defend against third-party legal challenges arising out of the corridor designations and the corridor agreements; *and*

~~(f) The appropriateness of filing a map of reservation pursuant to statute for all or a portion of the corridors and designation of the entity to be responsible for filing the map; and~~

(f)~~(g)~~ A reasonable estimate by the owner of the proposed facility when said facility will be constructed. The estimate shall not be binding as far as requiring construction of the facility at the specific time.

Section 118. Section 337.107, Florida Statutes, is created 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. Right-of-way services include negotiation and acquisition services, and appraisal services.

Section 119. Subsection (1) of section 337.25, Florida Statutes, is amended and paragraphs (e), (f), (g), and (h) of subsection (4) of said section are redesignated as paragraphs (f), (g), (h), and (i), respectively, and a new paragraph (e) is added to said subsection, to read:

337.25 Acquisition, lease, and disposal of real and personal property.—

(1)(a) The department may purchase, lease, exchange, or otherwise acquire any land or buildings or other improvements, including personal property within such buildings or on such lands, necessary to secure or utilize transportation rights-of-way for existing, proposed, or anticipated transportation facilities on the State Highway System, on the State Park Road System, in a rail corridor, or in a transportation corridor designated by the department. Such property shall be held in the name of the state.

(b) The department may accept donations of any land or buildings or other improvements, including personal property within such buildings or on such lands with or without such conditions, reservations, or reverter provisions as are acceptable to the department. Such donations may be used as transportation rights-of-way or to secure or utilize transportation rights-of-way for existing, proposed, or anticipated transportation facilities on the State Highway System, on the State Park Road System, or in a transportation corridor designated by the department.

(c) When lands, buildings, or other improvements are needed for transportation purposes, but are held by a state or local governmental entity and utilized for public purposes other than transportation, the department may compensate the entity for such properties by providing functionally equivalent replacement facilities. The providing of replacement facilities under this subsection may only be undertaken with the agreement of the governmental entity affected.

(4) The department may sell, in the name of the state, any land, building, or other property, real or personal, which was acquired under the provisions of subsection (1) and which the department has determined is not needed for the construction, operation, and maintenance of a transportation facility and which is not located in a transportation corridor. When such a determination has been made, property may be disposed of in the following manner:

(e) If the department begins the process for disposing of the property on its own initiative, either by negotiation under the provisions of paragraphs (a), (c), (d), or (i), or by receipt of sealed competitive bids or public auction under the provisions of paragraphs (b) or (i), a department staff appraiser may determine the fair market value of the property by an appraisal.

Section 120. Section 337.274, Florida Statutes, is amended to read:

337.274 Authority of department agent or employee to enter lands, waters, and premises of another in the performance of duties.—The department and its authorized agents and employees are authorized to enter upon any lands, waters, and premises, upon giving reasonable notice to the landowner, for the purpose of making surveys, soundings, drillings, appraisals, environmental assessments, *archaeological assessments*, and examinations necessary to perform its duties and functions; and any such entry shall not be deemed a trespass or an entry that would constitute a taking in an eminent domain proceeding. The department shall make reimbursement for any actual damages to such lands, water, and premises as a result of such activities.

Section 121. Subsection (2) of section 337.276, Florida Statutes, is amended, and subsection (4) is added to said section, to read:

337.276 Advanced acquisition of right-of-way.—

(2) The amounts allocated for advanced right-of-way acquisition shall be divided between the following programs:

(a) A program for acquiring right-of-way necessary to support project construction phases planned 3 to 4 years from the date of the acquisition.

(b) A program for acquiring right-of-way necessary for future transportation corridors for which construction phases are planned a minimum of 5 years from the date of acquisition. Priority shall be given to acquiring right-of-way for projects contained in the Florida Intrastate Highway System.

For the purposes of this subsection, the term, "planned" means the department's good faith estimate, at the time the advanced right-of-way acquisition is programmed, of when a project's construction phase will be undertaken.

(4)(a) Notwithstanding subsections (2) and (3), the department is authorized to expend bond proceeds pursuant to this section to acquire right-of-way for a project in the department's adopted work program that does not fall within the parameters established in subsection (2), if:

1. The acquisition of such right-of-way is necessary to ensure the continued availability of previously donated right-of-way for such project;

2. The majority of the costs for the construction phase of a project will be financed by local or private funds; or

3. A local government enters into an agreement to advance the construction phase in accordance with the provisions set forth in s. 339.12.

(b) Any use of bond proceeds pursuant to this subsection must be specifically and separately identified in the tentative work program.

Section 122. Subsection (2) of section 206.46, Florida Statutes, is amended to read:

206.46 State Transportation Trust Fund.—

(2) Notwithstanding any other provisions of law, from the proceeds transferred into the State Transportation Trust Fund from the Gas Tax Collection Trust Fund *a maximum of*~~, $30 million in fiscal year 1988-1989 and~~ $50 million in each fiscal year ~~thereafter~~ shall be transferred into the Right-of-Way Acquisition and Bridge Construction Trust Fund created in s. 215.605, *as needed to meet the requirements of the documents authorizing the bonds issued or proposed to be issued under ss. 215.605 and 337.276.*

Section 123. Subsections (1) and (2) of section 212.69, Florida Statutes, are amended to read:

212.69 Distribution of proceeds.—

(1) Moneys collected pursuant to this part shall be deposited in the Gas Tax Collection Trust Fund created by *s. 206.875* ~~s. 206.45~~. Such moneys, exclusive of the service charges imposed by s. 215.20, and exclusive of refunds granted pursuant to s. 212.67, shall be distributed monthly to the State Transportation Trust Fund, except that $3.8 million per year shall be transferred to the Department of Natural Resources in equal monthly amounts; $1 million of this amount shall be spent solely for nonchemical control of aquatic weeds, research into nonchemical controls, and enforcement of aquatic weed control programs.

(2) Not less than 10 percent of the moneys deposited in the State Transportation Trust Fund pursuant to this section shall be allocated by the Department of Transportation for public transit and rail capital projects, including service development projects, as defined in *s. 341.031(7) and (8)* ~~s. 341.031(4) and (5)~~, unless otherwise provided in the General Appropriations Act.

Section 124. Section 215.605, Florida Statutes, is amended to read:

215.605 State bonds for right-of-way acquisition or bridge construction.—

(1) The issuance of state bonds to finance or refinance the cost of acquiring real property or the rights to real property for state roads as defined by law, or to finance or refinance the cost of state bridge construction, and purposes incidental to such property acquisition or state bridge construction, is hereby authorized pursuant to s. 17, Art. VII of the State Constitution and ss. 215.57-215.83. Except for bonds issued to refinance property acquisition or bridge construction previously financed by bonds issued under this section, right-of-way or bridges financed by state bonds issued under this section shall first be authorized by the Legislature by an act relating to appropriations or by general law and shall be issued pursuant to the State Bond Act.

(2) Bonds issued pursuant to this section shall be payable primarily from motor fuel and special fuel taxes which are transferred to the Right-of-Way Acquisition and Bridge Construction Trust Fund, which fund is hereby created in the Department of Transportation, and shall additionally be secured by the full faith and credit of the state. Any moneys *transferred into* ~~in~~ the fund *under s. 206.46 that are* not needed to pay the debt service on, provide required financial coverage levels for, and fund debt service reserve funds, rebate obligations, or other amounts with respect to bonds issued pursuant to this section, may be *transferred to the State Transportation Trust Fund* ~~used for right-of-way acquisition or bridge construction, as provided by law~~.

(3) The Department of Transportation shall request the Division of Bond Finance to issue the state bonds authorized by this section pursuant to the State Bond Act. The Department of Transportation shall certify that the projects to be financed will comply with the requirements of s. 339.135(4)(b) and (c) or (j) and (6).

(4) The proceeds from the sale of bonds issued pursuant to this section shall be deposited into the Right-of-way Acquisition and Bridge Construction Trust Fund.

(5) Section 339.135 shall apply to the Right-of-Way Acquisition and Bridge Construction Trust Fund.

Section 125. Section 255.565, Florida Statutes, is amended to read:

255.565 Asbestos Oversight Program Team.—There is created an Asbestos Oversight Program Team which shall consist of the Asbestos Program Coordinator appointed by the Secretary of Labor and Employment Security, one member appointed by the Secretary of Health and Rehabilitative Services, one member appointed by the Secretary of Environmental Regulation, one member appointed by the Secretary of Professional Regulation, *one member appointed by the Secretary of Transportation,* one member appointed by the Chancellor of the State University System, one member appointed by the Department of Education, and one member appointed by the Executive Director of the Department of General Services. The Asbestos Oversight Program Team shall be responsible for asbestos policy development, regulatory review, asbestos training course approval, and coordination with regional asbestos project managers and building contact persons on policy and procedures.

Section 126. Section 337.106, Florida Statutes, is amended to read:

337.106 Professional service providers; requirement for professional liability insurance.—*Except for any person or firm providing professional services of a research or training nature,* any person or firm rendering ~~technical,~~ legal, architectural, engineering, or other professional services to the department shall have and maintain during the period the services are rendered a professional liability insurance policy or policies with a company or companies authorized to do business in the state, or, if such person or firm is a member of a group or association qualified to self-insure under the provisions of s. 627.356, a self-insurance program provided through establishment of a Professional Liability Risk Management Trust Fund pursuant to s. 627.356, affording professional liability coverage for the professional services rendered, in an amount deemed sufficient by the department. The requirement for professional liability insurance set forth in this section may be waived by the department, if the person or firm providing professional services obtains and maintains an unexpired, irrevocable letter of credit, established pursuant to chapter 675, in an amount not less than the minimum insurance coverage required by the contract with the department. *The letter of credit shall be solely for the benefit of the department and must remain valid until 3 years after final acceptance of the project of which the professional services were a part.* The letter of credit shall be approved by the department comptroller and be payable to the department as beneficiary upon presentment of a final judgment indicating liability and awarding damages to be paid to the department by the professional service provider or upon presentment of a settlement agreement signed by all parties. The letter of credit shall be nonassignable and nontransferable. The letter of credit shall be issued by any bank or savings association organized and existing under the laws of this state or any bank or savings association organized under the laws of the United States that has its principal place of business in this state or has a branch office which is authorized under the laws of this state or of the United States to receive deposits in this state.

Section 127. Paragraph (a) of subsection (5) 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.—

(5)(a) Any person who files an action protesting a bid solicitation, a bid rejection, or an award pursuant to this section shall post with the department, at the time of filing a notice of protest, a bond payable to the department in the following amounts:

1. For an action protesting a bid solicitation *that requires qualification of bidders* ~~in which the lowest responsive bid exceeds $250,000~~, the bond shall be $5,000.

2. For an action protesting a bid rejection or contract award *that requires qualification of bidders* ~~in which the lowest responsive bid exceeds $250,000~~, the bond shall be equal to 1 percent of the lowest bid submitted or $5,000, whichever is greater.

3. For an action protesting a bid solicitation, bid rejection, or contract award *that does not require qualification of bidders* ~~in which the lowest responsive bid is $250,000 or less~~, no bond shall be required.

Section 128. Subsections (2) and (5) of section 337.18, Florida Statutes, is amended to read:

337.18 Surety bonds; requirement with respect to contract award; defaults; damage assessments.—

(2) The department shall provide in its contracts for the determination of default on the part of any contractor for cause attributable to such contractor. The department shall have no liability for anticipated profits for unfinished work on a contract which has been determined to be in default. Every contract let by the department for the performance of work shall contain a provision for payment to the department by the contractor of liquidated damages due to failure of the contractor to complete the contract work within the time stipulated in the contract or within such additional time as may have been granted by the department. The contractual provision shall include a reasonable estimate of the damages that would be incurred by the department as a result of such failure. The department shall establish a schedule of daily liquidated damage charges for construction contracts entered into by the department, which schedule shall be incorporated by reference into the contract. The department shall update the schedule of liquidated damages at least once every 2 years, but no more often than once a year. The schedule shall, at a minimum, be based on the average construction, engineering, and inspection costs experienced by the department on contracts over the 2 preceding fiscal years. The schedule shall be divided into the following categories, based on the original contract amounts:

(a) $50,000 and under;

(b) Over $50,000 but less than $250,000;

(c) $250,000 or more but less than $500,000;

(d) $500,000 or more but less than $2,500,000;

(e) $2,500,000 or more but less than *$5,000,000* ~~$10,000,000~~;

(f) $5,000,000 or more but less than $10,000,000;

(g)~~(f)~~ $10,000,000 or more but less than $15,000,000;

(h)~~(g)~~ $15,000,000 or more but less than $20,000,000; and

(i)~~(h)~~ $20,000,000 and over.

Any such liquidated damages paid to the department shall be deposited to the credit of the fund from which payment for the work contracted was authorized.

(5)(a) If the department determines and adequately documents that the timely completion of any project is essential to the public health, safety, or welfare, *or is cost beneficial on a revenue-producing project,* the contract for such project may provide for an incentive payment payable to the contractor for early completion of the project or critical phases of the work and for additional damages to be assessed against the contractor for the completion of the project or critical phases of the work in excess of the time specified. All contracts containing such provisions shall be approved by the head of the department or his designee. The amount of such incentive payment or such additional damages shall be established in the contract but shall not exceed $10,000 per calendar day for a maximum period of 60 days, *except that for revenue-producing projects the amounts and periods of the incentive may be greater if an analysis indicates that additional revenues projected to be received upon completion of the project will exceed the cost of the incentive payments.* Any liquidated damages provided for under subsection (2), any penalty provided for under subsection (3), and any additional damages provided for under this subsection shall be payable to the department because of the contractor's failure to complete the contract work within the time stipulated in the contract or within such additional time as may have been granted by the department.

(b) The department shall adopt rules to implement this subsection. Such rules shall include procedures and criteria for the selection of projects on which incentive payments and additional damages may be provided for by contract.

Section 129. Section 337.175, Florida Statutes, is amended to read:

337.175 Retainage.—The department shall provide in its construction contracts for retaining a portion of the amount due a contractor for work that he has completed, until completion and final acceptance of the project by the department. ~~Notwithstanding the provisions of s. 255.052, the department may not accept the substitution of securities for amounts retained on a construction contract.~~ However, *contractors shall be allowed to substitute securities as provided by s 255 052, or to substitute* ~~contractors who have completed department projects without being declared delinquent for the preceding 3 consecutive years shall be allowed to substitute securities,~~ certificates of deposit, or irrevocable letters of credit approved by the department comptroller in lieu of retainage.

Section 130. Subsections (1), (2), and (8) of section 337.185, Florida Statutes, are amended to read:

337.185 State Arbitration Board.—

(1) To facilitate the prompt settlement of claims for additional compensation arising out of construction contracts between the department and the various contractors with whom it transacts business, the Legislature does hereby establish the State Arbitration Board, referred to in this section as the "board." Every contractual claim or claims in an aggregate amount up to $100,000 per contract that cannot be resolved by the department and the contractor shall be arbitrated by the board after acceptance of the project by the department, provided no party to the dispute requests the claim or claims be submitted to binding private arbitration. *At the contractor's option, every contractual claim or claims in an aggregate amount in excess of $100,000 but not exceeding $250,000 per contract that cannot be resolved by the department and the contractor may be arbitrated by the board after acceptance of the project by the department, provided no party to the dispute requests the claim or claims be submitted to binding private arbitration.* A court of law may not consider the settlement of such a claim until the process established by this section has been exhausted.

(2) The board shall be composed of three members. One member shall be appointed by the head of the department, and one member shall be elected by those construction companies who are under contract with the department. The third member shall be chosen by agreement of the other two members. Whenever the third member has a conflict of interest regarding affiliation with one of the parties, the other two members shall select an alternate member for that hearing. Each member shall serve a 2-year term~~, but a member may not serve more than three consecutive terms~~. The board shall elect a chairman, each term, who shall be the administrator of the board and custodian of its records.

(8) The party requesting arbitration shall pay a fee to the board in accordance with a schedule established by it, not to exceed $500 per claim *which is $100,000 or less, and not to exceed $1,000 per claim which is in excess of $100,000 but not exceeding $250,000*, to cover the cost of administration and compensation of the board.

Section 131. Section 337.221, Florida Statutes, is amended to read:

337.221 Claims settlement process.—It is the intent of the Legislature that a process be created to resolve contractual claims between the department and providers of goods and services and that the department pursue the recovery of additional costs resulting from substandard goods and services provided to the department.

(1) To implement this policy, the department shall~~, by rule,~~ establish a process to resolve claims for additional monetary compensation, time, or other adjustments to the contract.

(2) The department shall document its final decision on all claims, including reasonable support for its decision.

(3) On all claims resolutions resulting in increases of the contract by more than $500,000, a responsible department director, after reasonable inquiry, shall:

(a) Certify that no known facts or circumstances relating to the resolution of the claim indicate any improper intervention or influence, or attempts at any such intervention or influence, on behalf of the consultant or contractor; or

(b) Report to the secretary of the department that facts or circumstances exist that indicate improper intervention or influence, or attempts at such improper intervention or influence, on behalf of the consultant or contractor.

Any such certification or report shall be verified in accordance with s. 92.525.

(4) The recovery for a claim not resolved through the department's claim settlement process shall only be pursued through state arbitration board or circuit court proceedings, as provided by law.

(5) The department shall annually file a summary report on claim settlements to the transportation committees of the Legislature by October 1 each year. The report shall provide sufficient information to determine whether further inquiry into the claims settlement process is warranted.

~~(2) At a minimum the rule shall:~~

~~(a) Assign responsibility to persons within the department for identifying, documenting, reviewing, and approving claims.~~

~~(b) Specify the criteria used to analyze and resolve claims.~~

~~(c) Require the department to maintain detailed documentation in writing to support its position on all claims, including the department's final decision or settlement.~~

~~(d) Establish a threshold for the department's chief internal auditor to review resolved claims over a specified amount and determine whether the claims have been processed in accordance with all applicable laws, rules, and procedures.~~

~~(e) Require that each claim over a specified amount or other significant adjustment to the contract be reviewed by a department legal representative. All claims and adjustments to the contract that are determined by the department to be valid must be approved by a minimum of two department managers, one of whom shall be the responsible district or central office director. Further, for each claim that results in a supplemental agreement or other contract modification and increases the value of the contract by more than $500,000, the department shall execute a certificate as a condition of the supplemental agreement or modification becoming effective that contains the following representations:~~

~~1. The responsible attorney shall certify that the supplemental agreement or other contract modification complies with all applicable laws and policies of the department and has been duly authorized and executed. Findings by the responsible attorney that indicate possible noncompliance with applicable laws, rules, or procedures shall be reported in writing to the responsible director.~~

~~2. The responsible director shall certify that there are no facts or circumstances relating to the supplemental agreement or other contract modification that would indicate that the agreement or modification was effected by any improper influences or by any improper intervention on behalf of the consultant or contractor by any state officer, state employee, or any other person outside the department.~~

~~The foregoing certificate shall be maintained as a part of the permanent contract records of the department.~~

~~(3) The department shall annually report to the transportation committees of the Legislature by October 1 each year the number and dollar amounts of new and prior year claims; the total number and dollar amounts originally claimed compared to their final settlement amount for those claims resolved during the year; a listing of how all claims were resolved during the year, and the number and dollar amounts of claims that resulted in further formal action by the department or claimant.~~

~~(4) The rule for implementing the provisions of this section shall be adopted by the department no later than January 1, 1991.~~

Section 132. Section 337.108, Florida Statutes, is created to read:

337.108 Hazardous materials and pollutants; indemnification.—

(1) For purposes of this section:

(a) The term "hazardous materials" shall have the same meaning as provided in s. 768.128(1)(a).

(b) The term "pollutants" shall have the same meaning as provided in s. 376.031(13).

(c) The term "contractor" means any person or firm having a contract for rendering services to the department relating to the construction or maintenance of a transportation facility; the term does not include persons or firms performing hazardous material or pollutant response, containment, disposal, or clean-up services.

(2) The department may agree to hold harmless and indemnify a contractor for damages when the contractor discovers or encounters hazardous materials or pollutants during the performance of services for the department when the presence of such materials or pollutants were unknown or not reasonably discoverable. Such indemnification agreements shall only be effective if the contractor immediately stops work and notifies the department of the hazardous material or pollutant problem.

(3) Such an indemnification agreement may not indemnify the contractor for damages resulting from any willful, wanton, or intentional conduct of the contractor.

Section 133. Subsection (6) of section 337.015, Florida Statutes, is renumbered as subsection (7), and a new subsection (6) is added to said section to read:

337.015 Administration of public contracts.—Recognizing that the inefficient and ineffective administration of public contracts inconveniences the traveling public, increases costs to taxpayers, and interferes with commerce, the Legislature hereby determines and declares that:

(6) The department shall make payments for road and bridge construction and maintenance work throughout the month so that the cash balance fluctuates as little as practicable.

Section 134. Section 337.17, Florida Statutes, is amended to read:

337.17 Bid guaranty.—The department shall only require guaranty with each bid for a construction contract in excess of $150,000 in an amount to be specified by the department which shall not exceed 10 percent of the preliminary estimate of the cost of the work. The guaranty may, in the discretion of the bidder, be in the form of a cashier's check, bank money order, bank draft of any national or state bank, certified check, or surety bond, payable to the *department* ~~Governor and his successors in office~~. The surety on any bid bond shall be a company recognized to execute bid bonds for contracts of the Federal Government.

Section 135. Paragraph (f) of subsection (4) of section 287.042, Florida Statutes, is amended to read:

287.042 Powers, duties, and functions.—The division shall have the following powers, duties, and functions:

(4) To establish a system of coordinated, uniform procurement policies, procedures, and practices to be used by agencies in acquiring commodities and contractual services, which shall include, but not be limited to:

(f)1. Development of procedures to be used by an agency in identifying commodities, contractual services, architectural and engineering services, and construction contracts, except those *architectural, engineering,* construction, *or other related services or* contracts subject to the provisions of chapter 339, that could be provided by minority business enterprises. Each agency is encouraged to spend 21 percent of the moneys actually expended for construction contracts, 25 percent of the moneys actually expended for architectural and engineering contracts, 24 percent of the moneys actually expended for commodities, and 50.5 percent of the moneys actually expended for contractual services during the previous fiscal year and reported to the Legislature pursuant to s. 216.023, for the purpose of entering into contracts with certified minority business enterprises as defined in s. 288.703(2). However, in the event of budget reductions pursuant to s. 216.221, the base amounts may be adjusted to reflect such reductions. The overall spending goal for each industry category shall be subdivided as follows:

a. For construction contracts: 4 percent for black Americans, 6 percent for Hispanic Americans, and 11 percent for American women.

b. For architectural and engineering contracts: 9 percent for Hispanic Americans, 1 percent for Asian Americans, and 15 percent for American women.

c. For commodities: 2 percent for black Americans, 4 percent for Hispanic Americans, 0.5 percent for Asian Americans, 0.5 percent for native Americans, and 17 percent for American women.

d. For contractual services: 6 percent for black Americans, 7 percent for Hispanic Americans, 1 percent for Asian Americans, 0.5 percent for native Americans, and 36 percent for American women.

2. For the purposes of commodities contracts for the purchase of equipment to be used in the construction and maintenance of state transportation facilities involving the Department of Transportation, "minority business enterprise" means any business concern which is organized to engage in commercial transactions, which is domiciled in this state, and which is at least 51 percent controlled by minority persons and the management and daily operations of which are controlled by such persons. "Minority person" has the same meaning as in s. 288.703(3). In order to ensure that the goals established under this paragraph for contracting with certified minority business enterprises are met, the division shall make recommendations to the Legislature on revisions to the goals, based on an updated statistical analysis, at least once every 5 years. Such recommendations shall be based on statistical data indicating the availability of and disparity in the use of minority businesses contracting with the state. The results of the first updated disparity study must be presented to the Legislature no later than December 1, 1995.

3. In determining the base amounts for assessing compliance with this paragraph, the Minority Business Enterprise Assistance Office within the Department of General Services shall develop by rule guidelines for all agencies to use in establishing such base amounts. These rules must include, but are not limited to, a deadline for the agencies to submit base amounts, a deadline for approval of the base amounts by the Minority Business Enterprise Assistance Office, and procedures for adjusting the base amounts as a result of budget reductions made pursuant to s. 216.221.

Section 136. Subsection (3) of section 338.2275, Florida Statutes, is amended to read:

338.2275 Approved turnpike projects.—Pursuant to s. 11(e), Art. VII of the State Constitution, the Legislature hereby approves:

(3) Subject to verification of economic feasibility by the department, determination that such projects are consistent, to the maximum extent feasible, with approved local government comprehensive plans of the local government jurisdiction in which such projects are located, and completion of a statement of environmental feasibility in accordance with s. 338.221(8) and (10), respectively, the following projects are approved:

(a) The Polk County Parkway; a 24.8-mile two-lane and four-lane limited access expressway in Polk County extending from the intersection of I-4 and Clark Road near the Hillsborough County Line through Lakeland near Drainfield Road eastward to State Road 540 and to U.S. 98 and then east and northward to near Polk City to intersect with I-4 near Mount Olive Road. The department is authorized to *use* ~~utilize~~ up to *$412* ~~$335~~ million for this project.

(b) Branan Field/Chaffee Road Facility; *an 11-mile* ~~a 10.5-mile~~ limited access expressway extending north from State Road 21 in Clay County to *Chaffee Road* ~~103rd Street~~ in western Duval County. The department is authorized to *use* ~~utilize~~ up to *$102* ~~$52.2~~ million for this project.

(c) Palmer Expressway; a 6.2-mile four-lane limited access expressway in St. Lucie County extending from Glades Cut-off Road to U.S. 1. The department is authorized to *use* ~~utilize~~ up to *$121* ~~$102~~ million for this project.

(d) Seminole County Expressway, Project 1; a four-lane limited access expressway extending 12 miles from State Road 426 near the Orange/Seminole County line in east Orlando to U.S. 17-92. The department is authorized to *use* ~~utilize~~ up to *$200* ~~$182.4~~ million for this project.

(e) Northwest Hillsborough Expressway; a 14.9-mile four-lane limited access toll facility extending north from the Courtney Campbell Causeway near the Tampa International Airport to Dale Mabry Highway (State Road 597) just north of Van Dyke Road. The department is authorized to *use* ~~utilize~~ up to *$333* ~~$325.9~~ million for this project.

(f) The Southern Connector Extension; a 6.0 mile four-lane limited access extension of the Southern Connector toll facility extending southwesterly from a point one mile east of State Road 535 to an interchange with I-4 south of U.S. 192. The department is authorized to *use* ~~utilize~~ up to *$82* ~~$81.5~~ million for this project.

(g) Seminole County Expressway, Project 2; a 5.7 mile, four-lane, limited access highway extending from U.S. 17/92 interchange to an interchange with C.R. 46A and I-4. The department is authorized to *use* ~~utilize~~ up to *$150* ~~$149.8~~ million for this project.

(h) North Suncoast Corridor; a 43 mile, four-lane, limited access highway extending north from the Northwest Hillsborough Expressway to S.R. 700 (U.S. 98) in Hernando County. The department is authorized to *use* ~~utilize~~ up to *$434* ~~$402.5~~ million for this project.

(i) Western Beltway; a 55.0 mile, four-lane, limited access highway originating at I-4 in the vicinity of C.R. 46A in Seminole County and extending westerly and southerly through Orange and Osceola Counties to an interchange with I-4 near the Osceola-Polk county line, *excluding that portion known as the Northwest Beltway Part A, extending from Florida's Turnpike near Ocoee north to U.S. 441 near Apopka.* The department is authorized to *use* ~~utilize~~ up to *$453 2* ~~$636.8~~ million for this project.

(j) Central Connector; a 5-mile, limited access highway in Orange County extending from the Bee Line Expressway east of Florida's Turnpike, north to Interstate 4 near the Orange Blossom Trail, including the Downtown I-4/Systems Interchange. The department is authorized to use up to $350 million for this project.

(k) Northern Extension Project; a 49.0 mile, four-lane, limited access highway extending from the northern terminus of the Florida Turnpike in Sumter County to an interchange with U.S. 19 at Lebanon Station in Levy County. The department is authorized to use up to $336 million for this project.

(l)~~(j)~~ Atlantic Boulevard Interchange in Broward County.

(m)~~(k)~~ N.W. 37th Avenue Interchange in Broward County.

(n)~~(l)~~ S.R. 80/Southern Boulevard Interchange in Palm Beach County.

(o)~~(m)~~ Forest Hill Boulevard Interchange in Palm Beach County.

(p)~~(n)~~ N.W. 45th Street Interchange in Palm Beach County.

(q)~~(o)~~ Lake Worth Road Interchange in Palm Beach County.

(r)~~(p)~~ East/West Expressway Interchange in Orange County.

(s)~~(q)~~ Southern Connector Interchange in Orange County.

(t)~~(r)~~ S.R. 50 Interchange in Orange County.

(u)~~(s)~~ Dart Boulevard Interchange in Osceola County.

(v)~~(t)~~ N.W. 74th Street Interchange in Dade County.

(w)~~(u)~~ Allapattah Road Interchange in Dade County.

(x)~~(v)~~ Tallahassee Road Interchange in Dade County.

(y)~~(w)~~ Biscayne Drive Interchange in Dade County.

(z)~~(x)~~ Campbell Drive Interchange in Dade County.

A maximum of *$1.5* ~~up to $1.1~~ billion of bonds may be issued to fund the projects contained in this subsection. The department is authorized to *use* ~~utilize~~ turnpike revenues, the State Transportation Trust Fund moneys allocated for turnpike projects pursuant to s. 338.001, and bond proceeds for the above projects, and shall use the most cost-efficient combination of such funds in developing a financial plan for funding the projects. Up to 10 percent of the total amount of the approved costs of all of the above projects may be set aside as a contingency amount, from which the department may allocate funds for a project that exceeds the cost approved above, but in no event shall the funds allocated from this contingency amount exceed 15 percent of the project's approved cost. Verification of economic feasibility and statements of environmental feasibility for individual projects shall be based on the entire project as approved. Statements of environmental feasibility shall not be required for those projects set forth in this subsection on which the Project Development and Environmental Reports have been completed by July 1, 1990. All required environmental permits shall be obtained before the department may advertise for bids for contracts for the construction of any turnpike project.

Section 137. Subsection (3) of section 338 223, Florida Statutes, is amended to read:

338.223 Proposed turnpike projects~~; turnpike system plan~~.—

(3) All obligations and expenses incurred by the department under this section shall be paid by the department and charged to the appropriate turnpike project. The department shall keep proper records and accounts showing each amount that is so charged. All obligations and expenses so incurred shall be treated as part of the cost of such project and shall be reimbursed to the department out of turnpike revenues or out of the bonds authorized under ss. 338.22-338.244 except when such reimbursement is prohibited by state or federal law. However, the department is authorized, with the approval of the Legislature, to pay from the State Transportation Trust Fund a portion of the capital cost of toll projects as necessary to meet the requirements of s. 338.223(1)(a). *In order to meet the requirements of paragraph (1)(a), the department may provide that State Transportation Trust Fund moneys spent prior to July 1, 1992, included in the work program adopted in July 1991, or included in the work program adopted no later than July 1, 1992, for a proposed turnpike project do not have to be reimbursed to the State Transportation Trust Fund, or used in determining the economic feasibility of the proposed project.*

Section 138. Subsection (1) of section 337.26, Florida Statutes, is amended to read:

337.26 Execution and effect of instruments of sale, lease, or conveyance executed by department.—

(1) An instrument of sale, lease, or conveyance executed in the name of the department, and signed by the department's chief administrative officer of the district in which the property is located, *or, if the property is located on the turnpike system, by the chief administrative officer of the Office of Florida Turnpike,* when such authority has been delegated by the head of the department, with the corporate seal of the department affixed thereto, is effective to pass the title or interest of the state in the property conveyed.

Section 139. Subsection (1) of section 337.27, Florida Statutes, is amended to read:

337.27 Exercise of power of eminent domain by department; procedure; title; cost.—

(1) The power of eminent domain is vested in the department to condemn all necessary lands and property, including rights of access, air, view, and light, whether public or private, for the purpose of securing and utilizing transportation rights-of-way, including, but not limited to, any lands reasonably necessary for securing applicable permits, areas necessary for management of access, borrow pits, drainage ditches, water retention areas, rest areas, replacement access for landowners whose access is impaired due to the construction of a facility, and replacement rights-of-way for relocated rail and utility facilities; for existing, proposed, or anticipated transportation facilities on the State Highway System or State Park Road System; or in a transportation corridor designated by the department; or for the purposes of screening, relocation, removal, or disposal of junkyards and scrap metal processing facilities. The department shall also have the power to condemn any material and property necessary for such purposes. The secretary of the Department of Transportation may delegate the authority to execute eminent domain resolutions to the department's chief administrative officer of the district in which the property is located, *or to the chief administrative officer of the Office of Florida Turnpike if the property is to be acquired for a turnpike system project. A noncharter county may not exercise the power of eminent domain pursuant to chapter 127 to construct a structure, as defined in s. 334.03(24), that is within the jurisdiction of more than two general purpose local governments unless such structure is consistent with the comprehensive plans of all such local governments or construction funds are available immediately and all applicable permits have been obtained.*

Section 140. Effective October 1, 1992, section 316.1001, Florida Statutes, is amended to read:

316.1001 Payment of toll on toll facilities required; penalties.—

(1) A ~~No~~ person *may not* ~~shall~~ use any toll facility without payment of tolls, except as provided in s. 338.155. *Except as provided in subsection (2), the* failure to pay a prescribed toll is a noncriminal traffic infraction, punishable as a moving violation pursuant to s. 318.18.

(2)(a) Any governmental entity, as defined in s. 334.03, which owns or operates a toll facility equipped with a camera or other photographic device for the purpose of enforcing this section may, by rule or ordinance, provide for the assessment of a fine against any person who fails to pay a prescribed toll, if photographic evidence exists regarding such

violation. Such fine shall be assessed in lieu of the penalty for a moving violation as set forth in s. 318.18. The assessment of a fine is an alternative penalty for a moving violation and such assessment option shall not be grounds for a chapter 120 proceeding.

(b) "Toll enforcement officer" means any designated employee or agent of a governmental entity as described in this section whose duty is to enforce the payment of tolls. The governmental entity may designate certain of its employees or agents as toll enforcement officers. The training and qualifications of the employees or agents for such designation shall be determined by the governmental entity. Designation as a toll enforcement officer does not provide the toll enforcement officer with the power of arrest or subject the toll enforcement officer to the provisions of ss. 943.085-943.255. Nothing in this section amends, alters, or contravenes the provisions of any state-administered retirement system or any state-supported retirement system established by general law.

(c) Any person assessed a fine for a violation pursuant to this section by a toll enforcement officer shall be deemed to be charged with a noncriminal violation and shall comply with the directions on the notice. Notification of a violation shall be in the form of a ticket issued by a toll enforcement officer. Mailing of the ticket to the address of the registered owner shall constitute notification.

(d) A ticket issued by a toll enforcement officer shall contain:

1. The date and time of issuance.

2. The name and address of the person to whom the ticket is issued.

3. The date, time, and location the alleged violation was committed.

4. The alphanumeric designation of the license plate on the vehicle that was used in the alleged violation.

5. The facts constituting reasonable cause, including a statement that photographic evidence of the alleged violation exists.

6. The number or section of the statute, code, or ordinance alleged to be violated.

7. The name and authority of the toll enforcement officer.

8. The procedure for the person to follow in order to pay the fine or to contest the ticket.

9. The applicable maximum civil penalty if the person elects to contest the ticket.

10. The applicable fine if the person elects not to contest the ticket.

(e) The owner of a vehicle is responsible and liable for payment of any ticket for failure to pay a toll, unless the owner can furnish evidence that the vehicle was, at the time of the alleged violation, in the care, custody, or control of another person. In such instances, the owner of the vehicle is required, within a reasonable time after notification of the alleged violation, to furnish to the appropriate governmental entity an affidavit setting forth the name, address, and driver license number of the person who leased, rented, or otherwise had the care, custody, or control of the vehicle. The affidavit shall be admissible in a proceeding charging a violation of this section and shall raise the rebuttable presumption that the person identified in the affidavit was in actual control of the vehicle, in which case such person may be issued a ticket for failure to pay a required toll.

(f) The fine may not be greater than $10 for a first violation, $25 for a second violation, $50 for a third violation, and $100 for a fourth or subsequent violation. Revenues received from the fine assessed pursuant to this subsection shall be returned to the governmental entity responsible for the collection of tolls and may be used to offset the costs of collecting tolls or any other lawful purpose related to the operation and maintenance of the facility.

(g) In the event that payment is not received or an affidavit in response to the ticket is not received within the time period specified thereon, the vehicle owner is presumed to have waived his right to pay the fine without additional penalty and a uniform traffic citation for failure to pay a toll may be issued to the registered owner of the vehicle, pursuant to chapters 316 and 318. The penalty assessed pursuant to the citation shall be in addition to the fine. In the case of joint ownership, the citation shall be issued to the first name appearing on the registration. If the citation is mailed, it must be sent by certified mail, return receipt requested, to the address of the registered owner of the vehicle. Upon notification, the registered owner of the vehicle shall comply with the requirements as directed by the citation.

(h) Photographic evidence which indicates that a required toll was not paid for the vehicle identified by the evidence is admissible in any proceeding to enforce this subsection, and such evidence shall raise the rebuttable presumption that a required toll was not paid for the vehicle identified by the evidence.

(i) Any governmental entity as provided by this section may supply the department with a magnetically encoded computer tape reel or cartridge which is machine readable by the installed computer system at the department, listing persons who have three or more outstanding violations for failure to pay a prescribed toll. The department shall mark the appropriate registration records of persons so reported. The provisions of s. 320.03(8) shall apply to each person whose name appears on such list.

Section 141. Effective October 1, 1992, subsection (8) of section 320.03, Florida Statutes, is amended to read:

320.03 Registration; duties of tax collectors; International Registration Plan.—

(8) If the applicant's name appears on the list referred to in *s. 316.1001(2) or* s. 316.1967(6), no license plate or revalidation sticker shall be issued until such person's name no longer appears on said list or until he presents a receipt from the clerk showing that such ~~parking~~ fines have been paid. The tax collector and the clerk of the court shall each be entitled to receive monthly, as costs for implementing and administering this subsection, 10 percent of the civil penalties and fines recovered from such persons. If the tax collector has private tag agents, such tag agents shall be entitled to receive a pro rata share of the amount paid to the tax collector, based upon the percentage of license plates and revalidation stickers issued by such tag agent compared to the total issued within such county. The authority to issue license plates of any private agent who issues any license plate or revalidation sticker contrary to the provisions of this subsection shall be revoked after notice and hearing as provided in chapter 120.

Section 142. Subsection (3) is added to section 316.660, Florida Statutes, to read:

316.660 Disposition of fines and forfeitures collected for violations.—

(3) When a citation has been issued, fines assessed pursuant to s. 316.1001 shall be collected and distributed by the clerk of the court as provided in such section.

Section 143. Paragraph (c) is added to subsection (2) of section 316.2952, Florida Statutes, to read:

316.2952 Windshields; requirements; restrictions.—

(2) A person shall not operate any motor vehicle on any public highway, road, or street with any sign, sunscreening material, product, or covering attached to, or located in or upon, the windshield, except the following:

(c) A device, issued by a governmental entity as defined in s. 334.03, or its designee, for the express purpose of electronic toll payments.

Section 144. Subsection (2) of section 318.14, Florida Statutes, is amended to read:

318.14 Noncriminal traffic infractions; exception; procedures.—

(2) Any person cited for an infraction under this section shall sign and accept a citation indicating a promise to appear. *However, a citation issued based on photographic evidence to enforce s. 316.1001 is not required to be signed and may be sent to the vehicle owner at the mailing address appearing on the registration of the vehicle which was photographed.* The officer may indicate on the traffic citation the time and location of the scheduled hearing and shall indicate the applicable civil penalty established in s. 318.18.

Section 145. Subsection (3) of section 318.18, Florida Statutes, is amended to read:

318.18 Amount of civil penalties.—The penalties required for a noncriminal disposition pursuant to ss. 316.2935(6) and 318.14(1), (2), and (4) are as follows:

(3) Fifty-two dollars for all moving violations not requiring a mandatory appearance.

(a) With respect to violations involving an unlawful speed, there shall be added to such $52 an amount equal to $2 for every mile per hour over the lawful speed limit.

(b) With respect to violations of s. 316.1001, a fine may be assessed, as provided in that section, in addition to the penalty assessed by this subsection and subsection (11).

Section 146. Subsection (6) of section 348.60, Florida Statutes, is amended to read:

348.60 Lease-purchase agreements.—

(6) ~~Any lease-purchase agreement may provide that~~ The system shall be a part of the state road system. The department is hereby authorized, upon request of the authority, to expend out of any funds available for the purpose, such moneys, and to use such of its engineering or other forces, as may be necessary and desirable in the judgment of the department, for the operation of the authority and for traffic surveys, borings, surveys, preparation of plans and specifications, estimates of costs, preliminary engineering and other studies.

Section 147. *Pursuant to section 11(e), Article VII of the State Constitution, the Legislature hereby approves for bond financing by the Orlando-Orange County Expressway Authority improvements to toll collection facilities, interchanges to the legislatively approved expressway system, and any other facility appurtenant, necessary, or incidental to the approved system. Subject to terms and conditions of applicable revenue bond resolutions and covenants, such financing may be in whole or in part by revenue bonds currently issued, issued in the future or by a combination of such bonds.*

Section 148. *The Orlando-Orange County Expressway Authority is hereby authorized to construct that portion of the Western Beltway known as the Northwest Beltway Part A, extending from Florida's Turnpike near Ocoee north to U.S. 441 near Apopka, as part of the authority's 20-year capital projects plan. This project shall be financed with any funds available to the authority for such purpose or revenue bonds issued by the Division of Bond Finance of the Department of General Services on behalf of the authority pursuant to s. 11, Art. VII of the State Constitution and the State Bond Act, ss. 215.57-215.83, Florida Statutes. Notwithstanding s 338.2275, Florida Statutes, any portion of the Western Beltway financed by Orlando-Orange County Expressway Authority revenue bonds shall not be a part of the Florida Turnpike.*

Section 149. Subsections (10) and (11) of section 348.966, Florida Statutes, are amended to read:

348.966 Definitions.—As used in this part, unless the context clearly indicates otherwise, the term:

(10) *"Receipts" means all tolls, revenues, rates, fees, charges, rentals, contributions, grants, advances, and other sums or receipts of the authority derived from any source whatsoever, including amounts received pursuant to any lease-purchase agreement between the authority and the department and amounts received as a result of any arrangement entered into by the authority pursuant to s. 348.973.*

(11) "Santa Rosa Bay Bridge System" means *a bridge between Red Fish Point on the mainland and Garcon Point on the cape, which may include an eventual connection to Santa Rosa Island, together with any and all appurtenant facilities, approaches, and avenues of access* ~~any and all appurtenant facilities, all approaches, and avenues of access for a bridge between Red Fish Point on the mainland and Garcon Point on the cape, with eventual connection to Santa Rosa Island~~.

~~(11) "Santa Rosa County gasoline tax funds" means all the 80 percent surplus gasoline tax funds accruing in each year to the Department of Transportation for use in Santa Rosa County under the provisions of s. 9, Art. XII of the State Constitution, after deduction only of any amounts of such gasoline tax funds heretofore pledged by the department or the county for outstanding obligations.~~

Section 150. Section 348.968, Florida Statutes, is amended to read:

348.968 Purposes and powers.—

(1)(a) The authority created and established by the provisions of this part is granted and shall have the right to acquire, hold, construct, improve, maintain, operate, own, and lease *all or any part of* the Santa Rosa Bay Bridge System, hereinafter referred to as the "system."

(b) It is the express intention of this part that the authority, in the construction of the system, be authorized to construct any extensions, additions, or improvements to the system or appurtenant facilities, including all necessary approaches and avenues of access, with such changes, modifications, or revisions of the project as are deemed desirable and proper.

(2) The authority is granted, and shall have and may exercise, all powers necessary, appurtenant, convenient, or incidental to the carrying out of said purposes, including, but not limited to, the following rights and powers:

(a) To sue and be sued, implead and be impleaded, and complain and defend in all courts.

(b) To adopt, use, and alter at will a corporate seal.

(c) To acquire, purchase, hold, lease as lessee, and use any franchise or property, real, personal, or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the authority and to sell, lease as lessor, transfer, and dispose of any property or interest therein at any time acquired by it.

(d) To enter into and make leases, either as lessee or as lessor, in order to carry out the right to lease as set forth in this part.

(e) To enter into and make lease-purchase agreements with the department *as provided herein* ~~until any bonds secured by a pledge of rentals thereunder, and any refundings thereof, are fully paid as to both principal and interest~~.

(f) To fix, alter, charge, establish, and collect tolls, rates, fees, rentals, and other charges for the services and facilities *of the* system, which tolls, rates, fees, rentals, and other charges must always be sufficient to comply with any covenants made with the holders of any bonds issued pursuant to this part. However, such right and power may be assigned or delegated by the authority to the department.

(g) To borrow money *and make and issue bonds, which bonds may be issued pursuant to the State Bond Act or, in the alternative, pursuant to the provisions of s. 348.969(2), in either case, for any purpose of the authority authorized, including the financing of all or part of the cost, as specified in s. 190.003(7), of all or any part of the system and the refunding of any and all previous issues of bonds of the authority at or prior to maturity.* ~~as provided by the State Bond Act.~~

(h) To make contracts of every name and nature and to execute all instruments necessary or convenient for the carrying on of its business, *including entering into contracts for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature, subject to the requirements of applicable law relating to public bidding.*

(i) Without limitation of the foregoing, to borrow money and accept grants from, and to enter into contracts, *including interlocal agreements,* leases, or other transactions, with, any federal agency, the state, *or any political subdivision thereof,* any agency of the state, Santa Rosa County, or any other public body of the state, *including pursuant to s. 348.973. For purposes of the foregoing, the authority shall have the right to apply for, receive, and participate in, any and all grants, advances, and technical support provided by any federal agency or the department, the division, the county, or other political subdivision, agency, or instrumentality of the state to local governmental entities, special districts, expressway or transportation authorities, road and bridge districts, special road and bridge districts, metropolitan transportation authorities, and other public subdivisions, agencies, and instrumentalities of the state pursuant to the Florida Transportation Code, in connection with the State Highway System or otherwise.*

(j) To have the power of eminent domain, including the procedural powers granted under chapters 73 and 74.

(k) To pledge, hypothecate, or otherwise encumber all or any part *of its receipts as security for all or any of the obligations of the authority.* ~~of the revenues, tolls, rates, fees, rentals, or other charges or receipts of the authority, including all or any portion of the Santa Rosa County gasoline tax funds received by the authority subject to the approval of the county commission and pursuant to the terms of any lease-purchase agreement between the authority and the department, as security for all or any of the obligations of the authority.~~

(l) To do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority in order to carry out the powers granted to it by this part or any other law.

(3) Any provision in this part or any other provision of law to the contrary notwithstanding, the consent of any municipality is not necessary for any project of the authority, whether or not the project lies in whole or in part within the boundaries of the municipality. However, the officials and residents of any municipality in which any project of the authority is to be located, in whole or in part, shall be given ample opportunity to discuss the project and advise the authority as to their positions thereon at a duly advertised public hearing. Advertisement of the public hearing shall be by way of a newspaper published in Santa Rosa County and circulated in the affected municipality. The legal notice and display advertisement shall be published at least 2 weeks before the public hearing and shall contain the time and place of the public hearing and a short description of the subject to be discussed. The public hearing may be adjourned from time to time and set for a time and place certain without the necessity of further advertisement. In routing and locating any expressway or its interchanges in or through a municipality, the authority shall give due regard to the effect of such location on the municipality as a whole and shall not unreasonably split, divide, or otherwise separate areas of the municipality one from the other.

Section 151. Section 348.969, Florida Statutes, is amended to read:

348.969 Bonds~~; reimbursement to county for gasoline tax funds expended for payment of bonds.~~—

(1) Bonds may be issued on behalf of the authority as provided by the State Bond Act. *In the alternative, the authority may issue bonds pursuant to the provisions of subsection (2).*

(2)(a) Bonds of the authority issued pursuant to the provisions of this subsection, whether on original issuance or on refunding, shall be authorized by one or more resolutions of the members, which resolutions may be adopted at the same meeting at which they are introduced. Bonds of the authority so authorized may be issued in one or more series, may be either term or serial bonds, and shall bear such date or dates, be payable on demand or mature at such time or times (not to exceed 40 years from their respective dates), bear interest, fixed or variable, at such rate or rates not exceeding the maximum lawful interest rate, be in such denominations, be in such form (either coupon or fully registered), carry such registration, replacement, or exchangeability privileges, be payable in such medium of payment and at such place or places, be subject to such terms of redemption, with or without premium, have such rank and be entitled to such priorities on the receipts of the authority as the authority may determine. The bonds shall be executed either by manual or facsimile signature by such officers as the authority shall determine, provided such bonds bear at least one signature which is manually executed thereon for the purpose of authenticating same, which manual signature may be that of an authorized officer of the trustee for such bonds, and the coupons attached to such bonds shall bear the facsimile signature or signatures of such officer or officers as are designated by the authority and shall have the seal of the authority affixed, imprinted, reproduced, or lithographed thereon, all as may be prescribed in such resolution or resolutions. In case any officer whose signature or facsimile signature appears on any bonds or coupons ceases to be such officer before delivery of such bonds or coupons, such signature or facsimile signature shall nevertheless be valid and sufficient for all purposes as fully and to the same extent as if such officer had remained in office until such delivery.

(b) Such bonds shall be sold at public or private sale at such price or prices as the authority determines to be in its best interest, except that the interest costs to the authority on such bonds may not exceed the maximum lawful interest rate. Pending the preparation of definitive bonds, interim certificates may be issued to the purchaser or purchasers of such bonds and may contain such terms and conditions as the authority may determine.

(c) Any such resolution or resolutions authorizing any bonds hereunder may contain provisions, and valid and legally binding covenants of the authority, which shall be part of the contract with the holders of such bonds, as to:

1. The pledging of all or any part of the authority's receipts.

2. The completion, improvement, operation, extension, maintenance, repair, lease or lease-purchase agreement of all or any part of the system and the duties of the authority and others, including the department, with reference thereto.

3. Limitations on the purposes to which the proceeds of the bonds, then or thereafter to be issued, or of any advances or grants may be applied.

4. The fixing, charging, establishing, and collecting of tolls, rates, fees, rentals, or other charges for use of the services and facilities of the system or any part thereof.

5. The setting aside of reserves or sinking funds or repair and replacement funds and the regulation and disposition thereof.

6. Limitations on the issuance of additional bonds.

7. The terms and provisions of any lease-purchase agreement, deed of trust, or indenture securing the bonds, or under which the same may be issued.

8. Any other provisions, additional covenants, and agreements with the holders of the bonds that the authority may deem desirable and proper, including to enhance the security of such bonds or the marketability thereof and which are customary in accordance with the market requirements of the sale of such bonds.

(d) The State Board of Administration may, upon request of the authority, act as fiscal agent for the authority in the issuance of any bonds which may be issued pursuant to this subsection or the State Bond Act; and the State Board of Administration may, upon request of the authority, take over the management, control, administration, custody, and payment of any and all debt services or funds or assets now or hereafter available for any bonds issued pursuant to this part. Alternatively, as security for such bonds the authority may enter into deeds of trust, indentures, or other agreements with a corporate trustee or trustees, which shall act as fiscal agent for the authority and may be any trust company within or without the State of Florida and may, under such instruments, assign and pledge all or any of the revenues. Any such deed of trust, indenture, or other agreement may contain such provisions as are customary in such instruments or as the authority may authorize, including, but without limitation, provisions as to:

1. The completion, improvement, operation, extension, maintenance, repair, and lease of, or lease-purchase agreement relating to, all or any part of the system and the duties of the authority and others, including the department, with reference thereto.

2. The application of funds and the safeguarding of funds on hand or on deposit.

3. The rights and remedies of the trustee and the holders of the bonds.

4. The terms and provisions of the bonds or the resolutions authorizing the issuance of same and terms and conditions for modification or amendments of any of the foregoing and of any covenants of the authority in the proceedings authorizing the issuance of the bonds.

(e) Any of the bonds issued pursuant to this subsection are, and are hereby declared to be, negotiable instruments and shall have all the qualities and incidents of negotiable instruments under the law merchant and the Uniform Commercial Code of this state. ~~The authority shall reimburse Santa Rosa County for any sums expended, together with interest at the highest rate applicable to the bonds of the authority for which the sums were required, from the Santa Rosa County gasoline tax funds for payment of the bonds.~~

Section 152. Section 348.97, Florida Statutes, is amended to read:

348.97 Lease-purchase agreement.—

(1) In order to effectuate the purposes of this part and as authorized herein, the authority may, *but shall not be required to,* enter into a lease-purchase agreement with the department relating to and covering *all or any part of* the system.

(2) *Any* ~~The~~ lease-purchase agreement *may* ~~shall~~ provide for the leasing *and ultimate sale of all or any part* of the system by the authority, as lessor, to the department, as lessee, and shall prescribe the terms of such lease and the rentals to be paid thereunder.

(3) The lease-purchase agreement may include such other provisions, agreements, and covenants as the authority and the department deem advisable or required, including, but not limited to, provisions as to the bonds to be issued under and for the purposes of this part; the comple-

tion, extension, improvement, operation, and maintenance *of all or any part* of the system and the expenses and cost of operation of the authority; the charging and collection of tolls, rates, fees, rentals, or other charges for the use of the services and facilities thereof; the application of *grants, aid, contributions, or advances* ~~federal or state grants or aid~~ which may be made or given to assist the authority in the completion, extension, improvement, operation, and maintenance *of all of any part* of the system, which the authority is authorized to accept and apply to such purposes; the enforcement of payment and collection of tolls, rates, fees, and rentals; and any other terms, provisions, or covenants necessary, incidental, or appurtenant to the making of, and full performance under, such lease-purchase agreement.

(4) The department, as lessee under such lease-purchase agreement, is authorized to pay, as rentals thereunder, any tolls, rates, fees, charges, funds, moneys, receipts, or income accruing to the department from the operation of the system ~~and from the Santa Rosa County gasoline tax funds~~ and may also pay, as rentals, any appropriations received by the department pursuant to any act of the Legislature heretofore or hereafter enacted in which the appropriations are expressly authorized to be used as rentals for the system; *however, nothing herein or in such lease-purchase agreement is intended to, nor shall this part or such lease-purchase agreement require the making or continuance of such appropriations, nor shall any holder of bonds issued pursuant to this part ever have any right to compel the making or continuance of such appropriations.*

~~(5) No pledge of Santa Rosa County gasoline tax funds as rentals under such lease purchase agreement may be made without the consent of Santa Rosa County, evidenced by a resolution duly adopted by the board of county commissioners of that county at a public hearing held pursuant to due notice thereof published in a newspaper of general circulation in the county at least once a week for 3 consecutive weeks before the hearing. The resolution, among other things, must provide that any excess of the pledged gasoline tax funds which is not required for debt service, or reserves for such debt service, for any bonds issued by the authority be returned annually to the department for distribution to Santa Rosa County as provided by law.~~

(5)~~(6)~~ The department has the power to covenant in any lease-purchase agreement that it will pay all or any part of the cost of the operation, *maintenance, repair, renewal, and replacement of all or any part of the system and any part of the cost of completing all or any part of the system to the extent that the proceeds of bonds issued therefor are insufficient, from sources other than receipts of the authority* ~~or maintenance of the system~~.

(6)~~(7)~~ *Whether or not the authority enters into a lease-purchase agreement with the department relating to the system or any part thereof,* the system shall be a part of the State Highway System as defined in s. 334.03; and the department is authorized, upon the request of the authority, to expend, out of any funds available for the purpose, such moneys, and to use such of its engineering and other forces as may be necessary and desirable in the judgment of the department, for the operation of the authority and for traffic surveys, borings, surveys, preparation of plans and specifications, estimates of cost, and other preliminary engineering and other studies.

Section 153. Section 348.971, Florida Statutes, is amended to read:

348.971 Department may be appointed agent of *authority* ~~division~~ for construction.—The department may be appointed by the *authority* ~~division~~ as its agent for the purpose of constructing improvements and extensions to the system and for the completion thereof. In such event, the division shall provide the department with complete copies of all documents, agreements, resolutions, contracts, and instruments relating thereto, shall request the department to do such construction work, including the planning, surveying, and actual construction of the completion, extensions, and improvements to the system; and shall transfer to the credit of an account of the department in the State Treasury the necessary funds therefor. The department shall thereupon be authorized, empowered, and directed to proceed with such construction and to use the funds for such purpose in the same manner as it is now authorized to use the funds otherwise provided by law for its use in the construction of roads and bridges.

Section 154. Section 348.973, Florida Statutes, is amended to read:

348.973 Cooperation with other units, boards, agencies, and individuals.—Express authority and power is given and granted to any *agency or instrumentality of the state,* county, municipality, drainage district, road and bridge district, school district, or other political subdivision, board, commission, or individual in or of this state to make and enter into contracts, *including interlocal agreements,* leases, conveyances, or other agreements within the provisions and purposes of this part with the authority. The authority is expressly authorized to make and enter into contracts, *including interlocal agreements,* leases, conveyances, and other agreements, to the extent consistent with chapters 334, 335, 338, and 339 and other provisions of the laws of this state and with 23 U.S.C. ss. 101 et seq., with any political subdivision, agency, or instrumentality of this state and with any federal agency, corporation, or individual, for the purpose of carrying out the provisions of this part.

Section 155. Section 348.974, Florida Statutes, is amended to read:

348.974 Covenant of the state.—The state does hereby pledge to, and agrees with, any person, firm, corporation, or federal or state agency subscribing to or acquiring the bonds to be issued by the authority for the purposes of this part that the state will not limit or alter the rights hereby vested in the authority and the department until all bonds at any time issued, together with the interest thereon, are fully paid and discharged, insofar as the same affects the rights of the holders of bonds issued hereunder. The state does further pledge to, and agrees with, the United States that, in the event any federal agency constructs, or contributes any funds for the completion, extension, or improvement of, the system or any part or portion thereof, the state will not alter or limit the rights and powers of the authority and the department in any manner which would be inconsistent with the continued maintenance and operation of the system *or any part thereof* or the completion, extension, or improvement thereof or which would be inconsistent with the due performance of any agreement between the authority and any such federal agency, and the authority and the department shall continue to have and may exercise all powers herein granted so long as the same shall be necessary or desirable for carrying out the purposes of this part and the purposes of the United States in the completion, extension, or improvement of the system or any part or portion thereof.

Section 156. Section 348.9751, Florida Statutes, is created to read:

348.9751 Remedies; pledges enforceable for bondholders.—Any holder of bonds issued under the provisions of this part, except to the extent such rights may be restricted by the resolution, deed of trust, indenture, or other proceedings relating to the issuance of such bonds, may by civil action, mandamus, or other appropriate action, suit, or proceeding in law or in equity, in any court of competent jurisdiction, protect and enforce any and all rights of such bondholders granted under the proceedings authorizing the issuance of such bonds and enforce any pledge made for payment of the principal and interest on bonds, or any covenant or agreement relative thereto, against the authority or directly against the department, as may be appropriate.

Section 157. Section 348.9761, Florida Statutes, is created to read:

348.9761 Exemption from taxation.—The accomplishment of the authorized purposes of the authority created under this part is, shall, and will be in all respects for the benefit of the people of the state for the increase of their commerce and prosperity and for the improvement of their health and living conditions. Since the authority will perform essential governmental functions in accomplishing such purpose, the authority shall not be required to pay any taxes or assessments of any kind or nature whatsoever upon any property acquired or used by it for such purposes or upon any revenues at any time received by it. The bonds, their transfer and the income therefrom, including any profits made on the sale thereof, shall at all times be free from taxation of any kind by the state or by any political subdivision or other agency or instrumentality thereof. The exemption granted by this section shall not be applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

Section 158. Section 348.9771, Florida Statutes, is created to read:

348.9771 Eligibility for investments and security.—All bonds issued by the authority shall be and constitute legal investment for state, county, municipal, and all other public funds, and for banks, savings banks, insurance companies, executors, administrators, trustees, and all other fiduciaries, and shall also be and constitute securities eligible for deposit as security for all state, county, municipal, or other public funds, notwithstanding the provisions of any other law or laws to the contrary.

Section 159. Section 348.9781, Florida Statutes, is created to read:

348.9781 This part complete and additional authority.—

(1) The powers conferred by this part shall be in addition and supplemental to the existing respective powers of the authority, the department, and the county, if any, and this part shall not be construed as repealing any of the provisions of any other law, general, special or local, but shall be deemed to supersede such other law or laws in the exercise of the powers provided in this part insofar as such other law or laws are inconsistent with the provisions of this part and to provide a complete method for the exercise of the powers granted in this part. The construction, reconstruction, improvement, extension, repair, maintenance, and operation of the system, and the issuance of bonds under this part to finance all or part of the cost thereof, may be accomplished upon compliance with the provisions of this part without regard to or necessity for compliance with the provisions, limitations, or restrictions contained in any other general, special, or local law, and neither approval of any bonds issued under this part by the qualified electors or qualified electors who are freeholders in the state or in the county or in any other political subdivision of the state, nor any procedures or proceedings, publications, notices, consents, approvals, orders, acts, or things by the authority or the members thereof, or any other governmental entity, shall be required for the issuance of such bonds, except as may be prescribed in this part.

(2) This part shall not be deemed to supersede, repeal, rescind, or modify any other law or laws relating to the State Board of Administration, the Department of Transportation, or the Division of Bond Finance of the Department of General Services, but shall be deemed to and shall supersede such other law or laws as are inconsistent with the provisions of this part.

Section 160. Section 348.0012, Florida Statutes, is amended to read:

348.0012 Exemptions from applicability.—The Florida Expressway Authority Act does not apply:

(1) In a county in which an expressway authority has been created pursuant to parts I through IX of chapter 348;, or

(2) To ~~in which~~ a transportation authority ~~has been~~ created pursuant to chapter 349.

Section 161. Subsection (6) is added to section 348.0004, Florida Statutes, to read:

348.0004 Purposes and powers.—

(6) Notwithstanding subsection (3) or any other provision of law to the contrary, in any county as defined in s. 125.011(1), no expressway authority shall undertake any construction that is not consistent with both the metropolitan planning organization's transportation improvement program and the county's comprehensive plan.

Section 162. Subsections (6), (7), (8), and (9) of section 338.251, Florida Statutes, are renumbered as subsections (7), (8), (9), and (10), respectively, present subsections (1), (4), and (6) are amended, and a new subsection (6) is added to said section, to read:

338.251 Toll Facilities Revolving Trust Fund.—The Toll Facilities Revolving Trust Fund is hereby created for the purpose of encouraging the development and enhancing the financial feasibility of revenue-producing road projects undertaken by local governmental entities in a county or combination of contiguous counties.

(1) The department is authorized to advance funds for preliminary engineering, traffic and revenue studies, environmental impact studies, financial advisory services, engineering design, right-of-way map preparation, *other appropriate project-related professional services,* and advanced right-of-way acquisition to expressway authorities, counties, or other local governmental entities that desire to undertake revenue-producing road projects.

(4) Each advance pursuant to this section shall require repayment out of the initial bond issue revenue or, at the discretion of the governmental entity of the facility, repayment shall begin no later than 7 years after the date of the advance, provided repayment shall be completed no later than 12 years after the date of the advance. However, such election shall be made at the time of the initial bond issue, and, if repayment is to be made during the time period referred to above, a schedule of such repayment shall be submitted to the department. All repayments by local governmental entities shall include interest charged at the average *annual* compound rate earned by the state treasury in the year preceding *the advance of funds.* ~~that of the current payment due.~~

(6) Funds may not be advanced for funding final design costs beyond 60 percent completion until an acceptable plan to finance all project costs, including the reimbursement of outstanding trust fund advances, is approved by the department.

(7)~~(6)~~ The department may advance funds sufficient to defray shortages in toll revenues of facilities receiving funds pursuant to this section for the first 5 years of operation, up to a maximum of $5 million per year, to be reimbursed to this fund within 5 years of the last advance hereunder. All repayments by local governmental entities shall include interest charged at the average *annual* compound rate earned by the state treasury in the year preceding *the advance of funds* ~~that of the current payment due~~. Any advance under this provision shall require specific appropriation by the Legislature.

Section 163. Paragraphs (f) and (h) of subsection (2) of section 338.250, Florida Statutes, are amended to read:

338.250 Central Florida Beltway mitigation.—

(2) Environmental mitigation required as a result of construction of the beltway, or portions thereof, shall be satisfied in the following manner:

(f) Upon approval of the conceptual mitigation plans submitted by the water management districts, the *Department of Environmental Regulation shall* ~~department will~~ forward such information and comments to any appropriate federal agencies which also require permitting or approval of wetland mitigation, as is necessary for the appropriate road building authority to obtain such permits or approvals. The department shall seek to obtain formal concurrence of the approved mitigation plan from the federal agencies.

(h) Should the *Department of Environmental Regulation* ~~department~~ or any federal agency require modification to the beltway project plans, the cost of implementing those modifications shall not be funded from the moneys provided for wetland mitigation. However, to the extent the required modifications decrease dredge and fill activities, the moneys herein required to be provided for wetland mitigation shall be reduced in the same proportion as the acreage of impacted wetlands are reduced in an amount to be determined by the department. No water management district shall be required to expend funds for mitigation in excess of those provided in paragraph (a).

Section 164. Paragraphs (a) and (d) of subsection (2) and paragraph (m) of subsection (3) of section 20.23, Florida Statutes, are reenacted to read:

20.23 Department of Transportation.—There is created a Department of Transportation which shall be a decentralized agency.

(2)(a)1. The Florida Transportation Commission is hereby created and shall consist of nine members appointed by the Governor subject to confirmation by the Senate. Members of the commission shall serve terms of 4 years each.

2. Members shall be appointed in such a manner as to equitably represent all geographic areas of the state. Each member must be a registered voter and a citizen of the state. Each member of the commission must also possess business managerial experience in the private sector.

3. A member of the commission shall represent the transportation needs of the state as a whole and may not subordinate the needs of the state to those of any particular area of the state.

4. The commission is assigned to the Office of the Secretary of the Department of Transportation for administrative and fiscal accountability purposes, but it shall otherwise function independently of the control and direction of the department.

(d)1. The chairman of the commission shall be selected by the commission members and shall serve a 1-year term.

2. The commission shall hold a minimum of 4 regular meetings annually, and other meetings may be called by the chairman upon giving at least 1 week's notice to all members and the public pursuant to chapter 120. Other meetings may also be held upon the written request of at least four other members of the commission, with at least 1 week's notice of such meeting being given to all members and the public by the chairman pursuant to chapter 120. Emergency meetings may be held without notice upon the request of all members of the commission.

3. A majority of the membership of the commission constitutes a quorum at any meeting of the commission. An action of the commission is not binding unless the action is taken pursuant to an affirmative vote of a majority of the members present, but not fewer than four members of the commission at a meeting held pursuant to subparagraph 2., and the vote is recorded in the minutes of that meeting.

4. The chairman shall cause to be made a complete record of the proceedings of the commission, which record shall be open for public inspection.

(3)

(m) The secretary shall appoint a state public transportation administrator who shall report to the Assistant Secretary for Transportation Policy. The state public transportation administrator's responsibilities shall include, but are not limited to, the administration of statewide transit, rail, intermodal development, and aviation programs. This position shall be classified at a level equal to a deputy assistant secretary. The department shall also assign to the public transportation administrator an organizational unit the primary function of which is to administer the high-speed rail program.

Section 165. Paragraphs (b) and (h) of subsection (2) and subsection (4) and, effective January 1, 1993, subsection (7) of section 20.23, Florida Statutes, are amended to read:

20.23 Department of Transportation.—There is created a Department of Transportation which shall be a decentralized agency.

(2)(b) The commission shall have the primary functions to:

1. Recommend major transportation policies for the Governor's approval, and assure that approved policies and any revisions thereto are properly executed.

2. Periodically review the status of the state transportation system and recommend improvements therein to the Governor and the Legislature.

3. Perform an in-depth evaluation of the annual department budget request, the Florida Transportation Plan, and the tentative work program for compliance with all applicable laws and established departmental policies. Except as specifically provided in s. 339.135(4)(c)2., (d), and (f), the commission may not consider individual construction projects, but shall consider methods of accomplishing the goals of the department in the most effective, efficient, and businesslike manner.

~~4. Review all construction, design, and maintenance standards which may have been issued by the department and cause to have issued only those standards which can be shown to be cost effective, consistent with any federal regulations or other prevailing state law which may apply.~~

4.~~5.~~ Monitor the financial status of the department on a regular basis to assure that the department is managing revenue and bond proceeds responsibly and in accordance with law and established policy.

5.~~6~~ Monitor on at least a quarterly basis, the efficiency, productivity, and management of the department, using performance and production standards developed by the commission *pursuant to s. 334.045.*

6.~~7.~~ Perform an in-depth evaluation of the factors causing disruption of project schedules in the adopted work program and recommend to the Legislature and the Governor methods to eliminate or reduce the disruptive effects of these factors.

~~8. Review all employee positions in the department and provide to the Legislature by January 1, 1991, recommendations as to those positions in the department that should be exempt from the Career Service System.~~

~~9. Review the Center for Urban Transportation Research budget, provide an opportunity for the department to comment on the budget, and recommend a budget which shall not be subject to change by the department, but which shall be submitted to the Governor along with the budget of the department.~~

~~10. Perform an in-depth evaluation of the allocation of funds to the department districts and to the various counties within each district for the time period covering the adopted work program and the tentative work program. A report on such evaluation, including any recommendations regarding statutory changes, shall be submitted to the Legislature and the Governor no later than April 15, 1991.~~

(h) The commission shall appoint an executive director *and assistant executive director*, who shall serve under the direction, supervision, and control of the commission. The executive director, with the consent of the commission, shall employ such staff as are necessary to perform adequately the functions of the commission, within budgetary limitations. All employees of the commission are exempt from part II of chapter 110 and shall serve at the pleasure of the commission. The salaries and benefits of all employees of the commission shall be set in accordance with the Selected Exempt Service; provided, however, that the commission shall have complete authority for fixing the salary of the executive director *and assistant executive director.*

(4)(a) The operations of the department shall be organized into seven districts, each headed by a district secretary. The district secretaries shall report to the Assistant Secretary for District Operations. The headquarters of the districts shall be located in Polk, Columbia, Washington, Broward, Volusia, Dade, and Hillsborough Counties. In order to provide for efficient operations and to expedite the decisionmaking process, the department shall provide for maximum decentralization to the districts~~, where appropriate~~. *However, prior to making a decision to centralize or decentralize department operations, the department must first determine if the decision would be cost-effective and in the public's best interest. The department shall periodically evaluate such decisions to ensure that they are appropriate.*

(b) The primary responsibility for the implementation of the department's transportation programs shall be delegated by the secretary to the district secretaries, and sufficient authority shall be vested in each district to ensure adequate control of the resources commensurate with the delegated responsibility. Each district secretary shall also be accountable for ensuring their district's quality of performance and compliance with all laws, rules, policies, and procedures related to the operation of the department.

(c) Each district secretary may appoint a district director for planning and programming, a district director for production, and a district director for operations. These positions are exempt from part II of chapter 110.

(d) Within each district, offices shall be established for managing major functional responsibilities of the department. The offices may include planning, design, construction, right-of-way, maintenance, and public transportation. The heads of these offices shall be exempt from part II of chapter 110.

~~(e) The department may perform in a single location only those statewide production related functions which it can document are accomplished more cost effectively in that location or are necessary to ensure adequate control and accountability over the functions.~~

(7) The department is authorized to contract with local governmental entities and with the private sector *if the department first determines that:*

(a) Consultants can do the work at less cost than state employees;

(b) State employees can do the work at less cost, but sufficient positions have not been approved by the Legislature as requested in the department's most recent legislative budget request;

(c) The work requires specialized expertise, and it would not be economical for the state to acquire, and then maintain, the expertise after the work is done;

(d) The workload is at a peak level, and it would not be economical to acquire, and then keep, extra manpower after the workload decreases; or

(e) The use of such entities is clearly in the public's best interest.

~~to the maximum extent possible for the performance of the department's transportation responsibilities where it can be documented that such entities can perform the activities more cost effectively.~~ Such contracts shall require compliance with applicable federal and state laws, and clearly specify the product or service to be provided.

Section 166. Section 334.065, Florida Statutes, is amended to read:

334.065 Center for Urban Transportation Research.—

(1) There is established at the University of South Florida the Florida Center for Urban Transportation Research, to be administered by the

Board of Regents and the State University System. The responsibilities of the center include, but are not limited to, conducting and facilitating research on issues related to urban transportation problems in this state and serving as an information exchange and depository for the most current information pertaining to urban transportation *and related issues.*

(2) The center shall be a continuing resource for the Legislature, the Department of Transportation, local governments, the nation's metropolitan regions, and the private sector in the area of urban transportation *and related* research and shall generate support in addition to its state-funded base of support *provided by s. 212.69(1).* The center shall promote inter-campus transportation *and related* research activities among Florida's universities in order to enhance the ability of these universities to attract federal and private sector funding for transportation *and related* research.

(3) An advisory board shall be created to periodically and objectively review and advise the center concerning its research program. *Except for projects mandated by law, state-funded base projects shall not be undertaken without approval of the advisory board.* The membership of the board shall consist of *nine* experts in *transportation-related areas, including the secretaries of the Florida Departments of Transportation, Community Affairs, and Environmental Regulation, or their designees, and a member of the Florida Transportation Commission* ~~the area of transportation~~. The nomination of *the remaining* members of the board shall be made to the President of the University of South Florida by the College of Engineering at the University of South Florida, and the appointment of *these* members must be *reviewed and approved by the Florida Transportation Commission and* confirmed by the Board of Regents.

(4) The center shall develop a budget pursuant to chapter 216. *This* ~~The budget is not subject to change by the department, but such~~ budget shall be submitted to the Governor along with the budget of the *Board of Regents* ~~department~~.

Section 167. Effective July 1, 1993, subsection (1) of section 212.69, Florida Statutes, is amended to read:

212.69 Distribution of proceeds.—

(1) Moneys collected pursuant to this part shall be deposited in the Gas Tax Collection Trust Fund created by s. 206.45. Such moneys, exclusive of the service charges imposed by s. 215.20, and exclusive of refunds granted pursuant to s. 212.67, shall be distributed monthly to the State Transportation Trust Fund, except that:

(a) $3.8 million per year shall be transferred to the Department of Natural Resources in equal monthly amounts; $1 million of this amount shall be spent solely for nonchemical control of aquatic weeds, research into nonchemical controls, and enforcement of aquatic weed control programs; *and*

(b) $1.5 million per year shall be transferred to the Board of Regents which shall be spent solely for purposes of s. 334.065.

Section 168. *Beginning in 1992, an oversight committee headed by the office of the Lieutenant Governor of Florida will initiate and guide a comprehensive study to address transportation-related policy issues facing the state. As part of its state-funded work program, the Center for Urban Transportation Research (CUTR) shall staff this committee, using center staff as well as faculty from throughout the state university system. In addition to the Lieutenant Governor, the committee shall be comprised of the Secretaries of the Departments of Community Affairs, Transportation, Environmental Regulation, or their designees, and the Chairs of the House and Senate Transportation Committees. An additional legislative representative may be appointed by the Speaker of the House and an additional legislative representative may be appointed by the President of the Senate. Under the guidance of this oversight committee, CUTR shall examine the following issues and make recommendations for legislative initiatives based on the results of their research:*

Transportation and Growth Management

What should Florida's land use patterns look like in the future? Who should make those decisions? And how should they be made? What level of control must the state exercise and what expenditure must the state make to accomplish these land use and transportation system objectives? What incentives and disincentives will work? How does the transportation system both drive and respond to the achievement of a growth management system? Should private mass transportation agencies be involved in land-use planning and decision-making? How would their involvement be achieved? How do growth management/density decisions affect mass transit? How can mass transit be most effective given Florida's present low-density development pattern?

Do the existing growth management and comprehensive planning requirements need to be modified in order to achieve the desired vision? What types of specific changes need to be made? What should be the respective planning roles of the Department of Community Affairs, the Florida Department of Transportation and the metropolitan planning organizations? How should responsibilities for both planning for transportation needs as well as the delivery of transportation services be divided between the state, regional and local entities? As Florida gains in population, what are the appropriate geographic boundaries of the present and future MPOs? How will transportation planning and decision-making be impacted by the most recent Clean Air Act requirements and what should be done to facilitate these additional requirements? What will be the organizational impacts of the most recent Surface Transportation Assistance Act? What should be done to accommodate concerns for equity in spending between geographic areas?

Transportation Needs and Financing

How are current transportation needs defined? What are the total transportation needs, both for the State Highway System and the local system? How do the needs for these two systems differ? Are current needs estimates valid and do professionals and policy makers have confidence in them? How can tradeoffs between various needs such as maintenance, safety improvements, equitable distribution of resources, and capacity enhancements be made? How do such tradeoffs affect the functioning of both state and local systems?

To what extent can greater utilization of mass transit impact roadway needs? To what extent can management systems such as Transportation System Management and Transportation Demand Management or other investments such as Intelligent Vehicle Highway Systems increase the productive utilization of existing infrastructure and reduce needs?

Can the state build and/or expand roads at a rate that will provide an acceptable level of service to future population? Should a greater percentage of transportation investment be made for mass transit and traffic management systems? What is the appropriate level of funding for mass transit? Should the funding levels be performance based? What will the impacts of the Surface Transportation Assistance Act be on facility financing? What should the role of the private sector be in project funding and what impacts will this have? What should the role of toll road financing and other user-based or congestion-based pricing mechanisms be in financing future roadway capacity? How should highway costs be allocated between the various vehicle classes? How should state funding, as well as road ownership, be allocated between state and local entities? What role could developers play in funding mass transit as part of their obligation to meet concurrency requirements?

What revenue raising authority and investment responsibilities should be given to local areas?

What levels of resources should be invested in ports, airports, and high speed or other intercity rail facilities and services? What level of state funding should be given to ports? Should the state concentrate its funding on a few designated ports that best serve the state's economic development needs?

The oversight committee and CUTR shall have the authority to investigate and make recommendations on other issues related to those outlined above if the need arises during the course of the three-year study.

The project outlined above shall begin in the Spring/Summer of 1992. Detailed work plans and schedules can be developed for specific studies. If multiple subjects are investigated, each may have a different time frame for completion. The overall study will be completed by late 1994, and shall include recommendations for legislative action in the spring of 1995.

Section 169. Subsections (24), (25), (26) and (27) of section 334.044, Florida Statutes, are renumbered as subsections (25), (26), (27) and (28), respectively, and a new subsection (24) is added to said section to read:

334.044 Department powers and duties.—The department shall have the following general powers and duties:

(24) To do all things necessary to obtain the full benefits of the national Highway Safety Act of 1966, and in so doing, to cooperate with federal and state agencies, public and private agencies, interested organizations, and individuals to effectuate the purposes of that act, and any and all amendments thereto. The Governor shall have the ultimate state responsibility for dealing with the Federal Government in respect to programs and activities initiated pursuant to the national Highway Safety Act of 1966, and any amendments thereto.

Section 170. *Section 321.001, Florida Statutes, is hereby repealed.*

Section 171. Paragraph (b) of subsection (3) of section 163.03, Florida Statutes, is amended to read:

163.03 Secretary of Community Affairs; powers and duties; function of Department of Community Affairs with respect to federal grant-in-aid programs.—

(3) The department is authorized to adopt rules implementing the following grant programs, which rules shall be consistent with the laws, regulations, or guidelines governing the grant to the department:

~~(b) Highway safety grant programs administered by the Bureau of Highway Safety.~~

Section 172. Paragraph (i) of subsection (2) of section 110.205, Florida Statutes, is amended to read:

110.205 Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions which are not covered by this part include the following, provided that no position, except for positions established for a limited period of time pursuant to paragraph (h), shall be exempted if the position reports to a position in the career service:

(i) The appointed secretaries, assistant secretaries, deputy secretaries, and deputy assistant secretaries of all departments; the executive directors, assistant executive directors, deputy executive directors, and deputy assistant executive directors of all departments; and the directors of all divisions and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, program directors, assistant program directors, district administrators, deputy district administrators, the Director of Central Operations Services of the Department of Health and Rehabilitative Services, and the State Transportation Planner, State *Highway* ~~Transportation~~ Engineer, *State Public Transportation Administrator* ~~State Operations Administrator~~, district secretaries, district directors of planning and programming, production, and operations, and the managers of the offices specified in s. 20.23(3)(d)2., of the Department of Transportation. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules of the Senior Management Service.

Section 173. Subsections (9), (11), (12), and (13) of section 335.20, Florida Statutes, are amended to read:

335.20 Short title; local government cooperative assistance program.—

(9) Funding shall be provided to those projects in order of rank assigned pursuant to subsection (8) to the extent that funds are available. The department shall assign highest priority to those projects identified in the *adopted work program* ~~1983 5-year transportation plan~~ of the department. All projects on the State Highway System conducted through the provisions of this section shall be carried out by the department pursuant to all other law which may prevail.

~~(11) Any funds provided to a district pursuant to this section and not expended or committed for projects prior to April 1 of any year after 1987 shall be redistributed to each district which has fully expended or committed funds provided through this act. Funds provided to each such district through such redistribution shall be determined in the following manner:~~

~~(a) Fifty percent by the receiving district's population as a percentage of the population of all receiving districts; and~~

~~(b) Fifty percent by the receiving district's motor fuel and special fuel tax collections as a percentage of the motor fuel and special fuel tax collections of all receiving districts.~~

(11)~~(12)~~ The department shall provide *up to* 50 percent of the cost of any project funded pursuant to this section. Local governments may use any revenue for matching purposes.

(12)~~(13)~~ Prior to entering an agreement to add or advance a project or project phase pursuant to this section, the department shall first update the estimated cost of the project or project phase and certify that the estimate is accurate and consistent with the amount estimated in the adopted work program. If the original estimate and the updated estimate vary, the department shall amend the adopted work program according to the amendatory procedures for the work program set forth in s. *339.135(7)* ~~339.135(8)~~. The amendment shall reflect all corresponding increases and decreases to the affected projects within the adopted work program.

Section 174. Subsection (2) of section 337.407, Florida Statutes, is amended to read:

337.407 Regulation of signs and lights within rights-of-way.—

(2)(a) The provisions of subsection (1) do not apply to benches or transit shelters, or *to* advertising *displayed* on benches *or* ~~and~~ shelters, *installed within the right-of-way limits* ~~on the right-of-way~~ of any municipal, county, or state road, except a limited access highway*; provided that such,* ~~which~~ benches or shelters *are* ~~have been erected~~ for the comfort or convenience of the general public, or at designated stops on official bus routes; *and* provided *further that* written authorization has been secured by a qualified private supplier ~~or suppliers~~ of such service from the appropriate *municipal* ~~city~~ or county government. *A municipality or county may authorize the installation, without public bid, of benches and shelters together with advertising displayed thereon, within the right-of-way limits of such roads within its jurisdiction Any contract for the installation of benches or shelters or advertising on benches or shelters which was entered into before the effective date of this act without public bidding is ratified and affirmed, if such contract is otherwise valid.* Such benches or transit shelters may not interfere with right-of-way preservation and maintenance.

(b) The provisions of subsection (1) do not apply to waste disposal receptacles of less than 110 gallons in capacity, or advertising on such receptacles, erected or placed on the right-of-way of any municipal, county, or state road, except a limited access highway; provided written authorization has been given to a qualified private supplier or suppliers of such service by the appropriate city or county government. Such receptacles may not interfere with right-of-way preservation and maintenance.

(c) The department has the authority to direct the immediate relocation or removal of any bench, transit shelter, or waste disposal receptacle which endangers life or property, *except that transit bus benches which have been placed in service prior to April 1, 1992 do not have to comply with bench size and advertising display size requirements which have been established by the department prior to March 1, 1992.*

(d) No bench, transit shelter, or waste disposal receptacle, or advertising thereon, shall be erected or so placed on the right-of-way of any road which conflicts with the requirements of federal law, regulations, or safety standards, thereby causing the state or any political subdivision the loss of federal funds. Competition among persons seeking to provide bench, transit shelter, or waste disposal receptacle services or advertising on such benches, shelters, or receptacles may be regulated, restricted, or denied by the appropriate local governmental entity consistent with the provisions of this section.

Section 175. Subsection (2) of section 177.151, Florida Statutes, is amended to read:

177.151 State plane coordinate.—

(2) The position of points on the Florida Coordinate System shall be as marked on the ground by triangulation or traverse stations established in conformity with standards adopted by the National Ocean Survey for first-order and second-order work, the geodetic positions of which have been rigidly adjusted on the North American Datum of *1983, as readjusted in 1990* ~~1927~~, and the coordinates of which have been computed on the system herein defined. Any such station may be used for establishing a survey connection with the Florida Coordinate System.

Section 176. *The Legislature hereby authorizes the Department of Transportation to implement rail passenger service between New Orleans, Louisiana, and Jacksonville, Florida.*

Section 177. *If any of the provisions of sections 99 through 114 of this act relating to eminent domain or right-of-way acquisition, or to the State Highway System Access Management Act are held to be invalid or inoperative for any reason, all provisions of sections 99 through 114 of this act shall be deemed to be void and of no effect, it being the legislative intent that these interrelated provisions would not have been adopted had all of these provisions not been included in the act.*

Section 178. Except as otherwise provided herein, this act shall take effect upon becoming a law.

And the title is amended as follows:

On page 214, line 12, through page 231, line 28, strike all of said lines and insert: A bill to be entitled An act relating to transportation; creating the Transportation Efficiency Act of 1992; amending s. 338.001, F.S.; providing that projects constructed as part of the Florida Intrastate Highway System Plan shall be included in the department's adopted work program; amending s. 339.155, F.S.; revising language with respect to transportation planning; amending s 339.175, F.S.; revising language with respect to transportation planning organizations; creating a Metropolitan Planning Organization Advisory Council; amending s. 336.045, F.S.; revising language with respect to uniform minimum standards for design, construction, and maintenance; authorizing the department to accept certain donations; amending s. 333.025, F.S.; revising language with respect to air navigation and required permits for structures exceeding federal standards; amending s. 333.03, F.S.; revising language with respect to airport zoning regulations; creating s. 331.21, F.S.; providing a term of office for the presiding officer of an airport authority; providing criteria; amending s. 235.19, F.S.; revising language with respect to site planning and selection to provide a cross reference; amending s. 333.031, F.S.; revising language with respect to a report of the Airport Safety and Land Use Compatibility Study Commission; providing for the future repeal of s. 333.031, F.S., relating to the commission; creating s. 341.3201, F.S.; naming the Florida High-Speed Rail Transportation Act; amending s. 341.321, F.S., relating to the findings and purpose of high-speed rail development; revising cross references; deleting references to the former Florida High-Speed Rail Transportation Commission; amending s. 341.322, F.S.; revising, adding, and deleting definitions relating to high-speed rail transportation; amending s. 341.325, F.S.; revising cross references; conforming terminology; assigning the powers and duties of the former commission to the Department of Transportation; requiring a written analysis of the agency reports on a certification application; amending s. 341.327, F.S., relating to need for a high-speed rail transportation system; revising cross references; conforming terminology; amending s. 341.329, F.S., relating to bonds and project financing; requiring that bonds be issued in accordance with federal and state laws and regulations; revising cross references; conforming terminology; providing an exception to the financing of bonds from revenues of the high-speed rail transportation system; changing the information required on the face of the bonds; deleting provisions relating to bond sale requirements; amending s. 341.331, F.S., relating to the designation of service areas and transit station locations; authorizing a method for a franchisee to propose changes in transit stations; amending s. 341.332, F.S., relating to franchises; deleting a provision that requires adherence to the State Minimum Building Code; revising cross references; deleting a provision that requires a list of permits and licenses necessary for ancillary facilities; requiring a franchisee to coordinate its facilities and services with existing operations; authorizing a franchisee under certain circumstances to perform certain activities relating to the high-speed rail transportation system; providing a method for a franchisee to convey property to another person during the term of the franchise, with certain restrictions; requiring the department to include certain provisions in the franchise to protect the continued operation of the franchise; revising cross references; conforming terminology; creating s. 341.3331, F.S., relating to requests for proposals; specifying that public meetings be followed by the issuance of a request for proposals; creating s. 341.3332, F.S., relating to notice of issuance of the requests for proposals; requiring that certain notice be given; creating s. 341.3333, F.S., relating to the application for franchise; requiring that the application correspond to the request for proposals; providing an exemption from the public records law until the opening of the applications; providing for review and repeal; prohibiting the acceptance of an application without the appropriate fee; requiring filing of copies; prohibiting amendments to applications before the award is made; creating s. 341.3334, F.S., relating to the franchise review process; providing criteria to the Department of Transportation for assessing applications; providing for comments by affected agencies; requiring public meetings on the applications; requiring a notice of proposed agency action; creating s. 341.3335, F.S.; requiring interagency coordination of the franchise application review; creating s. 341.3336, F.S.; requiring a public meeting on the franchise application; creating s. 341.3337, F.S., relating to determination and award of franchise; requiring the department to provide notice of the proposed agency selection of a franchisee; providing for administrative proceedings; providing an exception; providing for the award or for rejection of all applications; creating s. 341.3338, F.S.; providing the effect of the grant of the franchise; creating s. 341.3339, F.S.; authorizing post-franchise agreements; amending s. 341.334, F.S.; providing for the powers and duties of the department; revising cross references; deleting references to the commission, its records, and its expenses; amending s. 341.335, F.S.; revising the powers and duties relating to ss. 341.3201-341.386, F.S., of the Governor and Cabinet sitting as the Florida Land and Water Adjudicatory Commission; amending s 342.336, F.S.; revising the powers and duties relating to ss. 341.3201-341.386, F.S., of the Department of Environmental Regulation and the Department of Community Affairs; revising cross references; conforming terminology; creating s. 341.3365, F.S., relating to the certification procedure; requiring the Department of Transportation to adopt a rule for the processing of certification applications; repealing s. 341.338, F.S., relating to submission of requests for proposals to the former commission; repealing s. 341.339, F.S., relating to notice of issuance of requests for proposals by the former commission; repealing s. 341.341, F.S., relating to application for franchise; amending s. 341.342, F.S., relating to agreements concerning contents of certification application and supporting documentation; allowing, rather than requiring, a rule to establish a procedure for the department to enter agreements regarding the certification application; amending s. 341.343, F.S., relating to review of application; revising the responsibilities of the agencies; providing for a request for additional information; deleting a reference to the Franchise and Environmental Review Committee; deleting a reference to the commission; providing for a certification hearing; deleting the review of applications for sufficiency; providing for amendments to certification applications; providing for review of amendments; amending s. 341.344, F.S.; abolishing the Franchise and Environmental Review Committee and creating the Citizens' Planning and Environmental Advisory Committee; correcting and revising cross references; conforming terminology; providing for admissibility of the report of the committee in a certification proceeding or administrative hearing; amending s. 341.345, F.S., relating to alternate corridors or transit station locations; prescribing a new time limit; revising cross references; providing for amendments to the application to accept a proposed alternative; revising cross references; amending s. 341.346, F.S., relating to appointment of hearing officers; revising cross references; requiring one hearing officer, rather than a panel, to conduct a hearing; deleting a reference to alteration of time limitations; creating s. 341.3465, F.S.; providing for alteration of time limitations; amending s. 341.347, F.S., relating to local government hearings; changing the deadline for local hearings; providing for the payment of the cost of notices and transcripts by the franchisee; amending s. 341.348, F.S.; revising the provisions relating to reports and studies; revising cross references; changing the deadlines; providing for additional copies of reports; requiring the department to analyze the agency reports on certification applications; specifying the content of the analysis; amending s. 341.351, F.S., relating to publication of notice of certification application and proceedings; changing the time limitations; revising cross references; deleting adoption of a certain rule; amending s. 341.352, F.S., relating to certification hearings; changing the time limitation; conforming terminology; revising purpose and priorities; amending s. 341.353, F.S.; revising provisions relating to final disposition of certification applications, rather than certification components; clarifying provisions; providing that the terms and conditions of the certification order become terms and conditions of the franchise; providing a reasonable time period for modification of an agreement; repealing ss. 341.355, 341.358, 341.361, and 341.362, F.S., relating to the assessment and award of the franchise component by the former commission; amending s. 341.363, F.S.; revising cross references; replacing the term "franchise" with the term "certification"; changing the time limitations and requirements for certification; clarifying existing provisions; amending s. 341.364, F.S., relating to appeals of development orders to the Governor and Cabinet; adding the right to appeal for inconsistency with terms and conditions of the certification; creating s. 341.365, F.S., relating to associated development and development rights; authorizing a franchisee to undertake certain associated development; amending s. 341.366, F.S., relating to recording of notice of certified corridor route; revising cross references; requiring the department to file a notice of the award of certification; clarifying current provisions; amending s. 341.368, F.S.; providing for modification of certification or franchise; revising cross references; providing for changing or adding to the

terms and conditions in certification; deleting references to ancillary facilities; providing that terms and conditions of a final order of the Governor and Cabinet are added to the terms and conditions of certification; amending s. 341.369, F.S., relating to fees; revising cross references; requiring a certification application fee, rather than a certification component fee; deleting an annual franchise fee; amending s. 341.371, F.S.; providing for revocation or suspension of franchise or certification; revising cross references; amending s. 341.372, F.S., relating to administrative fines; revising cross references; clarifying current provisions; amending s. 341.375, F.S., relating to participation by certain individuals; revising cross references; conforming terminology; amending s. 341.381, F.S.; providing for applicability; revising cross references; amending s. 341.382, F.S., relating to superseding laws and regulations; revising cross references; amending s. 341.383, F.S., relating to assessing of fees by local governments; revising cross references; conforming terminology; repealing s. 341.385, F.S., relating to prohibition against certain development orders; amending s. 341.386, F.S., relating to admissibility of award of franchise and certification in eminent domain proceedings; adding references to award of a certification; revising cross references; conforming to the act; amending s. 341.031, F.S.; providing definitions; amending s. 341.041, F.S.; revising language with respect to the transit responsibilities of the department; amending s. 341.051, F.S.; revising language with respect to the funding participation of the department of public transit programs and projects; amending s. 341.052, F.S.; revising language with respect to block grant funds; amending s. 341.053, F.S.; revising language relating to the Intermodal Development Program; revising purpose and priorities; amending s. 341.102, F.S.; prohibiting counties from restricting or imposing econimic regulations on private-sector contract transporation agreements; amending s. 339.08, F.S.; restricting use of moneys in the State Transportation Trust Fund; amending s. 341.302, F.S.; providing for development of a rail system plan; providing for inclusion of certain elements of the plan; amending s. 341.3025, F.S.; prescribing rulemaking authority of entities that own or operate certain public rail systems; amending s. 341.303, F.S.; providing for funding of rail systems; reenacting s. 343.53(2), F.S., relating to the Tri-County Commuter Rail Authority; amending s. 343.54, F.S.; requiring plans for expansion of service of the Tri-County Commuter Rail Authority to be consistent with local comprehensive plans; reenacting s. 343.63(2), F.S., relating to the Central Florida Commuter Rail Authority; amending s. 343.64, F.S.; prescribing powers of the Central Florida Commuter Rail Authority with respect to feeder transit services and purchase of insurance; requiring the authority to adopt a plan of development; amending s. 343.73, F.S.; providing for membership of the governing board of the Tampa Bay Commuter Rail Authority; amending s. 343.74, F.S.; relating to the powers and duties of the Tampa Bay Commuter Rail Authority; providing the authority with power to purchase insurance; amending s. 287.042, F.S.; authorizing private nonprofit community transportation coordinators, while conducting commission business, to purchase operational supplies at state contract rates; amending s. 427.011, F.S.; amending the definition of the term "transportation disadvantaged"; defining the term "nonsponsored transportation disadvantaged services"; amending s. 427.012, F.S.; increasing the membership of the Transportation Disadvantaged Commission; amending s. 427.013, F.S.; providing for the development of needs-based criteria for the distribution of funds for nonsponsored transportation disadvantaged services; providing for the review of rates charged by proposed alternate transportation operators; providing for a cost-comparison study of community transportation coordinators; amending s. 427.0155, F.S.; increasing the duties of community transportation coordinators; amending s. 427.0157, F.S.; increasing the powers and duties of coordinating boards; amending s. 427.0159, F.S.; providing for distribution criteria for funds for nonsponsored transportation disadvantaged services; amending s. 427.016, F.S.; authorizing the use of alternate transportation operators in certain circumstances; requiring each state agency to inform the commission in writing of the amount of funds the agency has allocated for transportation disadvantaged services; power to purchase insurance; amending s. 339.135, F.S.; defining the term "district work program" to include the work program of the Office of the Florida Turnpike; changing the deadline for the submittal of the tentative work program; changing procedures regarding the development of the work program; deleting an unnecessary prohibition against including unlawful projects in the tentative work program or allocating funds to them; revising requirements for the list of projects that could begin construction if funding becomes available; correcting a cross reference; authorizing interdistrict loans that meet certain requirements; revising amendment procedures for the adopted work program; amending ss. 119.07 and 339.12, F.S., to conform; amending s. 218.32, F.S.; revising language with respect to financial reporting of the department; amending s. 335.074, F.S.; revising language with respect to safety inspection of bridges; repealing s. 335.04(1)(b)5., F.S., relating to an annual report on the functional classification of roads; amending s. 334.046, F.S.; revising language with respect to department program objectives; repealing s. 339.136, F.S., relating to the Improved Tentative Work Program; amending s. 73.071, F.S., relating to eminent domain; revising the number of jurors in certain proceedings; repealing s. 73.091, F.S., relating to costs of proceedings; amending s. 73.092, F.S.; providing for costs of proceedings; revising language relating to certain fees; amending s. 74.061, F.S.; revising language relating to compensation and interest thereon; providing for applicability; amending s. 337.271, F.S.; revising language with respect to negotiations for acquisitions; amending s. 335.18, F.S.; amending a cross reference to conform to the repeal of s. 335.189, F.S., by this act; amending s. 335.181, F.S.; providing legislative findings, policy, and purpose relating to the regulation of access to the State Highway System; amending s. 335.182, F.S.; deleting the authority for local governments to adopt access standards which exceed state standards; providing definitions; amending s. 335.1825, F.S.; providing requirements regarding the construction or alteration of an access connection and the costs for such alterations; amending s. 335.183, F.S.; deleting the requirement that the department assess a fee of at least $25 for each permit application; amending s. 335.184, F.S.; requiring that an access permit be filed in the appropriate department district; providing criteria under which a permit may be denied; providing remedies for such denial; amending s. 335.185, F.S.; deleting the authority for the department to require joint use of access; authorizing the department to extend the duration of a permit; amending s. 335.187, F.S.; providing requirements relating to unpermitted access connections and the issuance of nonconforming permits; amending s. 335.188, F.S.; providing criteria for the adoption of an access management system by the department; providing notice requirements; repealing s. 335.189, F.S., relating to the delegation of the department's permitting authority; repealing s. 337.241, F.S., relating to preparation and recording of maps of reservation for transportation corridors and facilities; amending s. 348.68, F.S.; relating to consultation with Hillsborough County City-County Planning Commission; amending s. 337.273, F.S.; revising language with respect to transportation corridors; creating s. 337.107, F.S.; providing for contracts for right-of-way services; amending s. 337.25, F.S.; revising language with respect to acquisition, lease, and disposal of real and personal property; amending s. 337.274, F.S.; allowing the department to enter land to perform archaeological assessments; amending s. 337.276, F.S.; revising language with respect to advanced acquisition of right-of-way; amending s. 206.46, F.S.; providing for the transfer of certain funds from the State Transportation Trust Fund into the Right-of-Way Acquisition and Bridge Construction Trust Fund; amending s. 212.69, F.S., relating to distribution of the proceeds of the tax on motor and special fuels; revising and conforming cross references; amending s. 215.605, F.S.; providing for the transfer of excess funds from the Right-of-Way Acquisition and Bridge Construction Trust Fund to the State Transportation Trust Fund; amending s. 255.565, F.S.; revising language with respect to the Asbestos Oversight Program Team; amending s. 337.106, F.S.; revising language with respect to professional service providers; amending s. 337.11, F.S.; revising language with respect to bids; amending s. 337.18, F.S.; revising language with respect to surety bonds; amending s. 337.175, F.S.; revising language with respect to retainage; amending s. 337.185, F.S.; providing for certain claims before the State Arbitration Board; amending s. 337.221, F.S.; revising language with respect to the claims settlement process; creating s. 337.108, F.S.; providing for indemnification with respect to hazardous materials and pollutants; amending s. 337.015, F.S.; directing the department to make payments for road and bridge construction at certain intervals; amending s. 337.17, F.S.; providing for bid guaranty payable to the department; amending s. 287.042, F.S.; revising language with respect to the powers and duties of the Division of Purchasing; amending s. 338.2275, F.S.; updating the approved maximum costs of specified turnpike projects; redefining the Branan Field/Chaffee Road Facility and the Northwest Expressway; approving additional projects; increasing the maximum amount of bonds that may be issued to fund approved projects; amending s. 338.223, F.S.; revising language with respect to proposed turnpike projects; amending s. 337.26, F.S.; revising language with respect to instruments of sale, lease, or conveyance; amending s. 337.27, F.S.; revising language with respect to the exercise of the power of eminent domain by the department and noncharter counties; amending s. 316.1001, F.S.; revising language with respect to the payment of tolls on toll facilities and penalties for noncompliance; amending s. 320.03, F.S.; providing a cross reference; amending s. 316.660, F.S.; revising language with respect to fines for citations; amending s. 316.2952, F.S.; authorizing the use of electronic toll payment devices; amending s. 318.14, F.S.; revising language with respect

to noncriminal traffic infractions; amending s. 318.18, F.S.; revising language with respect to civil penalties; creating s. 335.045, F.S.; providing for the applicability of the Florida Transportation Code; amending s. 348.60, F.S.; revising language with respect to lease-purchase agreements; authorizing the Orlando-Orange County Expressway Authority to construct a portion of the Western Beltway; authorizing the Orlando-Orange County Expressway Authority to construct certain improvements and facilities incidental to the expressway system; amending s. 348.966, F.S.; providing definitions; amending s. 348.968, F.S.; revising language with respect to the purposes and powers of the Santa Rosa Bay Bridge Authority; amending s. 348.969, F.S.; revising language with respect to bonds; amending s. 348.97, F.S.; revising language with respect to lease purchase; amending s. 348.971, F.S.; providing for the appointment of the department as agent of the authority; amending s. 348.973, F.S.; providing for cooperation; amending s. 348.974, F.S., relating to the covenant of the state; creating s. 348.9751, F.S.; providing remedies and pledges enforceable for bondholders; creating s. 348.9761, F.S.; providing for exemption from taxation; creating s. 348.9771, F.S.; providing eligibility for investments and security; creating s. 348.9781, F.S.; providing for applicability; amending s. 348.0012, F.S.; providing for the application of the Florida Expressway Authority Act; amending s. 348.0004, F.S.; prohibiting expressway authorities from undertaking certain construction; amending s. 338.251, F.S.; revising language with respect to the Toll Facilities Revolving Trust Fund; amending s. 338.250, F.S.; revising language with respect to Central Florida Beltway mitigation; amending s. 20.23, F.S.; revising language with respect to the Department of Transportation; amending s. 334.065, F.S.; revising language with respect to the Center for Urban Transportation Research; amending s. 212.69, F.S.; revising language with respect to certain funds in the the Gas Tax Collection Trust Fund; creating an oversight committee and providing for powers and duties thereof; amending s. 334.044, F.S.; providing an additional duty of the Department of Transportation; repealing s. 321.001, F.S., relating to the power of the Governor to effectuate the purposes of the National Safety Act of 1966; amending s. 163.03, F.S.; eliminating a responsibility of the Department of Community Affairs with respect to highway safety grant programs; amending s. 110.205, F.S.; revising language with respect to certain positions exempt from the Career Service System; amending s. 335.20, F.S.; revising language with respect to the local government cooperative assistance program; amending s. 337.407, F.S.; revising language with respect to the regulation of signs and lights within rights-of-way; exempting certain transit bus benches from departmental size requirements; amending s. 177.151, F.S.; revising language with respect to the state plane coordinate; providing legislative intent with respect to severability; providing effective dates.

House Amendment 1 (with Title Amendment) to House Amendment 1 to Senate Amendment 1—On page 247, between lines 9 and 10, insert:

Section 178. *The Florida Transportation Commission is hereby directed to review Florida's regulation of axle weights, gross weights, and the penalties associated with each, and shall report its findings and any proposed legislative changes to the transportation committees of the Legislature by August 1, 1993.*

(Renumber subsequent sections.)

And the title is amended as follows:

On page 265, line 18, after the semicolon insert: directing the Florida Transportation Commission to review Florida's regulation of axle weights, gross weights, and the penalties associated with each; providing for a report;

House Amendment 2 (with Title Amendment) to House Amendment 1 to Senate Amendment 1—On page 247, between lines 9 and 10, insert:

Section 178. *The Department of Transportation shall adjust toll rates to include a system under which any person who wishes to purchase an annual permit allowing unlimited passage over the Bryant Grady Patton Bridge in Franklin County by the motor vehicle for which it is issued may do so at an annual cost of $100. The department shall institute the system no later than July 1, 1992.*

(Renumber subsequent section.)

And the title is amended as follows:

On page 265, line 18, after the semicolon, insert: providing for an annual permit allowing passage over the Bryant Grady Patton Bridge in Franklin County;

House Amendment 6 (with Title Amendment) to House Amendment 1 to Senate Amendment 1—On page 247, between lines 9 and 10, insert:

Section 178. *(1) As used in this section, "A1A," also known as "North Ocean Boulevard," means those portions of State Highway A1A located between Pelican Lane on the south and Sea Road on the north in the Town of Gulf Stream, Palm Beach County.*

(2) That portion of A1A described in this section as a "highway" is hereby designated as a state historic and scenic highway. No state funds shall be expended with regard to such highway by any public body or agency for the following purposes:

(a) To cut or remove any healthy tree having a diameter at its thickest part in excess of 4 inches, when situated within 35 feet of either side of the paved surface of the highway and which is not a safety hazard, unless such tree is replaced.

(b) To alter the physical dimensions or location of the highway except for the addition of primary or secondary roads intersecting the limits of A1A.

(3) Nothing in this section shall be construed to prevent the ordinary maintenance and repair of A1A, provided the physical dimensions and location of the highway are preserved, nor to prevent any work that is necessary for the public health or safety as determined by the agency having jurisdiction over the portion of A1A involved, nor to prevent such action deemed necessary to clear or maintain the highway subsequent to a natural disaster, such as a hurricane. The term "ordinary maintenance" means those activities necessary to preserve the existing traffic patterns and to accommodate the volume of traffic operating on A1A on the effective date of this act.

(4) The Division of Historical Resources of the Department of State shall provide for the erection of suitable markers on and along A1A.

(5) The provisions of this section shall not supersede a more restrictive law, ordinance, or rule already in effect or which takes effect after the effective date of this act.

Section 179. *U.S. Highway 27 (State Road 500, Section 36-070) from the Levy County line (mile post 0.000) east to Interstate 75 (mile post 17.951) in Marion County is hereby designated as the "Bernard Castro Memorial Highway."*

Section 180. *The proposed expressway in northwest Hillsborough County, planned by the Department of Transportation to run from the Tampa airport north through the county to intersect with Interstate 75 near the Pasco County line, is named, upon completion, "Veterans Expressway" and is dedicated to the veterans of all wars, including the conflict in Vietnam.*

Section 181. *(1) State Road 417, including any further extensions of the road, in Lake, Orange, Osceola, and Seminole Counties is hereby designated as the "Central Florida GreeneWay."*

(2) Each governmental agency having signage responsibility for the road described in this section shall erect appropriate markers designating the "Central Florida GreeneWay" along those portions of the road where such responsibility exists.

Section 182. *That portion of State Road 811 north of the Donald Ross Road intersection and southeast of the U.S. Highway 1 intersection in the Town of Jupiter in Palm Beach County is hereby designated as the "Glynn Mayo Highway."*

Section 183. *U.S. Highway 41 (State Road 45) from County Road 672 (Big Bend Road) to the Little Manatee River in Hillsborough County is hereby designated as the "Trooper Kenneth E. Flynt Highway."*

Section 184. *(1) That portion of State Road 84 in Broward County running between Interstate 95 and State Road 7 is designated "Marina Mile."*

(2) The Department of Transportation is directed to erect suitable markers on State Road 84 which indicate the designation made by this section and is further directed to include the designation on any sign that advises motorists on either Interstate 95 or State Road 7 of the intersection of that road with State Road 84.

Section 185. *The following described road beginning at State Road 758 in Sarasota County and extending to U.S. Highway 1 in Palm Beach County is hereby designated as the "Coast to Coast Highway":*

Beginning at State Road 758 on Siesta Key in Sarasota County, State Road 72 runs east for a distance of 42.6 miles, connecting to State Road 70, west of Arcadia, in DeSoto County.

State Road 70 continues east through DeSoto, Highlands, and Okeechobee Counties to a point east of the City of Okeechobee where State Road 710 connects. From State Road 72 in DeSoto County to State Road 710 in Okeechobee County, State Road 70 covers a distance of 67.9 miles.

Beginning at State Road 70, east of the City of Okeechobee, State Road 710 travels southeasterly through Martin County and Palm Beach County for a distance of 57.2 miles. State Road 710 ends at U.S. Highway 1 in Riviera Beach, Florida.

Section 186. *The portion of State Road No. 40 in Marion County, from Interstate 75 to County Road 225-A, previously designated as a portion of "Rainbow Springs Boulevard" by chapter 71-451, Laws of Florida, is redesignated as the "Wallace E. Sturgis Memorial Highway."*

Section 187. *The State Road 40 Bridge crossing the ACL Railroad and intersecting with U.S. Highways 441, 301, and 27 in Ocala, Florida, is designated as the "Willard Ayres Bridge."*

Section 188. *Except as otherwise provided herein, the Department of Transportation is directed to erect appropriate markers to designate the transportation facilities in this act.*

(Renumber subsequent section.)

And the title is amended as follows:

On page 265, line 18, insert: severability; designating State Highway A1A (North Ocean Boulevard) between Pelican Lane and Sea Road in the Town of Gulf Stream as a historic and scenic highway; providing a definition; providing restrictions on the removal of trees from said highway; restricting alterations to the physical dimensions or location of the highway; providing for the erection of suitable markers; designating a portion of U.S. Highway 27 in Marion County as the "Bernard Castro Memorial Highway"; naming a specified limited-access highway in Hillsborough County "Veterans Expressway"; designating State Road 417 in Lake, Orange, Osceola, and Seminole Counties as the "Central Florida GreeneWay"; directing governmental agencies having signage responsibilities for the road to erect appropriate markers; designating a portion of State Road 811 in the Town of Jupiter as the "Glynn Mayo Highway"; designating a portion of U.S. Highway 41 as the "Trooper Kenneth E. Flynt Highway"; designating a portion of State Road 84 in Broward County as "Marina Mile"; requiring the Department of Transportation to erect specified markers with respect to such designation; designating a road beginning at State Road 758 in Sarasota County and extending to U.S. Highway 1 in Palm Beach County as the "Coast to Coast Highway"; designating a portion of State Road 40 in Marion County as the "Wallace E. Sturgis Memorial Highway"; designating a bridge in Ocala as the "Willard Ayers Bridge"; directing the Department of Transportation to erect suitable markers; providing effective dates.

WHEREAS, Bernard Castro, Sr., immigrated to New York in 1919 at age 15, learned English in night school, apprenticed himself to an upholsterer, and studied the furniture industry for 10 years, and, during the depression, he borrowed $300 to start an interior design business, and

WHEREAS, Mr. Castro designed a piece of furniture vital to people in space-cramped apartments during the depression and succeeded in marketing this product to an eagerly awaiting public, eventually running a 500-employee corporation based in New Hyde Park, Long Island, with two factories producing 100 different designs, and

WHEREAS, in addition to many other honors, Mr. Castro was a Knight of Malta and the recipient of the Horatio Alger Award in 1963 and the State of Florida Service Medal, and

WHEREAS, it has been said that Mr. Castro was one of those rare examples of American entrepreneurship, a person for whom a little luck, a bit of savvy, some education, a touch of good people management, a dash of ingenuity, and a whole lot of desire formed the all-American recipe for success, and

WHEREAS, the citizens of the State of Florida owe a debt of gratitude to Mr. Castro for his many contributions to the state, and

WHEREAS, Florida is home to a large number of veterans of this nation's conflicts in the Twentieth Century, both those retired or separated from military service and those still on active service stationed in military bases around the state, and

WHEREAS, it is altogether appropriate that this state recognize those who have honorably served their country, whether in combat or in non-combat roles, and

WHEREAS, former Town of Jupiter Police Chief Glynn Mayo began his career as a Palm Beach County Constable in April of 1955, and

WHEREAS, Chief Glynn Mayo moved his one-man police department which later became the Jupiter Police Department through three decades of social change, population booms, traffic congestion, and personnel upheavels, turning it into a well-respected organization housing 55 personnel, and

WHEREAS, Chief Glynn Mayo was respected and admired by all those persons who worked with him over his 28-year career, and

WHEREAS, Chief Glynn Mayo distinguished himself both in military service to his country as well as in service to his state and community in a number of law enforcement-related capacities, and

WHEREAS, it is fitting and appropriate that Chief Glynn Mayo be remembered for his many contributions and his service to the Town of Jupiter, and

WHEREAS, Willard Ayres graduated from the University of Florida with a degree in Education, and

WHEREAS, Willard Ayres taught school in Reddick, Florida, before returning to the University of Florida to the College of Law, and

WHEREAS, Willard Ayres practiced with the firms of Maguire, Voorhis & Wells in Orlando, Holland & Bevis in Bartow, and served as general counsel for the Florida Real Estate Commission in 1941, and

WHEREAS, Willard Ayres was a Naval Line Officer who participated in the invasions of Sicily, Salerno, Anzio, and Normandy, and ended his career as a Flotilla Commander of LCI's in the Pacific Theater, and

WHEREAS, Willard Ayres began practice in Ocala, Florida, in 1946, in the law firm of Greene & Ayres and served as president of the Marion County Bar Association, vice president of The Florida Bar, and attorney of the Florida State Racing Commission, and

WHEREAS, Willard Ayres served two terms in the Legislature as a member of the House of Representatives from Marion County, Florida, in 1951 and 1953, receiving the Allen Morris award as one of the most outstanding first-term representatives and as a member of the most effective three-man delegation both terms, and in 1953 received the Allen Morris award as the most effective House debater, and

WHEREAS, Willard Ayres served as a director and president of the Marion County Chamber of Commerce where, during his term, he helped sponsor the Ocala Committee of 100 for industrial development, and

WHEREAS, Willard Ayres was elected Mayor of the City of Ocala, Florida, in 1963 during a time of racial stress and organized programs of hiring and municipal improvements which resulted in a 2-year term free of any further racial difficulties, and

WHEREAS, Willard Ayres served as County Attorney for Marion County, was elected to the Board of Governors of The Florida Bar, and served as president of the Florida Association of County Attorneys in 1970-71, and

WHEREAS, Willard Ayres' work in the City of Ocala and the County of Marion have benefited the people for over 40 years, and

WHEREAS, the late Wallace E. Sturgis served the City of Ocala, Marion County, and the State of Florida with distinction over an illustrious career that began upon graduation from the University of Florida College of Law in 1953, included 2 years of duty in the Marine Corps, continued with service between 1960 and 1970 as city judge and city attorney for the City of Ocala, and ended after 18 years of service, from 1973-1991, as circuit judge of the Fifth Judicial Circuit, and

WHEREAS, it is therefore fitting and appropriate that Judge Sturgis be remembered for his many years of distinguished public service, NOW, THEREFORE,

House Amendment 10 to House Amendment 1 to Senate Amendment 1—On page 109, lines 4 and 18, strike *"transporation"* and insert: *transportation*

Senator Forman moved the following amendments which were adopted:

Senate Amendment 1 to House Amendment 1 to Senate Amendment 1—On page 263, lines 13-15, strike "creating s. 335.045, F.S.; providing for the applicability of the Florida Transportation Code;"

Senate Amendment 2 to House Amendment 1 to Senate Amendment 1—On page 106, strike all of lines 10-13 and insert: *Transportation* an Intermodal Development Program to provide for major capital investments in fixed-guideway transportation systems, access to

Senate Amendment 3 (with Title Amendment) to House Amendment 1 to Senate Amendment 1—On page 149, line 25, through page 162, line 18, strike all of said lines and renumber subsequent sections.

And the title is amended as follows:

On page 259, strike all of lines 16-26 and insert: program;

Senator Johnson moved the following amendments which were adopted:

Senate Amendment 4 to House Amendment 1 to Senate Amendment 1—On page 17, line 26, through page 19, line 17, strike all of said lines

Senate Amendment 5 to House Amendment 1 to Senate Amendment 1—On page 17, strike all of lines 1-4 and insert:

Section 8. Paragraph (c) of subsection (1) of section 333.03, Florida Statutes, is amended to read:

Senate Amendment 6 (with Title Amendment) to House Amendment 1 to Senate Amendment 1—On page 19, line 29, through page 20, line 15, strike all of said lines and renumber subsequent sections.

And the title is amended as follows:

On page 248, strike all of lines 13-15 and insert: providing criteria; and adopted: and failed: and adopted by two-thirds vote:

Senator Forman moved the following amendment which was adopted:

Senate Amendment 7 (with Title Amendment) to House Amendment 1 to Senate Amendment 1—On page 247, strike all of lines 1-9 and renumber subsequent sections.

And the title is amended as follows:

On page 265, strike all of lines 17 and 18 and insert: providing effective dates.

Senator Dudley moved the following amendment which was adopted:

Senate Amendment 8 (with Title Amendment) to House Amendment 1 to Senate Amendment 1—On page 203, strike all of lines 13-20 and insert: *for a turnpike system project.*

And the title is amended as follows:

On page 263, line 1, strike "and noncharter counties"

Senator Weinstein moved the following amendment which was adopted:

Senate Amendment 9 (with Title Amendment) to House Amendment 1 to Senate Amendment 1—On page 203, line 21, through page 209, line 19, strike all of said lines and renumber subsequent sections.

And the title is amended as follows:

On page 263, strike all of lines 1-15 and insert: department and noncharter counties; amending s. 348.60, F.S.;

Senator Forman moved the following amendment which was adopted:

Senate Amendment 10 (with Title Amendment) to House Amendment 1 to Senate Amendment 1—On page 238, line 4, through page 241, line 13, strike all of said lines and renumber subsequent sections.

And the title is amended as follows:

On page 264, strike all of lines 26-28 and insert: the Gas Tax Collection Trust Fund; amending s. 334.044, F.S.;

On motions by Senator Forman, the Senate concurred in **House Amendment 1 to Senate Amendment 1** as further amended and the House was requested to concur in the Senate amendments to **House Amendment 1 to Senate Amendment 1**.

CS for HB 2439 passed as amended and the action of the Senate was certified to the House.The vote on passage was:

Yeas—37 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendment 2 and concurred in same as amended; concurred in Senate Amendment 1; refused to concur in Senate Amendments 3 and 9 and requests the Senate to recede; has passed HJR 2491, as further amended and requests the Senate to concur.

John B. Phelps, Clerk

HJR 2491—A joint resolution of apportionment; providing for the apportionment of the House of Representatives and the Senate; adopting the federal decennial census for use in such apportionment; providing for omitted areas; providing for areas with no population specified for inclusion in one district which are entirely surrounded by other districts; providing severability of invalid portions; providing for nomination and election of candidates from representative and senatorial districts; providing an effective date.

House Amendment 1 to Senate Amendment 2—On page 1, line 25, strike all of Section 5 and insert a new Section 5:

Section 5. Territory specified for inclusion in one district that is entirely surrounded by other districts.—Any portion of the state which is stated in this joint resolution as being included in one district and which is entirely surrounded by another district shall be included within the surrounding district. Any portion of the state which is stated in this joint resolution as being included in one district and which is entirely surrounded by two or more other districts shall be included within the contiguous district that contains the least population per legislator according to the United States Decennial Census of 1990; however, if the contiguous districts have equal populations, such portion shall be included within that contiguous district that has the lowest number designation.

Senator Gordon moved that the Senate concur in **House Amendment 1 to Senate Amendment 2**; refuse to recede from **Senate Amendment 3** and again request that the House concur; and recede from **Senate Amendment 9**.

On motion by Senator Gordon, further consideration of **HJR 2491** was deferred.

RETURNING MESSAGES—FINAL ACTION

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed SB 64, CS for SB 66, CS for CS for SB 76, SB 348, CS for SB 582, CS for SB 602, CS for SB 608, CS for SB 642, CS for CS for SB 684, SB 896, CS for SB 904, CS for SB 918, SB 972, CS for SB 980, CS for SB 1018, SB 1070, SB 1114, SB 1180, CS for CS for SB 1304, CS for SB 1430, SB 1432, SB 1434, SB 1458, SB 1644, CS for SB 1766, CS for CS for SB 1788, SB 1792, CS for SB 1882, SB 1920, SB 1922, CS for CS for SB 2122, CS for SB 2142, SB 2178, CS for SB 2264, SB 2434, SB 2520; has adopted SCR 1826, SM 2464 and SM 2528.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments to House Amendment 1 to CS for CS for SB 84 and passed as further amended; has concurred in Senate Amendments to House Amendment 1 to CS for SB 1354 and passed as further amended; has receded from House Amendment 3 and has passed as amended CS for SB 1648; has receded from House Amendments 6 and 7 and has passed as amended CS for CS for SB 1280.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered engrossed and then enrolled.

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendment 1 and passed CS for HB 167 as amended; has concurred in Senate Amendment 1 and passed CS for CS for HB 237 as amended; has concurred in Senate Amendment 1 and passed CS for HB 417 as amended; has concurred in Senate Amendment 1 and passed CS for HB 833 as amended; has concurred in Senate Amendment 1 and passed CS for CS for HB 839 as amended; has concurred in Senate Amendment 1 and passed HB 1307 as amended; has concurred in Senate Amendments 1, 2 and 3 and passed HB 1355 as amended; has concurred in Senate Amendment 1 and passed HB 1505 as amended; has concurred in Senate Amendment 1 and passed HB 1901 as amended; has concurred in Senate Amendments 1 and 2 and passed HB 2269 as amended; has concurred in Senate Amendment 1 and passed HB 2275 as amended; and has concurred in Senate amendments to House Amendment 1 to Senate Amendment 1 and passed CS for HB 2439 as further amended.

John B. Phelps, Clerk

ROLL CALLS ON SENATE BILLS

SJR 152

Yeas—29

Madam President	Dudley	Langley	Walker
Bankhead	Girardeau	Malchon	Weinstein
Beard	Gordon	McKay	Weinstock
Burt	Grant	Meek	Wexler
Childers	Grizzle	Myers	Yancey
Crotty	Johnson	Plummer	
Dantzler	Kiser	Scott	
Davis	Kurth	Thomas	

Nays—None

Vote after roll call:

Yea—Jenne, Kirkpatrick, Thurman

SB 300—Amendment 4

Yeas—28

Madam President	Davis	Johnson	Souto
Bankhead	Diaz-Balart	Kirkpatrick	Thomas
Burt	Forman	Langley	Walker
Childers	Gardner	Malchon	Weinstein
Crenshaw	Grant	Meek	Weinstock
Crotty	Jenne	Myers	Wexler
Dantzler	Jennings	Plummer	Yancey

Nays—11

Beard	Dudley	Grizzle	McKay
Bruner	Girardeau	Kiser	Scott
Casas	Gordon	Kurth	

CS for SB 316

Yeas—32

Madam President	Burt	Crotty	Dudley
Bankhead	Casas	Dantzler	Forman
Beard	Crenshaw	Davis	Gardner
Gordon	Kirkpatrick	McKay	Souto
Grant	Kiser	Meek	Thomas
Grizzle	Kurth	Myers	Walker
Jennings	Langley	Plummer	Weinstock
Johnson	Malchon	Scott	Yancey

Nays—None

Vote after roll call:

Yea—Childers, Jenne, Thurman

CS for SB 540

Yeas—37

Bankhead	Dudley	Kirkpatrick	Souto
Beard	Forman	Kiser	Thurman
Bruner	Gardner	Kurth	Walker
Burt	Girardeau	Langley	Weinstein
Childers	Gordon	Malchon	Weinstock
Crenshaw	Grant	McKay	Wexler
Crotty	Grizzle	Meek	Yancey
Dantzler	Jenne	Myers	
Davis	Jennings	Plummer	
Diaz-Balart	Johnson	Scott	

Nays—None

SB 548

Yeas—37

Madam President	Dudley	Kiser	Thomas
Bankhead	Forman	Kurth	Thurman
Beard	Gardner	Langley	Walker
Bruner	Girardeau	Malchon	Weinstein
Burt	Gordon	McKay	Weinstock
Casas	Grant	Meek	Wexler
Childers	Grizzle	Myers	Yancey
Crenshaw	Jenne	Plummer	
Crotty	Jennings	Scott	
Davis	Kirkpatrick	Souto	

Nays—None

SB 658

Yeas—38

Madam President	Diaz-Balart	Johnson	Scott
Bankhead	Dudley	Kirkpatrick	Souto
Beard	Forman	Kiser	Thurman
Bruner	Gardner	Kurth	Walker
Burt	Girardeau	Langley	Weinstein
Casas	Gordon	Malchon	Weinstock
Crenshaw	Grant	McKay	Wexler
Crotty	Grizzle	Meek	Yancey
Dantzler	Jenne	Myers	
Davis	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Childers

SB 670

Yeas—40

Madam President	Davis	Jennings	Plummer
Bankhead	Diaz-Balart	Johnson	Scott
Beard	Dudley	Kirkpatrick	Souto
Bruner	Forman	Kiser	Thomas
Burt	Gardner	Kurth	Thurman
Casas	Girardeau	Langley	Walker
Childers	Gordon	Malchon	Weinstein
Crenshaw	Grant	McKay	Weinstock
Crotty	Grizzle	Meek	Wexler
Dantzler	Jenne	Myers	Yancey

Nays—None

CS for SB 696

Yeas—37

Madam President	Davis	Johnson	Thomas
Bankhead	Diaz-Balart	Kiser	Thurman
Beard	Dudley	Kurth	Walker
Bruner	Forman	Langley	Weinstein
Burt	Girardeau	Malchon	Weinstock
Casas	Gordon	McKay	Wexler
Childers	Grant	Meek	Yancey
Crenshaw	Grizzle	Myers	
Crotty	Jenne	Scott	
Dantzler	Jennings	Souto	

Nays—None

CS for CS for SB 756

Yeas—33

Madam President	Diaz-Balart	Johnson	Thurman
Bankhead	Dudley	Kirkpatrick	Walker
Beard	Gardner	Kiser	Weinstein
Bruner	Girardeau	Kurth	Weinstock
Casas	Gordon	Langley	Wexler
Childers	Grant	McKay	Yancey
Crotty	Grizzle	Meek	
Dantzler	Jenne	Myers	
Davis	Jennings	Souto	

Nays—None

SB 764

Yeas—31

Beard	Dudley	Johnson	Scott
Burt	Gardner	Kirkpatrick	Souto
Casas	Girardeau	Kiser	Thomas
Childers	Gordon	Kurth	Thurman
Crenshaw	Grant	Malchon	Walker
Dantzler	Grizzle	McKay	Wexler
Davis	Jenne	Meek	Yancey
Diaz-Balart	Jennings	Myers	

Nays—4

Bankhead	Bruner	Plummer	Weinstock

CS for SB 776

Yeas—31

Madam President	Dantzler	Jenne	Myers
Bankhead	Davis	Johnson	Plummer
Beard	Diaz-Balart	Kiser	Scott
Bruner	Dudley	Kurth	Walker
Burt	Girardeau	Langley	Weinstein
Casas	Gordon	Malchon	Weinstock
Childers	Grant	McKay	Wexler
Crotty	Grizzle	Meek	

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Souto, Thurman

SB 846

Yeas—35

Madam President	Davis	Johnson	Plummer
Bankhead	Diaz-Balart	Kirkpatrick	Souto
Beard	Dudley	Kiser	Thomas
Bruner	Forman	Kurth	Thurman
Burt	Girardeau	Langley	Walker
Casas	Gordon	Malchon	Weinstein
Childers	Grant	McKay	Weinstock
Crotty	Grizzle	Meek	Yancey
Dantzler	Jennings	Myers	

Nays—None

Vote after roll call:

Yea—Jenne

SB 846—After Reconsideration

Yeas—38

Madam President	Diaz-Balart	Johnson	Souto
Bankhead	Dudley	Kirkpatrick	Thomas
Bruner	Forman	Kiser	Thurman
Burt	Gardner	Kurth	Walker
Casas	Girardeau	Langley	Weinstein
Childers	Gordon	McKay	Weinstock
Crenshaw	Grant	Meek	Wexler
Crotty	Grizzle	Myers	Yancey
Dantzler	Jenne	Plummer	
Davis	Jennings	Scott	

Nays—None

CS for SB 868

Yeas—35

Madam President	Dudley	Kirkpatrick	Scott
Bankhead	Forman	Kiser	Souto
Beard	Gardner	Kurth	Thomas
Casas	Girardeau	Langley	Thurman
Childers	Gordon	Malchon	Walker
Crotty	Grant	McKay	Weinstein
Dantzler	Grizzle	Meek	Weinstock
Davis	Jennings	Myers	Yancey
Diaz-Balart	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—Jenne

CS for SB 918

Yeas—36

Beard	Diaz-Balart	Jennings	Myers
Bruner	Dudley	Johnson	Scott
Burt	Forman	Kirkpatrick	Souto
Casas	Gardner	Kiser	Thurman
Childers	Girardeau	Kurth	Walker
Crenshaw	Gordon	Langley	Weinstein
Crotty	Grant	Malchon	Weinstock
Dantzler	Grizzle	McKay	Wexler
Davis	Jenne	Meek	Yancey

Nays—None

Abstention from Voting

I did not vote on CS for SB 918 which in part deals with railroads so that I could avoid any appearance of conflict of interest. I am an employee of the CSX Transportation Company.

W. G. (Bill) Bankhead, 9th District

CS for SB 980

Yeas—33

Bankhead	Forman	Kirkpatrick	Souto
Beard	Gardner	Kiser	Thurman
Bruner	Girardeau	Kurth	Walker
Burt	Gordon	Langley	Weinstein
Casas	Grant	Malchon	Wexler
Crotty	Grizzle	Meek	Yancey
Dantzler	Jenne	Myers	
Diaz-Balart	Jennings	Plummer	
Dudley	Johnson	Scott	

Nays—None

Vote after roll call:

Yea—Childers

CS for CS for SB 1026

Yeas—38

Madam President	Diaz-Balart	Johnson	Souto
Bankhead	Dudley	Kirkpatrick	Thomas
Beard	Forman	Kiser	Thurman
Bruner	Gardner	Kurth	Walker
Burt	Girardeau	Langley	Weinstein
Casas	Gordon	Malchon	Weinstock
Childers	Grant	McKay	Wexler
Crenshaw	Grizzle	Meek	Yancey
Crotty	Jenne	Myers	
Dantzler	Jennings	Scott	

Nays—None

Vote after roll call:

Yea—Davis

CS for CS for SB 1134

Yeas—30

Madam President	Davis	Jennings	Souto
Bankhead	Diaz-Balart	Johnson	Thomas
Beard	Dudley	Kirkpatrick	Thurman
Burt	Gardner	Kurth	Weinstock
Casas	Girardeau	McKay	Wexler
Crenshaw	Gordon	Myers	Yancey
Crotty	Grant	Plummer	
Dantzler	Jenne	Scott	

Nays—6

Bruner	Forman	Walker
Childers	Grizzle	Weinstein

CS for SB's 1262 and 1326

Yeas—39

Bankhead	Diaz-Balart	Johnson	Scott
Beard	Dudley	Kirkpatrick	Souto
Bruner	Forman	Kiser	Thomas
Burt	Gardner	Kurth	Thurman
Casas	Girardeau	Langley	Walker
Childers	Gordon	Malchon	Weinstein
Crenshaw	Grant	McKay	Weinstock
Crotty	Grizzle	Meek	Wexler
Dantzler	Jenne	Myers	Yancey
Davis	Jennings	Plummer	

Nays—None

CS for CS for SB 1304

Yeas—33

Bankhead	Gardner	Kiser	Thurman
Beard	Girardeau	Kurth	Walker
Bruner	Gordon	Langley	Weinstein
Casas	Grant	McKay	Weinstock
Childers	Grizzle	Meek	Wexler
Crenshaw	Jenne	Myers	Yancey
Dantzler	Jennings	Plummer	
Diaz-Balart	Johnson	Souto	
Dudley	Kirkpatrick	Thomas	

Nays—None

CS for SB 1354

Yeas—36

Madam President	Davis	Jennings	Plummer
Bankhead	Diaz-Balart	Johnson	Scott
Beard	Dudley	Kirkpatrick	Souto
Bruner	Gardner	Kiser	Thurman
Burt	Girardeau	Langley	Walker
Casas	Gordon	Malchon	Weinstein
Childers	Grant	McKay	Weinstock
Crotty	Grizzle	Meek	Wexler
Dantzler	Jenne	Myers	Yancey

Nays—None

Vote after roll call:

Yea—Kurth

SB 1422

Yeas—34

Bankhead	Diaz-Balart	Johnson	Plummer
Beard	Dudley	Kirkpatrick	Souto
Bruner	Gardner	Kiser	Thomas
Casas	Girardeau	Kurth	Walker
Childers	Gordon	Langley	Weinstein
Crenshaw	Grant	Malchon	Weinstock
Crotty	Grizzle	McKay	Wexler
Dantzler	Jenne	Meek	
Davis	Jennings	Myers	

Nays—1

Thurman

Explanation of Vote

I voted "no" on Senate Bill 1422, the Senate Commerce Committee's bingo sunset bill, because I do not believe that the committee fulfilled its charge in addressing this issue. In 1990, the public brought before the Legislature a number of issues in which it sought heightened protection and enforcement standards.

Following the enactment of legislation in 1991 and its subsequent repeal in special session, the public has continued to request legislative action curtailing commercial bingo activities. A number of bills were introduced in this session to this effect. The Senate Commerce Committee did not consider these bills, nor did it hear testimony from the homeowners' associations and nonprofit organizations seeking action. The committee considered only Senate Bill 1422 and heard testimony only from lobbyists representing commercial bingo interests.

The public sought redress from this legislature; Senate Bill 1422 maintains the status quo and does not meet the goals set by the public.

Karen L. Thurman, 4th District

CS for SB 1430

Yeas—36

Madam President	Dudley	Johnson	Plummer
Beard	Forman	Kirkpatrick	Scott
Bruner	Gardner	Kiser	Souto
Casas	Girardeau	Kurth	Thurman
Childers	Gordon	Langley	Walker
Crenshaw	Grant	Malchon	Weinstein
Crotty	Grizzle	McKay	Weinstock
Dantzler	Jenne	Meek	Wexler
Diaz-Balart	Jennings	Myers	Yancey

Nays—None

CS for SB 1580

Yeas—35

Madam President	Dantzler	Kirkpatrick	Souto
Bankhead	Davis	Kiser	Thomas
Beard	Dudley	Kurth	Thurman
Bruner	Gardner	Langley	Walker
Burt	Girardeau	Malchon	Weinstein
Casas	Gordon	McKay	Weinstock
Childers	Grant	Meek	Wexler
Crenshaw	Grizzle	Plummer	Yancey
Crotty	Johnson	Scott	

Nays—1

Myers

SB 1594

Yeas—32

Madam President	Davis	Grizzle	Myers
Bankhead	Diaz-Balart	Johnson	Plummer
Beard	Dudley	Kirkpatrick	Souto
Bruner	Forman	Kiser	Thurman
Casas	Gardner	Kurth	Walker
Crenshaw	Girardeau	Langley	Weinstein
Crotty	Gordon	Malchon	Weinstock
Dantzler	Grant	McKay	Yancey

Nays—None

Vote after roll call:

Yea—Childers, Jenne

CS for SB 1648

Yeas—34

Madam President	Diaz-Balart	Kirkpatrick	Souto
Bankhead	Dudley	Kiser	Thomas
Beard	Gardner	Kurth	Thurman
Bruner	Girardeau	Malchon	Walker
Burt	Gordon	McKay	Weinstein
Casas	Grant	Meek	Weinstock
Childers	Grizzle	Myers	Yancey
Crenshaw	Jennings	Plummer	
Davis	Johnson	Scott	

Nays—None

Vote after roll call:

Yea—Jenne

CS for SB 1720

Yeas—37

Madam President	Davis	Jennings	Plummer
Bankhead	Diaz-Balart	Johnson	Thomas
Beard	Dudley	Kirkpatrick	Thurman
Bruner	Forman	Kiser	Walker
Burt	Gardner	Kurth	Weinstein
Casas	Girardeau	Langley	Wexler
Childers	Gordon	Malchon	Yancey
Crenshaw	Grant	McKay	
Crotty	Grizzle	Meek	
Dantzler	Jenne	Myers	

Nays—1

Weinstock

Vote after roll call:

Yea—Souto

CS for SB 1730

Yeas—35

Madam President	Davis	Kirkpatrick	Scott
Beard	Dudley	Kiser	Souto
Bruner	Gardner	Kurth	Thomas
Burt	Girardeau	Langley	Thurman
Casas	Gordon	Malchon	Walker
Childers	Grant	McKay	Weinstein
Crenshaw	Grizzle	Meek	Weinstock
Crotty	Jennings	Myers	Yancey
Dantzler	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—Bankhead, Jenne

CS for SB 1828

Yeas—33

Madam President	Davis	Johnson	Souto
Bankhead	Diaz-Balart	Kirkpatrick	Thomas
Beard	Dudley	Kiser	Thurman
Burt	Forman	Langley	Walker
Casas	Gardner	Malchon	Weinstock
Childers	Gordon	Meek	Yancey
Crenshaw	Grant	Myers	
Crotty	Grizzle	Plummer	
Dantzler	Jennings	Scott	

Nays—2

Bruner	Kurth

CS for SB 1882

Yeas—37

Bankhead	Diaz-Balart	Kirkpatrick	Souto
Beard	Dudley	Kiser	Thomas
Bruner	Forman	Kurth	Thurman
Burt	Gardner	Langley	Walker
Casas	Girardeau	Malchon	Weinstein
Childers	Gordon	McKay	Weinstock
Crenshaw	Grant	Meek	Wexler
Crotty	Grizzle	Myers	
Dantzler	Jennings	Plummer	
Davis	Johnson	Scott	

Nays—None

Vote after roll call:

Yea—Jenne

CS for SB 1998

Yeas—36

Madam President	Dudley	Johnson	Plummer
Bankhead	Forman	Kirkpatrick	Scott
Beard	Gardner	Kiser	Souto
Bruner	Girardeau	Kurth	Thurman
Burt	Gordon	Langley	Walker
Casas	Grant	Malchon	Weinstein
Crenshaw	Grizzle	McKay	Weinstock
Crotty	Jenne	Meek	Wexler
Davis	Jennings	Myers	Yancey

Nays—2

Childers	Dantzler

CS for CS for SB 2122

Yeas—31

Beard	Girardeau	Kiser	Souto
Casas	Gordon	Kurth	Thomas
Childers	Grant	Malchon	Thurman
Crenshaw	Grizzle	McKay	Walker
Davis	Jenne	Meek	Weinstock
Diaz-Balart	Jennings	Myers	Wexler
Dudley	Johnson	Plummer	Yancey
Forman	Kirkpatrick	Scott	

Nays—1

Dantzler

Vote after roll call:

Yea—Bankhead, Burt, Weinstein

CS for SB 2264—Amendment 3L

Yeas—8

Bruner	Crenshaw	Langley	Scott
Childers	Girardeau	Plummer	Thomas

Nays—29

Bankhead	Dudley	Johnson	Thurman
Beard	Forman	Kirkpatrick	Walker
Burt	Gardner	Kiser	Weinstock
Casas	Gordon	Kurth	Wexler
Crotty	Grant	Malchon	Yancey
Dantzler	Grizzle	McKay	
Davis	Jenne	Myers	
Diaz-Balart	Jennings	Souto	

CS for SB 2264—Amendment 4

Yeas—17

Bankhead	Davis	Johnson	Souto
Casas	Gardner	Kurth	Thomas
Childers	Grant	Langley	
Crenshaw	Grizzle	Myers	
Dantzler	Jennings	Scott	

Nays—13

Madam President	Dudley	McKay	Yancey
Beard	Forman	Thurman	
Bruner	Gordon	Weinstock	
Burt	Kiser	Wexler	

CS for SB 2264

Yeas—38

Madam President	Davis	Johnson	Souto
Bankhead	Diaz-Balart	Kirkpatrick	Thomas
Beard	Dudley	Kiser	Thurman
Bruner	Forman	Kurth	Walker
Burt	Gardner	Langley	Weinstein
Casas	Girardeau	Malchon	Weinstock
Childers	Gordon	McKay	Wexler
Crenshaw	Grant	Myers	Yancey
Crotty	Grizzle	Plummer	
Dantzler	Jennings	Scott	

Nays—None

Vote after roll call:

Yea—Jenne

On motion by Senator Dudley, the following statement was printed in the Journal:

STATEMENT OF INTENT

CS for SB 2264 contains a provision dealing with notification by providers and entities. In order to clarify the language, it is not the intent of Section 13 of CS for SB 2264, to be construed to apply to a hospital licensed under Chapter 395, Florida Statutes, or a nursing home licensed under Chapter 400, Florida Statutes. Further, in light of the confusion relating to the application of Section 13 of CS for SB 2264, I intend that this section be given such retrospective effect as is necessary to clarify that it does not, and did not before this enactment, require hospitals or nursing homes to disclose pursuant to this section.

Fred R. Dudley, 38th District

SB 2314

Yeas—31

Madam President	Diaz-Balart	Jennings	Scott
Beard	Forman	Kirkpatrick	Thomas
Bruner	Gardner	Kiser	Walker
Burt	Girardeau	Kurth	Weinstein
Casas	Gordon	Malchon	Weinstock
Childers	Grant	McKay	Wexler
Crenshaw	Grizzle	Meek	Yancey
Crotty	Jenne	Plummer	

Nays—7

Bankhead	Dudley	Langley	Thurman
Dantzler	Johnson	Myers	

Vote after roll call:

Yea to Nay—Plummer

Abstention from Voting

I abstain from voting on SB 2314 because of a possible conflict of interest.

Helen Gordon Davis, 23rd District

CS for SB 2334

Yeas—37

Madam President	Davis	Kirkpatrick	Souto
Bankhead	Diaz-Balart	Kiser	Thomas
Beard	Dudley	Kurth	Thurman
Bruner	Forman	Langley	Walker
Burt	Gardner	Malchon	Weinstein
Casas	Girardeau	McKay	Weinstock
Childers	Grant	Meek	Yancey
Crenshaw	Grizzle	Myers	
Crotty	Jennings	Plummer	
Dantzler	Johnson	Scott	

Nays—3

Gordon	Jenne	Wexler

CS for SB 2390
Motion to Concur in House Amendment 4

Yeas—14

Madam President	Davis	Kirkpatrick	Thurman
Bankhead	Forman	Malchon	Wexler
Burt	Gardner	McKay	
Dantzler	Jenne	Thomas	

Nays—22

Bruner	Gordon	Kurth	Walker
Casas	Grant	Langley	Weinstein
Childers	Grizzle	Meek	Weinstock
Diaz-Balart	Jennings	Myers	Yancey
Dudley	Johnson	Plummer	
Girardeau	Kiser	Souto	

CS for SB 2390—Amendment 4

Yeas—27

Madam President	Crotty	Grizzle	Malchon
Bankhead	Dantzler	Jenne	McKay
Beard	Diaz-Balart	Jennings	Souto
Bruner	Forman	Johnson	Thomas
Burt	Gardner	Kiser	Thurman
Casas	Girardeau	Kurth	Walker
Childers	Grant	Langley	

Nays—4

Dudley	Myers	Weinstock	Yancey

Vote after roll call:

Yea—Kirkpatrick

CS for SB 2390

Yeas—35

Madam President	Dantzler	Jennings	Scott
Bankhead	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kirkpatrick	Thomas
Bruner	Forman	Kiser	Thurman
Burt	Gardner	Kurth	Walker
Casas	Girardeau	Langley	Weinstein
Childers	Grant	Malchon	Wexler
Crenshaw	Grizzle	McKay	Yancey
Crotty	Jenne	Plummer	

Nays—2

Gordon Myers

Vote after roll call:

Nay—Weinstock

SB 2452

Yeas—39

Madam President	Diaz-Balart	Johnson	Scott
Bankhead	Dudley	Kirkpatrick	Souto
Beard	Forman	Kiser	Thomas
Bruner	Gardner	Kurth	Thurman
Burt	Girardeau	Langley	Walker
Casas	Gordon	Malchon	Weinstein
Childers	Grant	McKay	Weinstock
Crotty	Grizzle	Meek	Wexler
Dantzler	Jenne	Myers	Yancey
Davis	Jennings	Plummer	

Nays—None

SB 2466

Yeas—35

Madam President	Davis	Johnson	Scott
Bankhead	Diaz-Balart	Kirkpatrick	Souto
Beard	Dudley	Kiser	Thurman
Bruner	Girardeau	Kurth	Walker
Burt	Gordon	Langley	Weinstein
Casas	Grant	Malchon	Weinstock
Childers	Grizzle	McKay	Wexler
Crotty	Jenne	Meek	Yancey
Dantzler	Jennings	Myers	

Nays—None

SB 2512

Yeas—36

Madam President	Davis	Jenne	Plummer
Bankhead	Diaz-Balart	Jennings	Scott
Beard	Dudley	Johnson	Souto
Bruner	Forman	Kirkpatrick	Thurman
Burt	Gardner	Kurth	Walker
Childers	Girardeau	Langley	Weinstein
Crenshaw	Gordon	Malchon	Weinstock
Crotty	Grant	Meek	Wexler
Dantzler	Grizzle	Myers	Yancey

Nays—None

SR 2534

Yeas—39

Bankhead	Diaz-Balart	Johnson	Scott
Beard	Dudley	Kirkpatrick	Souto
Bruner	Forman	Kiser	Thomas
Burt	Gardner	Kurth	Thurman
Casas	Girardeau	Langley	Walker
Childers	Gordon	Malchon	Weinstein
Crenshaw	Grant	McKay	Weinstock
Crotty	Grizzle	Meek	Wexler
Dantzler	Jenne	Myers	Yancey
Davis	Jennings	Plummer	

Nays—None

All Senators voting were recorded as co-sponsors of **SR 2534**.

SR 2536

Yeas—40

Madam President	Bruner	Childers	Dantzler
Bankhead	Burt	Crenshaw	Davis
Beard	Casas	Crotty	Diaz-Balart
Dudley	Jenne	Malchon	Thomas
Forman	Jennings	McKay	Thurman
Gardner	Johnson	Meek	Walker
Girardeau	Kirkpatrick	Myers	Weinstein
Gordon	Kiser	Plummer	Weinstock
Grant	Kurth	Scott	Wexler
Grizzle	Langley	Souto	Yancey

Nays—None

All Senators voting were recorded as co-sponsors of **SR 2536**.

ROLL CALLS ON HOUSE BILLS

HM 129

Yeas—34

Bankhead	Diaz-Balart	Johnson	Scott
Bruner	Dudley	Kirkpatrick	Souto
Burt	Forman	Kiser	Thomas
Casas	Gardner	Kurth	Thurman
Childers	Girardeau	Langley	Walker
Crenshaw	Gordon	Malchon	Weinstock
Crotty	Grant	Meek	Yancey
Dantzler	Grizzle	Myers	
Davis	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Jenne

CS for CS for HB 189

Yeas—34

Bankhead	Diaz-Balart	Kiser	Souto
Beard	Dudley	Kurth	Thurman
Bruner	Forman	Langley	Walker
Burt	Gardner	Malchon	Weinstein
Casas	Gordon	McKay	Weinstock
Childers	Grant	Meek	Wexler
Crenshaw	Grizzle	Myers	Yancey
Crotty	Johnson	Plummer	
Davis	Kirkpatrick	Scott	

Nays—None

Vote after roll call:

Yea—Girardeau, Thomas

CS for HB 241

Yeas—38

Madam President	Davis	Jennings	Scott
Bankhead	Diaz-Balart	Johnson	Thomas
Beard	Dudley	Kirkpatrick	Thurman
Bruner	Forman	Kiser	Walker
Burt	Gardner	Kurth	Weinstein
Casas	Girardeau	Langley	Weinstock
Childers	Gordon	McKay	Wexler
Crenshaw	Grant	Meek	Yancey
Crotty	Grizzle	Myers	
Dantzler	Jenne	Plummer	

Nays—None

Vote after roll call:

Yea—Souto

CS for CS for HB 337

Yeas—39

Bankhead	Casas	Dantzler	Forman
Beard	Childers	Davis	Gardner
Bruner	Crenshaw	Diaz-Balart	Girardeau
Burt	Crotty	Dudley	Gordon

Grant	Kiser	Myers	Walker
Grizzle	Kurth	Plummer	Weinstein
Jenne	Langley	Scott	Weinstock
Jennings	Malchon	Souto	Wexler
Johnson	McKay	Thomas	Yancey
Kirkpatrick	Meek	Thurman	

Nays—None

CS for HB 397

Yeas—38

Madam President	Davis	Johnson	Souto
Bankhead	Diaz-Balart	Kirkpatrick	Thomas
Beard	Dudley	Kiser	Thurman
Bruner	Forman	Kurth	Walker
Burt	Gardner	Langley	Weinstein
Casas	Gordon	Malchon	Weinstock
Childers	Grant	McKay	Wexler
Crenshaw	Grizzle	Myers	Yancey
Crotty	Jenne	Plummer	
Dantzler	Jennings	Scott	

Nays—1

Meek

Vote after roll call:

Nay to Yea—Meek

CS for HB 497

Yeas—38

Beard	Dudley	Kirkpatrick	Souto
Bruner	Forman	Kiser	Thomas
Burt	Gardner	Kurth	Thurman
Casas	Girardeau	Langley	Walker
Childers	Gordon	Malchon	Weinstein
Crenshaw	Grant	McKay	Weinstock
Crotty	Grizzle	Meek	Wexler
Dantzler	Jenne	Myers	Yancey
Davis	Jennings	Plummer	
Diaz-Balart	Johnson	Scott	

Nays—None

CS for HB 861

Yeas—33

Madam President	Diaz-Balart	Kirkpatrick	Thurman
Beard	Forman	Kiser	Walker
Bruner	Gardner	Kurth	Weinstein
Burt	Girardeau	Malchon	Weinstock
Casas	Gordon	Meek	Wexler
Childers	Grizzle	Myers	Yancey
Crenshaw	Jenne	Scott	
Crotty	Jennings	Souto	
Dantzler	Johnson	Thomas	

Nays—4

Dudley	Grant	Langley	McKay

Vote after roll call:

Nay—Plummer

HB 927

Yeas—36

Madam President	Davis	Jennings	Plummer
Bankhead	Diaz-Balart	Johnson	Scott
Beard	Dudley	Kirkpatrick	Souto
Burt	Gardner	Kiser	Thomas
Casas	Girardeau	Kurth	Thurman
Childers	Gordon	Langley	Walker
Crenshaw	Grant	Malchon	Weinstock
Crotty	Grizzle	Meek	Wexler
Dantzler	Jenne	Myers	Yancey

Nays—None

HB 935

Yeas—37

Madam President	Davis	Kirkpatrick	Souto
Bankhead	Diaz-Balart	Kiser	Thomas
Beard	Dudley	Kurth	Thurman
Bruner	Forman	Langley	Walker
Burt	Gardner	Malchon	Weinstein
Casas	Girardeau	McKay	Weinstock
Childers	Gordon	Meek	Yancey
Crenshaw	Grizzle	Myers	
Crotty	Jennings	Plummer	
Dantzler	Johnson	Scott	

Nays—None

Vote after roll call:

Yea—Grant, Jenne

HB 1167

Yeas—25

Madam President	Gardner	McKay	Walker
Bruner	Girardeau	Meek	Weinstein
Burt	Grant	Plummer	Wexler
Casas	Jenne	Scott	Yancey
Childers	Johnson	Souto	
Crenshaw	Kiser	Thomas	
Davis	Malchon	Thurman	

Nays—4

Gordon	Grizzle	Myers	Weinstock

CS for CS for HB's 1177 and 1045

Yeas—32

Bankhead	Diaz-Balart	Jennings	Scott
Beard	Dudley	Johnson	Souto
Bruner	Forman	Kiser	Thomas
Burt	Gardner	Langley	Thurman
Childers	Girardeau	Malchon	Walker
Crotty	Grant	McKay	Weinstein
Dantzler	Grizzle	Meek	Wexler
Davis	Jenne	Myers	Yancey

Nays—None

Vote after roll call:

Yea—Kirkpatrick

HB 1193
Motion to Read Third Time

Yeas—15

Madam President	Diaz-Balart	Jenne	Weinstock
Casas	Forman	Malchon	Wexler
Dantzler	Gardner	Souto	Yancey
Davis	Girardeau	Thurman	

Nays—20

Bankhead	Crotty	Johnson	Meek
Beard	Dudley	Kiser	Myers
Bruner	Grant	Kurth	Scott
Childers	Grizzle	Langley	Walker
Crenshaw	Jennings	McKay	Weinstein

CS for HB 1211

Yeas—37

Madam President	Childers	Diaz-Balart	Gordon
Bankhead	Crenshaw	Dudley	Grant
Beard	Crotty	Forman	Grizzle
Burt	Dantzler	Gardner	Jenne
Casas	Davis	Girardeau	Jennings

Johnson	Malchon	Souto	Weinstock
Kirkpatrick	McKay	Thomas	Yancey
Kiser	Myers	Thurman	
Kurth	Plummer	Walker	
Langley	Scott	Weinstein	

Nays—None

Vote after roll call:

Yea—Bruner

HB 1231

Yeas—39

Bankhead	Diaz-Balart	Johnson	Scott
Beard	Dudley	Kirkpatrick	Souto
Bruner	Forman	Kiser	Thomas
Burt	Gardner	Kurth	Thurman
Casas	Girardeau	Langley	Walker
Childers	Gordon	Malchon	Weinstein
Crenshaw	Grant	McKay	Weinstock
Crotty	Grizzle	Meek	Wexler
Dantzler	Jenne	Myers	Yancey
Davis	Jennings	Plummer	

Nays—None

CS for CS for HB 1283

Yeas—39

Madam President	Davis	Johnson	Scott
Bankhead	Diaz-Balart	Kirkpatrick	Souto
Beard	Dudley	Kiser	Thomas
Bruner	Forman	Kurth	Thurman
Burt	Gardner	Langley	Walker
Casas	Gordon	Malchon	Weinstein
Childers	Grant	McKay	Weinstock
Crenshaw	Grizzle	Meek	Wexler
Crotty	Jenne	Myers	Yancey
Dantzler	Jennings	Plummer	

Nays—1

Girardeau

Vote after roll call:

Nay to Yea—Girardeau

CS for HB 1299

Yeas—34

Bankhead	Forman	Kirkpatrick	Souto
Beard	Gardner	Kiser	Thomas
Burt	Girardeau	Langley	Walker
Casas	Gordon	Malchon	Weinstein
Childers	Grant	McKay	Weinstock
Crenshaw	Grizzle	Meek	Wexler
Davis	Jenne	Myers	Yancey
Diaz-Balart	Jennings	Plummer	
Dudley	Johnson	Scott	

Nays—2

Dantzler	Thurman

Vote after roll call:

Nay—Kurth

HB 1397

Yeas—36

Madam President	Childers	Dudley	Grant
Bankhead	Crenshaw	Forman	Grizzle
Bruner	Crotty	Gardner	Jenne
Burt	Davis	Girardeau	Jennings
Casas	Diaz-Balart	Gordon	Johnson
Kiser	McKay	Scott	Weinstein
Kurth	Meek	Souto	Weinstock
Langley	Myers	Thomas	Wexler
Malchon	Plummer	Thurman	Yancey

Nays—2

Dantzler	Walker

CS for HB 1401

Yeas—20

Madam President	Girardeau	Kirkpatrick	Thurman
Casas	Gordon	Malchon	Walker
Crenshaw	Grizzle	Myers	Weinstein
Diaz-Balart	Jenne	Scott	Weinstock
Forman	Johnson	Souto	Wexler

Nays—13

Bankhead	Childers	Grant	Yancey
Beard	Crotty	Jennings	
Bruner	Dantzler	Langley	
Burt	Dudley	McKay	

CS for HB 1665

Yeas—36

Madam President	Diaz-Balart	Jennings	Myers
Bankhead	Dudley	Johnson	Plummer
Beard	Forman	Kirkpatrick	Souto
Bruner	Gardner	Kiser	Thurman
Casas	Girardeau	Kurth	Walker
Crenshaw	Gordon	Langley	Weinstein
Crotty	Grant	Malchon	Weinstock
Dantzler	Grizzle	McKay	Wexler
Davis	Jenne	Meek	Yancey

Nays—None

CS for HB 1723

Yeas—38

Bankhead	Diaz-Balart	Kirkpatrick	Souto
Beard	Dudley	Kiser	Thomas
Bruner	Forman	Kurth	Thurman
Burt	Gardner	Langley	Walker
Casas	Girardeau	Malchon	Weinstein
Childers	Gordon	McKay	Weinstock
Crenshaw	Grant	Meek	Wexler
Crotty	Grizzle	Myers	Yancey
Dantzler	Jennings	Plummer	
Davis	Johnson	Scott	

Nays—None

Vote after roll call:

Yea—Jenne

CS for HB 1723—After Reconsideration

Yeas—36

Madam President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Girardeau	Kurth	Thomas
Bruner	Gordon	Langley	Thurman
Casas	Grant	Malchon	Walker
Childers	Grizzle	McKay	Weinstein
Crenshaw	Jenne	Meek	Weinstock
Dantzler	Jennings	Myers	Wexler
Davis	Johnson	Plummer	Yancey

Nays—None

CS for HB 1753

Yeas—29

Bankhead	Diaz-Balart	Kiser	Thomas
Beard	Forman	Kurth	Thurman
Burt	Gardner	Langley	Walker
Casas	Girardeau	Malchon	Weinstein
Childers	Grant	McKay	Yancey
Crenshaw	Grizzle	Meek	
Crotty	Jenne	Scott	
Dantzler	Kirkpatrick	Souto	

Nays—7

Bruner	Jennings	Myers	Wexler
Dudley	Johnson	Weinstock	

Vote after roll call:

Yea to Nay—Grant, Malchon

CS for HB 1753—After Reconsideration

Yeas—24

Madam President	Diaz-Balart	Jennings	Scott
Beard	Dudley	Kirkpatrick	Souto
Casas	Forman	Kurth	Thomas
Childers	Girardeau	Meek	Thurman
Crenshaw	Gordon	Myers	Walker
Crotty	Grizzle	Plummer	Weinstein

Nays—16

Bankhead	Davis	Johnson	McKay
Bruner	Gardner	Kiser	Weinstock
Burt	Grant	Langley	Wexler
Dantzler	Jenne	Malchon	Yancey

Vote after roll call:

Yea to Nay—Jennings

CS for HB 1817

Yeas—17

Bankhead	Gardner	Langley	Walker
Bruner	Grant	Myers	Yancey
Casas	Jennings	Scott	
Childers	Kirkpatrick	Thomas	
Dantzler	Kurth	Thurman	

Nays—14

Crenshaw	Jenne	Meek	Weinstock
Dudley	Johnson	Plummer	Wexler
Gordon	Malchon	Souto	
Grizzle	McKay	Weinstein	

Vote after roll call:

Yea—Beard

Yea to Nay—Grant

HB 1851

Yeas—34

Madam President	Dantzler	Jennings	Plummer
Bankhead	Davis	Johnson	Scott
Beard	Diaz-Balart	Kirkpatrick	Souto
Bruner	Dudley	Kiser	Thomas
Burt	Forman	Kurth	Thurman
Casas	Gardner	Langley	Walker
Childers	Girardeau	Malchon	Yancey
Crenshaw	Gordon	McKay	
Crotty	Grant	Myers	

Nays—1

Grizzle

CS for HB 1863

Yeas—40

Madam President	Davis	Jennings	Plummer
Bankhead	Diaz-Balart	Johnson	Scott
Beard	Dudley	Kirkpatrick	Souto
Bruner	Forman	Kiser	Thomas
Burt	Gardner	Kurth	Thurman
Casas	Girardeau	Langley	Walker
Childers	Gordon	Malchon	Weinstein
Crenshaw	Grant	McKay	Weinstock
Crotty	Grizzle	Meek	Wexler
Dantzler	Jenne	Myers	Yancey

Nays—None

CS for HB 1903

Yeas—32

Bankhead	Dudley	Kiser	Souto
Beard	Forman	Kurth	Thomas
Burt	Gardner	Langley	Thurman
Crenshaw	Grant	McKay	Walker
Crotty	Jenne	Meek	Weinstein
Dantzler	Jennings	Myers	Weinstock
Davis	Johnson	Plummer	Wexler
Diaz-Balart	Kirkpatrick	Scott	Yancey

Nays—None

Vote after roll call:

Yea—Bruner, Childers

CS for HB 2111

Yeas—35

Madam President	Davis	Kirkpatrick	Scott
Bankhead	Diaz-Balart	Kiser	Souto
Beard	Dudley	Kurth	Thurman
Bruner	Girardeau	Langley	Walker
Burt	Gordon	Malchon	Weinstein
Casas	Grant	McKay	Weinstock
Childers	Grizzle	Meek	Wexler
Crotty	Jenne	Myers	Yancey
Dantzler	Johnson	Plummer	

Nays—None

CS for HB 2179

Yeas—38

Madam President	Diaz-Balart	Johnson	Scott
Bankhead	Dudley	Kirkpatrick	Souto
Beard	Forman	Kiser	Thurman
Bruner	Gardner	Kurth	Walker
Burt	Girardeau	Langley	Weinstein
Casas	Gordon	Malchon	Weinstock
Crenshaw	Grant	McKay	Wexler
Crotty	Grizzle	Meek	Yancey
Dantzler	Jenne	Myers	
Davis	Jennings	Plummer	

Nays—None

HB 2223

Yeas—37

Madam President	Childers	Forman	Jennings
Bankhead	Crotty	Gardner	Johnson
Beard	Dantzler	Gordon	Kirkpatrick
Bruner	Davis	Grant	Kiser
Burt	Diaz-Balart	Grizzle	Kurth
Casas	Dudley	Jenne	Langley

Malchon	Plummer	Thurman	Wexler
McKay	Scott	Walker	
Meek	Souto	Weinstein	
Myers	Thomas	Weinstock	

Nays—None

Vote after roll call:

Yea—Yancey

CS for HB 2249

Yeas—39

Madam President	Diaz-Balart	Johnson	Scott
Bankhead	Dudley	Kirkpatrick	Souto
Beard	Forman	Kiser	Thomas
Bruner	Gardner	Kurth	Thurman
Burt	Girardeau	Langley	Walker
Casas	Gordon	Malchon	Weinstein
Childers	Grant	McKay	Weinstock
Crenshaw	Grizzle	Meek	Wexler
Dantzler	Jenne	Myers	Yancey
Davis	Jennings	Plummer	

Nays—None

HB 2279

Yeas—34

Madam President	Dudley	Johnson	Plummer
Beard	Forman	Kirkpatrick	Souto
Bruner	Gardner	Kiser	Walker
Casas	Girardeau	Kurth	Weinstein
Childers	Gordon	Langley	Weinstock
Crotty	Grant	Malchon	Wexler
Dantzler	Grizzle	McKay	Yancey
Davis	Jenne	Meek	
Diaz-Balart	Jennings	Myers	

Nays—None

HB 2337

Yeas—37

Madam President	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kirkpatrick	Thomas
Bruner	Forman	Kiser	Thurman
Burt	Gardner	Kurth	Walker
Casas	Girardeau	Langley	Weinstein
Childers	Gordon	Malchon	Weinstock
Crenshaw	Grant	McKay	Yancey
Crotty	Grizzle	Meek	
Dantzler	Jenne	Myers	
Davis	Jennings	Plummer	

Nays—None

HB 2339

Yeas—34

Madam President	Dudley	Johnson	Souto
Beard	Forman	Kirkpatrick	Thurman
Bruner	Gardner	Kiser	Walker
Casas	Girardeau	Kurth	Weinstein
Childers	Gordon	Malchon	Weinstock
Crenshaw	Grant	McKay	Wexler
Crotty	Grizzle	Meek	Yancey
Dantzler	Jenne	Myers	
Diaz-Balart	Jennings	Plummer	

Nays—None

HB 2341

Yeas—34

Madam President	Diaz-Balart	Jennings	Thomas
Bankhead	Dudley	Johnson	Thurman
Beard	Forman	Kirkpatrick	Walker
Casas	Gardner	Langley	Weinstein
Childers	Girardeau	Malchon	Weinstock
Crenshaw	Gordon	McKay	Wexler
Crotty	Grant	Meek	Yancey
Dantzler	Grizzle	Myers	
Davis	Jenne	Souto	

Nays—None

Vote after roll call:

Yea—Bruner

CS for HB 2363

Yeas—37

Bankhead	Diaz-Balart	Johnson	Scott
Beard	Dudley	Kirkpatrick	Thomas
Bruner	Forman	Kiser	Thurman
Burt	Gardner	Kurth	Walker
Casas	Girardeau	Langley	Weinstein
Childers	Gordon	Malchon	Weinstock
Crenshaw	Grant	McKay	Wexler
Crotty	Grizzle	Meek	
Dantzler	Jenne	Myers	
Davis	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Souto

CS for HB 2375—Motion to Limit Debate

Yeas—16

Madam President	Gardner	Langley	Weinstein
Bankhead	Grant	Malchon	Weinstock
Crotty	Johnson	Plummer	Wexler
Forman	Kiser	Souto	Yancey

Nays—20

Beard	Davis	Jenne	Meek
Bruner	Dudley	Jennings	Myers
Casas	Girardeau	Kirkpatrick	Scott
Childers	Gordon	Kurth	Thomas
Dantzler	Grizzle	McKay	Walker

CS for HB 2379

Yeas—37

Madam President	Davis	Kirkpatrick	Thomas
Bankhead	Diaz-Balart	Kiser	Thurman
Beard	Dudley	Kurth	Walker
Bruner	Forman	Malchon	Weinstein
Burt	Gardner	McKay	Weinstock
Casas	Girardeau	Meek	Wexler
Childers	Grant	Myers	Yancey
Crenshaw	Grizzle	Plummer	
Crotty	Jennings	Scott	
Dantzler	Johnson	Souto	

Nays—None

Vote after roll call:

Nay—Gordon

HB 2439

Yeas—37

Madam President	Diaz-Balart	Johnson	Souto
Bankhead	Dudley	Kirkpatrick	Thurman
Beard	Forman	Kiser	Walker
Bruner	Gardner	Kurth	Weinstein
Burt	Girardeau	Langley	Weinstock
Casas	Gordon	Malchon	Wexler
Crenshaw	Grant	Meek	Yancey
Crotty	Grizzle	Myers	
Dantzler	Jenne	Plummer	
Davis	Jennings	Scott	

Nays—None

HB 2453

Yeas—35

Madam President	Diaz-Balart	Johnson	Scott
Beard	Dudley	Kirkpatrick	Souto
Bruner	Forman	Kiser	Thurman
Burt	Gardner	Kurth	Walker
Casas	Girardeau	Malchon	Weinstein
Childers	Gordon	McKay	Weinstock
Crenshaw	Grant	Meek	Wexler
Dantzler	Jenne	Myers	Yancey
Davis	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Langley

HB 2477

Yeas—38

Madam President	Davis	Jennings	Scott
Bankhead	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kirkpatrick	Thomas
Bruner	Forman	Kiser	Thurman
Burt	Gardner	Langley	Walker
Casas	Girardeau	Malchon	Weinstein
Childers	Gordon	McKay	Weinstock
Crenshaw	Grant	Meek	Wexler
Crotty	Grizzle	Myers	
Dantzler	Jenne	Plummer	

Nays—None

HB 2513

Yeas—37

Madam President	Diaz-Balart	Kirkpatrick	Thomas
Bankhead	Dudley	Kiser	Thurman
Beard	Forman	Kurth	Walker
Bruner	Gardner	Langley	Weinstein
Burt	Girardeau	Malchon	Weinstock
Casas	Gordon	McKay	Wexler
Crenshaw	Grant	Meek	Yancey
Crotty	Grizzle	Myers	
Dantzler	Jenne	Scott	
Davis	Johnson	Souto	

Nays—None

Vote after roll call:

Yea—Childers

ROLL CALL ON LOCAL BILLS

The following roll call was taken on **Senate Bills 760, 1006, 1142, 1362, 1398, 1700, 2426** and **2488** which passed this day:

Yeas—39

Madam President	Diaz-Balart	Johnson	Scott
Bankhead	Dudley	Kirkpatrick	Souto
Bruner	Forman	Kiser	Thomas
Burt	Gardner	Kurth	Thurman
Casas	Girardeau	Langley	Walker
Childers	Gordon	Malchon	Weinstein
Crenshaw	Grant	McKay	Weinstock
Crotty	Grizzle	Meek	Wexler
Dantzler	Jenne	Myers	Yancey
Davis	Jennings	Plummer	

Nays—None

The following roll call was taken on **House Bills 1215, 1295, 1463, 1569, 1637, 2019, 2051, 2141** and **2175** which passed this day:

Yeas—38

Madam President	Davis	Jennings	Souto
Bankhead	Diaz-Balart	Johnson	Thomas
Beard	Dudley	Kirkpatrick	Thurman
Bruner	Forman	Kiser	Walker
Burt	Gardner	Kurth	Weinstein
Casas	Girardeau	Langley	Weinstock
Childers	Gordon	Malchon	Wexler
Crenshaw	Grant	Meek	Yancey
Crotty	Grizzle	Myers	
Dantzler	Jenne	Plummer	

Nays—None

CONSIDERATION OF RESOLUTIONS

On motions by Senator Thomas, the rules were waived by unanimous consent and the following resolutions were introduced out of order:

By Senator Thomas—

SR 2534—A resolution commending President Margolis on behalf of the Staff of the Senate.

WHEREAS, the Staff of the Senate has urged this body to commend President Margolis for recognizing the importance of staff to a smoothly functioning Senate and for consistently treating them with fairness and respect, and

WHEREAS, President Margolis strives to maintain a professional, nonpartisan staff and invites suggestions for improvements from them, many of which she has implemented, NOW, THEREFORE,

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

That this body, at the urging of the Staff of the Senate, commends President Margolis for her superb performance in motivating and inspiring Senate Staff.

On motion by Senator Thomas, **SR 2534** was read by title and was read the second time in full and adopted. The vote on adoption was:

Yeas—39 Nays—None

By Senator Crenshaw—

SR 2536—A resolution commending Jean Barry, employee of the Florida Senate.

WHEREAS, Jean Barry is and has been a loyal, valued, and exemplary employee of the Florida Senate for over 22 years, and

WHEREAS, Jean Barry demonstrates complete dedication to her work and to the Florida Senate, and

WHEREAS, Jean Barry always inspires her friends and co-workers with her warmth, courage, and inner strength, and

WHEREAS, Jean Barry has set an example for us all by her determined spirit, her positive attitude, and her courage, NOW, THEREFORE,

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

That the Florida Senate, on behalf of all of its members and employees, extend our prayers and well-wishes to Jean Barry and eagerly await her return to work.

BE IT FURTHER RESOLVED THAT a copy of this resolution, with the Seal of the Senate affixed, be presented to Jean Barry as a tangible token of the sentiments of the members and staff of the Florida Senate.

On motion by Senator Thomas, **SR 2536** was read by title and was read the second time in full and adopted. The vote on adoption was:

Yeas—40 Nays—None

CORRECTION AND APPROVAL OF JOURNAL

The Journal of March 12 was corrected and approved.

CO-SPONSORS

Senator Souto—SB 50; Senator Grant—SB 328

ADJOURNMENT

On motion by Senator Thomas, the Senate adjourned sine die at 10:32 p.m.

CERTIFICATE

THIS IS TO CERTIFY that the foregoing pages, numbered 1 through 1809, inclusive, are and constitute a complete, true and correct journal and record of the proceedings of the Senate of the State of Florida at the Twenty-Fourth Regular Session of the Legislature convened under the Constitution as Revised in 1968, held from January 14 through March 13, 1992. Additionally, there has been included a record of the transmittal of Acts and Resolutions and actions taken by the Governor subsequent to the sine die adjournment of the Regular Session.

JOE BROWN
Secretary of the Senate

Tallahassee, Florida
April 10, 1992