



Journal of the Senate

Number 15

Wednesday, April 6, 1994

CALL TO ORDER

The Senate was called to order by the President at 3:00 p.m. A quorum present—40:

Mr. President	Dantzler	Hargrett	Meadows
Bankhead	Diaz-Balart	Holzendorf	Myers
Beard	Dudley	Jenne	Scott
Boczar	Dyer	Jennings	Siegel
Brown-Waite	Foley	Johnson	Silver
Burt	Forman	Jones	Sullivan
Casas	Grant	Kirkpatrick	Turner
Childers	Grogan	Kiser	Weinstein
Crenshaw	Gutman	Kurth	Wexler
Crist	Harden	McKay	Williams

Excused: Senators Childers, Diaz-Balart, Holzendorf, Jenne, Kirkpatrick, Kurth and Scott, periodically for the purpose of working on Appropriations

PRAYER

The following prayer was offered by the Rev. Terry Dyer, Pastor, First Presbyterian Church, Quincy:

Eternal God, source of our strength and wisdom, thank you for the dedication and service of these men and women who have answered the call to serve the people of this state in the Senate.

Thank you for the selfless giving of their time, talent, and wisdom that we, the citizens of Florida, can enjoy its beauty and blessings. As these Senators enter the final days of the legislative session, grant them the awareness of your presence and sustain them with your grace because many important decisions must be made—decisions intended for the common good and welfare of all—but unwelcomed by some.

Uphold these men and women, empower them with wisdom, and grant them your peace. Once again, thank you for their dedication and service. Amen.

PLEDGE

Senate Pages, Abraham Donner of Boca Raton and Colleen A. Sullivan of Miami, led the Senate in the pledge of allegiance to the flag of the United States of America.

CONSIDERATION OF RESOLUTIONS

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

By Senator Silver—

SR 3158—A resolution recognizing Senator Sherman S. Winn upon the occasion of his retirement from the Metro-Dade County Commission.

WHEREAS, Senator Sherman S. Winn, who served with distinction in the Florida Senate from 1972 through 1981, including serving as President Pro Tempore from 1976 to 1978, and who has served on the Metro-Dade County Commission since 1984, has announced his retirement from the commission at the end of his term in October, and

WHEREAS, Senator Winn has been a public servant for many years, having also served as Mayor of North Miami Beach from 1965 to 1969, as a member of the Florida House of Representatives from 1970 to 1972, and as Director of the Division of Hotels and Restaurants of the former Department of Business Regulation from 1981 to 1983, and

WHEREAS, Senator Winn has also served as Executive Director of the Greater Miami Hotel and Motel Association and was honored in 1991 as "Man of the Year" by the Miami Beach Chamber of Commerce, and

WHEREAS, Senator Winn will not truly retire from public service upon stepping down from the commission, for he plans to remain involved, as a volunteer, in his two lifelong commitments, health care and human services and the tourism and hotel industry, NOW, THEREFORE,

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

That this legislative body recognize Senator Sherman S. Winn upon his retirement from the Metro-Dade County Commission and wish him much success and happiness in his future endeavors.

BE IT FURTHER RESOLVED that a copy of this resolution, signed by the President of the Senate, with the Seal of the Senate affixed, be presented to Senator Winn as a tangible token of the respect and admiration of the Florida Senate.

On motion by Senator Silver, **SR 3158** was read by title and was read the second time in full and adopted.

SPECIAL GUESTS

Senator Silver introduced the following guests who were seated in the chamber: Senator Sherman Winn; son, Steven and daughter-in-law, Judy.

Upon request of the President, Senators Silver, Scott, Childers, Turner and Forman escorted Senator Winn to the rostrum where he was presented a copy of the resolution.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Jenne, by two-thirds vote **CS for SB 1246, SB 1912, CS for SB 2132** and **CS for SB 2532** were withdrawn from the Committee on Appropriations.

On motions by Senator Wexler, by two-thirds vote **CS for SB 2456, SB 2034, CS for SB 2118, CS for SB's 460 and 1710** and **CS for SB 2180** were withdrawn from the Committee on Finance, Taxation and Claims.

On motions by Senator Kirkpatrick, by two-thirds vote **CS for SB 2740** was withdrawn from the Committee on Rules and Calendar; **CS for SB 640, CS for SB's 2478, 2702 and 2750, CS for SB 2722, Senate Bills 2278, 2096** and **CS for SB 80** were withdrawn from the Committee on Community Affairs; and **SB 1462** was withdrawn from the Committee on Professional Regulation.

On motions by Senator Jenne, by two-thirds vote **CS for SB 1074, CS for SB 2614, CS for SB 2872, CS for SB 3016** and **CS for SB 2918** were withdrawn from the Committee on Appropriations.

SPECIAL ORDER

The Senate resumed consideration of—

CS for CS for SB 1824—A bill to be entitled An act relating to governmental performance and accountability; providing legislative intent; amending s. 11.40, F.S.; renaming the Legislative Auditing Committee as the Legislative Auditing and Accountability Committee; prescribing its membership and duties; creating s. 216.0313, F.S.; providing for review of performance-based programs; creating s. 11.507, F.S.; providing for policy evaluation and review; creating s. 14.271, F.S.; creating the Commission on Government Accountability to the People; prescribing its membership

and duties; amending s. 216.011, F.S.; defining the terms "baseline data," "outcome," "output," "performance-based program budget," "performance measure," "program," and "standard" for purposes of fiscal affairs of the state and budgeting; creating s. 216.0166, F.S.; prescribing guidelines for state agencies and the judicial branch to use in submitting performance-based program budget requests; creating s. 216.0172, F.S.; requiring establishment of performance-based program budgets for each program that can be properly administered under such a budget; creating s. 216.0235, F.S.; requiring state agencies to furnish legislative program budget requests; providing for review of such budgets by the Executive Office of the Governor; amending s. 216.031, F.S.; requiring certain information relating to performance-based program budgets to be submitted with agencies' and the judicial branch's legislative budget requests; amending s. 216.163, F.S.; providing for the Executive Office of the Governor to recommend budgetary incentives or disincentives after reviewing evaluations of state agency performance; requiring legislative ratification of such incentives or disincentives; amending s. 216.292, F.S.; providing for distribution by agency heads or by the Chief Justice of lump-sum appropriations for performance-based programs; authorizing transfer of funds and providing for legislative oversight of transfers; transferring certain positions and fund balances from the Auditor General to the Legislative Auditing and Accountability Committee; amending s. 20.055, F.S.; abolishing the position of agency chief internal auditor and creating the position of inspector general in each state agency; prescribing the duties of that office with respect to ensuring accountability, integrity, and efficiency in agency performance; creating s. 14.32, F.S.; creating the position of Chief Inspector General in the Executive Office of the Governor and prescribing duties of that position; providing for agency inspectors general to assume other statutory duties of agency chief internal auditors not specifically addressed in this act; providing for a reviser's bill; amending ss. 11.13, 11.149, 11.401, 11.42, 11.43, 11.44, 11.45, 11.46, 11.50, 11.51, 11.511, 11.513, 20.055, 20.23, 24.123, 112.3189, 189.409, 215.95, 216.0165, 216.052, 216.251, 218.32, 218.38, 218.503, 286.036, 287.114, 288.906, 288.9517, 299.9616, 339.149, 350.061, 350.0614, 400.335, 570.903, 766.105, 766.315, 946.516, F.S.; conforming those sections to the renaming of the Legislative Auditing Committee; repealing, at a future date, s. 11.40, F.S., relating to the Legislative Auditing and Accountability Committee, and providing for legislative review of the committee before that date; providing an effective date.

—which had been considered April 5. Pending **Amendment 1A** by Senator Williams was withdrawn.

Senators Williams and Scott offered the following substitute amendment which was moved by Senator Williams:

Amendment 2 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. Legislative Intent.—It is the intent of the Legislature to change the manner in which state government provides its services to the people of this state in order that such services can be provided in a more efficient and effective manner. While governmental reform cannot occur overnight, it must start now and continue steadfastly into the future. State agencies must begin to better understand their mission and define their outputs and to be held accountable for the quality of services provided to the public. The Legislature must also be provided sufficient information about state programs to determine not only whether the programs are meeting their objectives, but whether those programs, no matter how well-managed, address the needs of this state and should be continued. It is the intent of the Legislature that this effort be given the highest priority in order to ensure the future of our state.

Section 2. Section 11.40, Florida Statutes, is amended to read:

11.40 Legislative Auditing and Accountability Committee.—

(1) There is created a standing joint committee of the Legislature designated the Legislative Auditing and Accountability Committee, composed of 10 members as follows: 5 members of the Senate, to be appointed by the President of the Senate, and 5 members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. The terms of members shall be for 2 years and shall run from the organization of one Legislature to the organization of the next Legislature. Vacancies occurring during the interim period shall be filled in the same manner as the original appointment. The members of the committee shall elect a chairman and vice chairman. During the 2-year term, a member of each house shall serve as chairman for 1 year.

(2) There is created within the committee the Office of Program Policy Analysis and Government Accountability. By a vote of seven of its members, the committee may employ a staff director, subject to the approval of the President of the Senate and the Speaker of the House of Representatives, to supervise and manage the staff of this office. The appointment of the staff director may be terminated at any time by a vote of seven members of the committee. A vacancy in the office must be filled in the same manner as the original appointment.

(a) The general duties of the office are to:

1. Maintain a continuous review of state government in order to address ways of making state agencies and programs more effective, efficient, and accountable;
2. Develop and recommend to the Legislature performance measures and standards for the assessment of program performance;
3. Review the performance of programs pursuant to the measures approved by the Legislature;
4. Coordinate legislative accountability and reform efforts in, and among, state agencies; and
5. Perform policy analysis of programs pursuant to standards adopted by the committee.

(b) The office shall prepare for the committee's introduction bills, resolutions, or joint resolutions as it determines to be necessary to effectuate its recommendations pursuant to the purposes and directives of this section.

(c) The office may inspect and investigate the books, records, and physical plant of any state agency, and each agency shall compile and furnish to the office such testimony, information, books, and records as the office requests. The office may compel by subpoena duces tecum the production of any books, records, or any other documentary evidence that the committee wishes to examine with respect to its duties, and the committee chairman shall issue such subpoenas duces tecum on behalf of the office.

Section 3. Section 216.0313, Florida Statutes, is created to read:

216.0313 Review of performance-based programs.—

(1) No later than July 1 of the year in which a program begins operation under a performance-based program budget, the Legislative Auditing and Accountability Committee shall develop, in consultation with the agency, a plan for monitoring and reviewing that program to ensure that performance data are maintained and supported by agency records.

(2) The performance-based review shall be comprehensive and shall specifically determine the following, and consider what changes, if any, are needed with respect to:

- (a) The identifiable cost of each program.
- (b) The specific purpose of each program as well as the specific public benefit derived therefrom.
- (c) The progress toward achieving the outputs and outcomes associated with each program.
- (d) An explanation of circumstances contributing to the ability to achieve, not achieve, or exceed projected outputs and outcomes associated with each program.

(e) Alternate courses of action that would result in administration of the same program in a more efficient or effective manner, including having the program performed by a private entity.

(f) The consequences of discontinuing the program, including a description of alternatives and a schedule to implement such recommendation.

(g) Whether the management has established control systems sufficient to ensure that performance data are maintained and supported by records and accurately presented in performance reports.

(h) The progress toward achieving the performance measures approved by the Legislature for each program and an explanation of the circumstances contributing to the ability to achieve, not achieve, or exceed such performance measures.

(3) No later than January 1 of the second year in which an agency begins operating a program under a performance-based program budget, the Legislative Auditing and Accountability Committee shall submit a report of its findings and recommendations to the President of the Senate, the Speaker of the House of Representatives, the chairpersons of the appropriate substantive committees, the chairpersons of the appropriations committees, the Governor, and the head of each state agency that was a subject of the review.

Section 4. Section 11.507, Florida Statutes, is created to read:

11.507 Policy evaluation and review for non-performance-based programs.—

(1) Each state agency is subject to a program and justification review by the Legislative Auditing and Accountability Committee. No later than October 1 of the year in which an agency has been scheduled for review, the committee shall initiate a policy evaluation and justification review of the agency's programs as determined by the committee.

(2) The scheduled evaluation and justification review must be comprehensive and, 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 each program.

(b) The specific purpose of each program, as well as the specific public benefit derived therefrom.

(c) Alternate courses of action that would result in administration of the same program 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 or judicial branch could be organized in a more efficient and cost-effective manner or should be reduced in size or eliminated.

2. Whether a program that is 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 program could be performed more efficiently or effectively by a level of government other than the state, by another state agency, or by a private entity.

4. Whether procedures should be modified to ensure that each program efficiently and effectively meets the needs of the public.

(3) The extent to which the duties and functions of the program are required by the State Constitution or justify the cost to the taxpayer for the accomplishment of those duties and functions.

(4) The consequences of discontinuing such program. If any discontinuation is recommended, such recommendation must be accompanied by a description of the methods suggested for implementing such recommendation, including an implementation schedule for discontinuing the program and procedures for assisting employees affected by the discontinuation.

(5) Whether it would be desirable public policy to continue funding the program, either in whole or in part, in the existing manner. In making such a determination, the committee shall evaluate whether programs funded by taxes paid by the general population of the state serve broad-based or limited interests. If a program is found to serve a limited interest, the review must contain recommendations as to whether it would be sound public policy to continue funding the program, either in whole or in part, in the existing manner.

(6) Whether the implementation of the program, including the agency's or court'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, 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.

(7) No later than July 1 after the initiation of a policy evaluation and review, the committee shall submit a report of the policy evaluation and justification review findings to the President of the Senate, the Speaker of the House of Representatives, the Auditor General, the Governor, the Chief Justice, or the head of each agency that was the subject of the

policy evaluation and justification review, the head of any state agency that is substantially affected by the findings and recommendations, and the Commission on Governmental Accountability to the People. The report of findings shall also be presented to the appropriations committee and appropriate substantive committees in each house of the Legislature.

(8) The Governor, for the executive branch, and Chief Justice for the judicial branch, shall present to the committee, at least annually by November 30, their recommendations relating to any transfer, reduction, abolition, consolidation, coordination, authorization, change in policy or practice, change in funding source, or reduction of personnel or funds of any executive branch state agency or any judicial branch entity, respectively.

Section 5. Section 14.271, Florida Statutes, is created to read:

14.271 Commission on Government Accountability to the People.—

(1) There is created the Commission on Government Accountability to the People.

(2) The commission shall consist of 15 members appointed by the Governor, subject to confirmation by the Senate, with nine members from the private sector and six members from the public sector. The members shall serve 4-year terms. Of the initial appointees, terms shall be staggered as follows: three members shall hold 1-year terms; four members shall hold 2-year terms; four members shall hold 3-year terms; and four members shall hold 4-year terms. The Governor shall fill all vacancies. Upon the request of the chair of the commission or upon the chair's own initiative, the Governor may replace members who are absent from two commission meetings within any calendar year.

(3) The Governor shall appoint the initial chair. Subsequent chairs shall be elected by a majority vote of the commission, shall serve 1-year terms, and shall be eligible for reelection. The commission shall elect the vice chair from its membership.

(4) The commission shall hold a minimum of four regular meetings during the calendar year. Additional meetings may be called by the chair or upon written request of a majority of the members of the commission. All meetings of the commission are public in accordance with the provisions of s. 286.011.

(5) The commission may establish such committees as it deems necessary to execute its powers and duties.

(6) Members of the commission shall not receive compensation for their service; however, they shall be entitled to per diem and travel expenses pursuant to s. 112.061. Public-sector members shall perform their commission duties in addition to fulfilling their regular public duties.

(7) The commission shall be assigned to the Executive Office of the Governor for administrative and fiscal accountability purposes, and the Executive Office of the Governor shall provide administrative support and services to the commission; otherwise, the commission shall function independently of the control and direction of the Governor.

(8) The commission shall, by majority vote, employ and set the compensation of an executive director, who shall serve at the pleasure of the commission.

(9) The commission may adopt and enforce reasonable procedures necessary to facilitate the studies and reviews it is authorized to perform.

(10) The commission shall track the impact of state agency actions upon the well-being of the people of this state by:

(a) Serving as a citizen board to review state agency performance, using agency strategic plans; reports from the Auditor General, the Executive Office of the Governor, and state agency internal auditors and inspectors general; and other sources as needed.

(b) Holding public hearings to allow state agencies that are operating under a performance-based program budget pursuant to s. 216.0172 the opportunity to explain factors which contributed to their success or failure in meeting performance measures.

(c) Receiving testimony from the public as to state agency performance.

(d) Assessing the progress of state agencies in meeting their missions, goals, and objectives.

(e) Making recommendations that could enhance the productivity of agencies, encourage continued agency improvement, ensure achievement of adopted performance standards, and assist state government in improving the efficiency and effectiveness of the services and products it provides.

(f) Preparing and submitting, by July 1 of each year, a report to the Governor and Cabinet, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability a report summarizing the activities and findings of all assessments made by the commission.

State agencies shall cooperate with the commission and shall provide data and information available to enable the commission to perform its functions. The Executive Office of the Governor and the Auditor General may provide assistance, within available resources, to the commission as necessary.

Section 6. Paragraphs (oo), (pp), (qq), (rr), (ss), (tt), and (uu) are added to subsection (1) of section 216.011, Florida Statutes, 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:

(oo) "Baseline data" means indicators of a state agency's or a judicial branch entity's current performance level, pursuant to guidelines established by the Executive Office of the Governor or by the Chief Justice, respectively, in conjunction with the Legislative Auditing and Accountability Committee and other appropriate legislative committees.

(pp) "Outcome" means an indicator of the actual impact or public benefit of a program.

(qq) "Output" means the actual service or product delivered by a state agency.

(rr) "Performance-based program budget" means a budget that incorporates approved programs, and performance measures.

(ss) "Performance measure" means a quantitative or qualitative indicator used to assess state agency performance.

(tt) "Program" means a set of activities undertaken in accordance with a plan of action organized to realize identifiable goals and objectives based on legislative authorization.

(uu) "Standard" means the level of performance of an outcome or output.

Section 7. Section 216.0166, Florida Statutes, is created to read:

216.0166 Submission by state agencies of performance-based budget requests.—

(1) By October 15 prior to the year in which a state agency is required to submit a performance-based program budget request pursuant to s. 216.0172, such state agency shall identify and provide a list of its programs for which it intends to develop performance measures to the Executive Office of the Governor. In developing such program list, the agency shall consult with the appropriate legislative committees and the Legislative Auditing and Accountability Committee. The Executive Office of the Governor shall review, provide direction for, require changes in, and approve or disapprove the list within 30 days after the list has been submitted. Upon approval, the Executive Office of the Governor shall provide the list to the Legislature.

(2) By October 15 prior to the year in which the judicial branch is required to submit a performance-based program budget request, the office of the State Courts Administrator, in consultation with the various courts, shall identify and provide a list of programs for which it intends to develop performance measures to the Chief Justice of the Supreme Court. In developing the program list, a representative appointed by the Chief Justice shall consult with the appropriate legislative committees and the Legislative Auditing and Accountability Committee. The Chief Justice shall review, provide direction for, require changes in, and approve or disapprove the list within 30 days after the list has been submitted. Upon approval, the Chief Justice shall provide the list to the Legislature.

(3) The following documentation must accompany the list developed pursuant to subsection (1) or subsection (2):

(a) The constitutional or statutory direction and authority for each program.

(b) Identification of the customers, clients, and users of the program.

(c) The purpose of the program or the benefit derived by the customers, clients, and users of the program.

(d) Direct and indirect costs of the program.

(e) Information on fees collected and the adequacy of those fees in funding programs for which they are collected.

(4) The Executive Office of the Governor and the Legislative Auditing and Accountability Committee, in consultation with the appropriate legislative committees, shall jointly develop instructions for the development of performance measures for each program recommended pursuant to this section and shall submit such instructions to the agencies prior to February 15.

(5) Upon approval of the lists required pursuant to subsection (1), each state agency is required to submit to the Executive Office of the Governor prior to June 1 preliminary performance measures for each program. In developing such preliminary performance measures, the agency shall consult with the appropriate legislative committees and the Legislative Auditing and Accountability Committee. State agencies shall also identify the outputs produced by the approved program, the outcomes resulting from the approved program, and baseline data associated with each performance measure. Each state agency shall submit documentation as required by the Executive Office of the Governor regarding the validity, reliability, and appropriateness of each performance measure. Performance measures shall be reviewed and approved or disapproved by the Executive Office of the Governor within 30 days after receipt. Upon approval, the Executive Office of the Governor shall provide the recommended performance measures to the Legislative Auditing and Accountability Committee.

(6) Upon approval of the list required pursuant to subsection (2), each approved program is required to submit to the Chief Justice of the Supreme Court prior to June 1 preliminary performance measures for such program. In developing such preliminary performance measures, the judicial branch shall consult with the appropriate legislative committees and the Legislative Auditing and Accountability Committee. The judicial branch shall also identify the outputs produced by each program, the outcomes resulting from the program, and baseline data associated with each performance measure. Documentation shall be submitted for each program as required by the Chief Justice regarding the validity, reliability, and appropriateness of each performance measure. Performance measures shall be reviewed and approved or disapproved by the Chief Justice within 30 days after receipt. Upon approval, the Chief Justice shall provide the recommended performance measures to the Legislative Auditing and Accountability Committee.

(7) The Legislative Auditing and Accountability Committee shall recommend to the Legislature performance measures to be used in the assessment of program performance. Such measures to be recommended shall be developed in consultation with the substantive legislative committees charged with oversight responsibilities of the program and after consideration of the performance measures recommended by the Executive Office of the Governor or the Chief Justice. The measures shall be developed under the general policies established by the Legislative Auditing and Accountability Committee. The Legislature shall have final approval, through the General Appropriations Act or legislation implementing the General Appropriations Act, of all programs and performance measures.

(8) Annually, no later than 45 days after the General Appropriations Act becomes law, state agencies may submit to the Executive Office of the Governor any adjustments to their performance measures or standards based on the amounts appropriated for each program by the Legislature. When such adjustment is made, all performance measures or standards, including any adjustments made, shall be submitted to and reviewed and revised as necessary by the Executive Office of the Governor and, upon approval, submitted to the Legislature subject to the review and approval process provided in s. 216.177. The Legislative Auditing and Accountability Committee shall maintain the official record of adjustments to the performance measures and standards.

(9) A state agency or the judicial branch operating a program under a performance-based program budget may not amend or change the program or any performance measures approved by the Legislature. A state agency or the judicial branch may propose a revision to an approved program or performance measure in the same manner and in accordance with the same time requirements as described in this section. A state agency or the judicial branch may propose an emergency revision to an approved program or performance measure if such program or performance measure prohibits that agency or the judicial branch from fulfilling its constitutional or statutory duties. Such request, along with sufficient information to document the emergency, must be submitted to the Executive Office of the Governor or the Chief Justice and, upon approval, must be provided to the Legislature. The Legislature shall review the request and supporting documentation and may approve the request in the next General Appropriations Act, or legislation implementing the General Appropriations Act.

Section 8. Section 216.0172, Florida Statutes, is created to read:

216.0172 Performance-based program budgets required.—It is the intent of the Legislature that performance-based program budgets be established for all programs in state agencies and the judicial branch which can be properly administered under such a budget approach. As soon as practicable, but no later than 10 years after the effective date of this act, performance-based program budgets shall be established for all such programs. The Legislative Auditing and Accountability Committee, prior to September 1, 1995, shall establish a schedule for the submission of performance-based program budgets for state agencies and the judicial branch.

Section 9. Section 216.0235, Florida Statutes, is created to read:

216.0235 Performance-based legislative program budget requests to be furnished by agencies.—

(1) The head of each state agency shall submit a final legislative program budget request to the Legislature and to the Governor, as chief budget officer of the state, in the form and manner prescribed in the program 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, a state agency may not submit its final legislative program budget request later than September 1 of each year. Section 216.023 does not apply to programs within agencies that have been approved for submitting a final legislative performance-based program budget request.

(2) The judicial branch and the Division of Administrative Hearings shall submit their final legislative program budget requests directly to the Legislature with a copy to the Governor, as chief budget officer of the state, in the form and manner prescribed in the program budget instructions. However, the final legislative program 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 program budget instructions from which each agency that has an approved program and the judicial branch, pursuant to ss. 216.0166 and 216.043, shall prepare its legislative program budget request. The program budget instructions must be consistent with s. 216.141 and must 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 program 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 that has an approved program and the judicial branch shall submit for review a preliminary legislative program budget request to the Executive Office of the Governor, in the form and manner prescribed in ss. 216.0166 and 216.043, in accordance with the legislative program budget instructions, and at such time as is prescribed by the Executive Office of the Governor.

(5) The Executive Office of the Governor shall review the preliminary legislative program budget request for technical compliance with the budget format provided for in the program 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 program budget request. If the appropriate technical corrections are not

made in the final legislative program budget requests, the Executive Office of the Governor may adjust the program 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 recommended program budgets to the Legislature, the head of the agency or judicial branch may amend his request by transmitting to the Governor and the Legislature an amended request in the form and manner prescribed in the legislative program budget instructions.

Section 10. Subsections (10) and (11) are added to section 216.031, Florida Statutes, to read:

216.031 Budgets for operational expenditures.—A legislative budget request, reflecting the independent judgment of the head of the state agency, and of the Chief Justice of the Supreme Court, with respect to the needs of the agency and 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:

(10) *For those agencies or the judicial branch operating programs under a performance-based program budget, an evaluation of the program's progress in meeting the performance measures and standards approved pursuant to s. 216.0166. Such evaluation shall be developed as prescribed by the program budget instructions and shall include any responses by the agency or the Chief Justice to the findings of the Legislative Auditing and Accountability Committee.*

(11) *For those agencies or the judicial branch requesting programs under a performance-based program budget, the baseline data, outcomes, and performance measures for current programs, including justification for those programs.*

Either chairman of a legislative appropriations committee, or the Executive Office of the Governor for state agencies, 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 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 judgment in making legislative budget requests, as required by law.

Section 11. Subsection (5) is added to section 216.163, Florida Statutes, to read:

216.163 Governor's recommended budget; form and content; declaration of collective bargaining impasses.—

(5) *The Executive Office of the Governor shall review the evaluation report required by s. 216.031(10) and the findings of the Legislative Auditing and Accountability Committee, to the extent that they are available, request any reports or additional analyses as necessary, and submit a recommendation pursuant to paragraph (2)(g) which may include a recommendation regarding incentives or disincentives for program performance. Incentives or disincentives may apply to all or part of a state agency.*

(a) *Incentives may include, but are not limited to:*

1. *Additional flexibility in budget management.*

2. *Additional flexibility in salary rate and position management.*

3. *Retention of up to 50 percent of unexpended and unencumbered balances of appropriations, excluding special categories and grants in aid, which may be used for nonrecurring purposes, including, but is not limited to, lump-sum bonuses, employee training, or productivity enhancements, including technological and other improvements.*

4. Additional funds to be used for, but not limited to, lump-sum bonuses, employee training, or productivity enhancements, including technological and other improvements.

(b) Disincentives may include, but are not limited to:

1. Mandatory quarterly reports to the Executive Office of the Governor and the Legislature on the agency's progress in meeting performance standards.

2. Mandatory quarterly appearances before the Legislature, the Governor, or the Governor and Cabinet to report on the program's progress in meeting performance standards.

3. Elimination or restructuring of the program, which may include, but is not limited to, transfer of the program between divisions, transfer of the program between departments, or outsourcing all or a portion of the program.

4. Reduction of total positions for a program.

5. Restriction on or reduction of spending authority provided in s. 216.292(2)(c).

6. Reduction of managerial salaries.

(c) The Legislature shall approve, through the General Appropriations Act or legislation implementing the General Appropriations Act, all incentives and disincentives for each program within a state agency after consideration of the recommendation from the Executive Office of the Governor, after consultation with the appropriate substantive committees and after consideration of the past performance of that program in achieving its performance measures. All incentives or disincentives shall be approved on the basis of past demonstrated program performance.

Section 12. Section 216.183, Florida Statutes, is created to read:

216.183 Entities using performance-based program budgets; chart of accounts.—State agencies and the judicial branch for which a performance-based program budget has been appropriated shall use the chart of accounts used by the State Automated Management Accounting Subsystem in the manner described in s. 215.93(3). The chart of accounts for state agencies and the judicial branch for which a performance-based program budget has been appropriated shall be developed and amended, if necessary, in consultation with the Department of Banking and Finance and the Executive Office of the Governor.

Section 13. Present subsections (2), (3), (4), (5), (6), (7), (8), and (9) of section 216.292, Florida Statutes, are renumbered as subsections (3), (4), (5), (6), (7), (8), (9), and (10), respectively, and a new subsection (2) is added to that section to read:

216.292 Appropriations nontransferable; exceptions.—

(2) Lump sums appropriated for performance-based programs must be distributed by the Governor for state agencies or the Chief Justice for the judicial branch into the traditional expenditure categories in accordance with s. 216.181(4)(b). At any time during the year, the agency head or Chief Justice may transfer funds between those categories with no limit on the amount of the transfer. Such transfers are not subject to the review requirements of this subsection and subsection (3), but such authorized revisions, together with related changes, if any, in the plan for release of appropriations must be transmitted by the state agency or by the 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 must be furnished to the Executive Office of the Governor or the Chief Justice, the chairmen of the legislative appropriations committees, and the Auditor General. 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. However, no transfer from any other budget entity, except pursuant to s. 216.181, may be made into the performance-based program, nor may any funds be transferred from the performance-based program to another budget entity. If the chairmen of the legislative appropriations committees or the President of the Senate and the Speaker of the House of Representatives timely advise the Executive Office of the Governor, the Chief Justice of the Supreme Court, or the Administration Commission, in writing, why 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 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 shall void such action and 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. The written documentation must indicate the specific reasons why an action or proposed action exceeds the delegated authority or is contrary to legislative policy and intent.

Section 14. Sixty-five full-time equivalent positions and all associated unexpended balances of appropriations, allocations, or other funds are transferred from the Office of the Auditor General, Program Audit Division, to the Office of Program Policy Analysis and Accountability of the Legislative Auditing and Accountability Committee. Five full-time equivalent positions and all associated unexpended balances of appropriations, allocations, or other funds are transferred from the Office of the Auditor General, Program Audit Division, to the Legislative Auditing and Accountability Committee.

Section 15. Section 20.055, Florida Statutes, is amended to read:

20.055 Agency inspector general ~~chief internal auditors~~.—

(1) For the purposes of this section:

(a) "State agency" means each department created pursuant to chapter 20, and also includes the Executive Office of the Governor, the Department of Military Affairs, the Parole Commission, each water management district, the Board of Regents, the Game and Fresh Water Fish Commission, the Public Service Commission, and the state courts system.

(b) "Agency head" means the Governor, a Cabinet officer, a secretary as defined in s. 20.03(5), or an executive director as defined in s. 20.03(6). It also includes the chairman of the Public Service Commission, the governing board of each water management district, and the Chief Justice of the State Supreme Court.

~~(c) "Chief internal auditor" means the person appointed by the agency head to direct the internal audit function for the state agency.~~

(2) The office of inspector general is established in each state agency to provide a central point for coordination and responsibility for activities that promote accountability, integrity, and efficiency in government. It is the duty and responsibility of each inspector general, with respect to the state agency in which the office is established, to:

(a) Advise in the development of performance measures, standards, and procedures for the evaluation of state agency programs.

(b) Assess the reliability and validity of the information provided by the state agency on performance measures and standards and make recommendations for improvement, if necessary.

(c) Review the actions taken by the state agency to improve program performance and meet program standards and make recommendations for improvement, if necessary.

(d) Provide direction for, supervise, and coordinate audits, investigations, and management reviews relating to the programs and operations of the state agency, except that when the inspector general does not possess the qualifications described in subsection (4), the director of auditing shall conduct such audits.

(e) Conduct, supervise, or coordinate other activities carried out or financed by that state agency for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations.

(f) Keep the agency head informed concerning fraud, abuses, and deficiencies relating to programs and operations administered or financed by the state agency; recommend corrective action concerning fraud, abuses, and deficiencies; and report on the progress made in implementing corrective action.

(g) Ensure effective coordination and cooperation between the Auditor General, federal auditors, and other governmental bodies to avoid duplication.

(h) Review, as appropriate, rules relating to the programs and operations of the state agency and make recommendations concerning their impact.

(i) Ensure that an appropriate balance is maintained between audit, investigative, and other accountability activities.

(3)(2) ~~The inspector general~~ Each state agency shall employ a chief internal auditor who shall be appointed by and directly responsible to the agency head. For the agencies under the direction of the Governor, the appointment shall be made after notifying the Governor in writing, at least 7 days before an offer of employment, of the agency head's intention to hire the inspector general.

(a) Each inspector general shall report to and be under the general supervision of the agency head and shall not be subject to supervision by any other employee of the state agency. The inspector general shall be appointed without regard to political affiliation.

(b) An inspector general may be removed from office by the agency head. For the agencies under the direction of the Governor, the agency head shall notify the Governor, in writing, of the intention to terminate the inspector general at least 7 days before the removal. For the state agencies under the direction of the Governor and Cabinet, the agency head shall notify the Governor and Cabinet in writing of the intention to terminate the inspector general at least 7 days before the removal. The Chief Justice of the Supreme Court may remove from the office the inspector general for the state courts system.

(c) The agency head shall not prevent or prohibit the inspector general or director of auditing from initiating, carrying out, or completing any audit or investigation.

(4)(3) To ensure that state agency audits are performed in accordance with applicable auditing standards, the inspector general or the director of auditing within the inspector general's office must possess the following qualifications. ~~The chief internal auditor shall possess the following qualifications:~~

(a) A bachelor's degree from an accredited college or university with a major in accounting, or with a major in business which includes five courses in accounting, and 5 years of experience as an internal auditor or independent postauditor, electronic data processing auditor, accountant, or any combination thereof. The experience shall at a minimum consist of audits of units of government or private business enterprises, operating for profit or not for profit; or

(b) A master's degree in accounting, business administration, or public administration from an accredited college or university and 4 years of experience as required in paragraph (a); or

(c) A certified public accountant license issued pursuant to chapter 473 or a certified internal audit certificate issued by the Institute of Internal Auditors or earned by examination, and 4 years of experience as required in paragraph (a).

(5)(4) In carrying out the auditing duties and responsibilities under this section, each inspector general ~~The chief internal auditor~~ shall review and evaluate internal controls necessary to ensure the fiscal accountability of the state agency. The inspector general ~~chief internal auditor~~ shall conduct financial, compliance, electronic data processing, and performance audits of the agency and prepare audit reports of his findings. The scope and assignment of the audits shall be determined by the inspector general ~~chief internal auditor~~; however, the agency head of the agency may at any time direct the inspector general ~~chief internal auditor~~ to perform an audit of a special program, function, or organizational unit. The performance of the audit shall be under the direction of the inspector general, except that, if the inspector general does not possess the qualifications described in subsection (4), the director of auditing shall perform the functions listed in this subsection ~~chief internal auditor~~.

(a) Such audits shall be conducted in accordance with the current Standards for the Professional Practice of Internal Auditing and subsequent Internal Auditing Standards or Statements on Internal Auditing Standards published by the Institute of Internal Auditors, Inc., or, where appropriate, in accordance with generally accepted governmental auditing standards. All audit reports issued by internal audit staff shall include a statement that the audit was conducted pursuant to the appropriate standards.

(b) Audit workpapers and reports shall be public records to the extent that they do not include information which has been made confidential and exempt from the provisions of s. 119.07(1) pursuant to law. However, when the inspector general ~~chief internal auditor~~ or a member of the his staff receives from an individual a complaint or information that falls within the definition provided in s. 112.3187(5), the name or identity of the individual shall not be disclosed to anyone else other than the chief internal auditor without the written consent of the individual, unless the inspector general ~~chief internal auditor~~ determines that such disclosure is unavoidable during the course of the audit or investigation. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(c) The inspector general ~~chief internal auditor~~ and his staff shall have access to any records, data, and other information of the state agency he deems necessary to carry out his duties. The inspector general is also authorized to request such information or assistance as is necessary from the state agency or from any federal, state, or local governmental entity.

(d)(5) At the conclusion of each audit, the inspector general ~~chief internal auditor~~ shall submit his preliminary findings and recommendations to the person responsible for supervision of the program function or operational unit who shall respond to any adverse findings of the chief internal auditor within 20 working days after receipt of the tentative findings. Such response and the inspector general's ~~chief internal auditor's~~ rebuttal to the response shall be included in the final audit report.

(e)(6) The inspector general ~~chief internal auditor~~ shall submit the final report to the agency head of the agency and to the Auditor General.

(f)(7) The Auditor General, in connection with his independent post-audit of the same agency pursuant to s. 11.45, shall give appropriate consideration to internal audit reports and the resolution of findings therein. The Legislative Auditing and Accountability Committee may inquire into the reasons or justifications for failure of the agency head to correct the deficiencies reported in internal audits that are also reported by the Auditor General and shall take appropriate action. The Auditor General shall also review a sample of each agency's internal audit reports at least once every 3 years to determine compliance with current Standards for the Professional Practice of Internal Auditing or, if appropriate, generally accepted governmental auditing standards. If the Auditor General finds that these standards have not been complied with, the Auditor General shall include a statement of this fact in his audit report of the agency.

(g)(8) The inspector general ~~chief internal auditor~~ shall monitor the implementation of the state agency's response to any audit of the state agency conducted by the Auditor General pursuant to s. 11.45. No later than 6 months after the Auditor General publishes a report of his audit of the agency, the inspector general ~~chief internal auditor~~ shall report to the agency head on the status of corrective actions taken. A copy of such report shall be filed with the Joint Legislative Auditing Committee.

(h) The inspector general shall develop long-term and annual audit plans based on the findings of periodic risk assessments. The plan must show the individual audits to be conducted during each year and related resources to be devoted to the respective audits. For state agencies under the Governor, the audit plans shall be submitted to the Governor's Chief Inspector General. The plan shall be submitted to the agency head for approval. A copy of the approved plan shall be submitted to the Auditor General.

(6) In carrying out the investigative duties and responsibilities specified in this section, each inspector general shall initiate, conduct, supervise, and coordinate investigations designed to detect, deter, prevent, and eradicate fraud, waste, mismanagement, misconduct, and other abuses in state government. For these purposes, each state agency shall:

(a) Receive complaints and coordinate all activities of the agency as required by the Whistle Blower's Act pursuant to ss. 112.3187-112.31895.

(b) Receive and consider the complaints that do not meet the criteria for an investigation under the Whistle Blower's Act and conduct, supervise, or coordinate such inquiries, investigations, or reviews as the inspector general deems appropriate.

(c) Report expeditiously to the Department of Law Enforcement or other law enforcement agencies, as appropriate, whenever the inspector general has reasonable grounds to believe there has been a violation of criminal law.

(d) Conduct investigations and other inquiries free of actual or perceived impairment to the independence of the inspector general or the inspector general's office. This shall include freedom from any interference with investigations and timely access to records and other sources of information.

(e) Submit timely final reports on investigations conducted by the inspector general to the agency head, except for Whistle Blower's Act investigations, which shall be conducted and reported pursuant to s. 112.3189.

(7) Each inspector general shall, not later than September 30 of each year, prepare a report summarizing the activities of the office during the immediately preceding state fiscal year. The final report shall be furnished to the agency head. Such reports must include, but is not limited to:

(a) A description of activities relating to the development, assessment, and validation of performance measures.

(b) A description of significant abuses, and deficiencies relating to the administration of programs and operations of the agency disclosed by investigations, audits, reviews, or other activities during the reporting period.

(c) A description of the recommendations for corrective action made by the inspector general during the reporting period with respect to significant problems, abuses, or deficiencies identified.

(d) The identification of each significant recommendation described in previous annual reports on which corrective action has not been completed.

(e) A summary of each audit and investigation completed during the reporting period.

Section 16. Section 14.32, Florida Statutes, is created to read:

14.32 Office of Chief Inspector General.—

(1) There is created in the Executive Office of the Governor the Office of the Chief Inspector General. The Chief Inspector General is responsible for promoting accountability, integrity, and efficiency in the agencies under the jurisdiction of the Governor. The Chief Inspector General shall be appointed by and serve at the pleasure of the Governor.

(2) The Chief Inspector General shall:

(a) Initiate, supervise, and coordinate investigations, recommend policies, and carry out other activities designed to deter, detect, prevent, and eradicate fraud, waste, abuse, mismanagement, and misconduct in government.

(b) Investigate, upon receipt of a complaint or for cause, any administrative action of any agency, the administration of which is under the direct supervision of the Governor, regardless of the finality of the administrative action.

(c) Request such assistance and information as may be necessary for the performance of the duties of the Chief Inspector General.

(d) Examine the records and reports of any agency, the administration of which is under the direct supervision of the Governor.

(e) Coordinate complaint-handling activities with agencies.

(f) Coordinate the activities of the Whistle Blower's Act pursuant to ss. 112.3187-112.31895 and maintain a "Whistle Blower's Hotline" to receive complaints and information concerning the possible violation of law or administrative rules, mismanagement, fraud, waste, abuse of authority, malfeasance, or a substantial or specific danger to the health, welfare, or safety of the public.

(g) Report expeditiously to and cooperate fully with the Department of Law Enforcement, the Department of Legal Affairs, and other law enforcement agencies when there are grounds for believing that there has been a violation of criminal law or that a civil action should be initiated.

(h) Act as liaison with outside agencies and the Federal Government to promote accountability, integrity, and efficiency in state government.

(i) Act as liaison with and monitor the activities of the inspectors general in the agencies under the Governor's jurisdiction.

(j) Review, evaluate, and monitor the policies, practices, and operations of the Executive Office of the Governor.

(k) Conduct special investigations and management reviews at the request of the Governor.

(3) The Chief Inspector General shall serve as the inspector general for the Executive Office of the Governor.

Section 17. Any other power, duty, function, or activity of a chief internal auditor described in any other provision of law shall become the power, duty, function, or activity of the inspector general as defined in section 13 of this act. This act is not intended to diminish other powers and duties of chief internal auditors or inspectors general as provided by law.

Section 18. The Division of Statutory Revision of the Joint Legislative Management Committee is requested to prepare a reviser's bill to change the term "chief internal auditor" to "inspector general."

Section 19. Paragraph (a) of subsection (5) of section 11.13, Florida Statutes, is amended to read:

11.13 Compensation of members.—

(5)(a) All expenditures of the Senate, House of Representatives, and offices, committees, and divisions of the Legislature shall be made pursuant to and, unless changed as provided below, within the limits of budgetary estimates of expenditure for each fiscal year prepared and submitted prior to June 15 by the administrative head of each such house, office, committee, or division and approved by the Committee on Rules and Calendar of the Senate and the President of the Senate as to Senate budgets, by the Committee on Administration of the House of Representatives and the Speaker of the House of Representatives as to House budgets, and by the Joint Legislative Management Committee as to joint committees and the divisions of the Legislature other than the Legislative Auditing and Accountability Committee and the Auditor General's office. Amounts in the approved estimates of expenditure may be transferred between budgetary units within the Senate, House of Representatives, and joint activities by the original approving authority. Funds may be transferred between items of appropriation to the Legislature when approved by the President of the Senate, the Speaker of the House of Representatives and the Joint Legislative Management Committee, provided the total amount appropriated to the legislative branch shall not be altered. The Joint Legislative Management Committee shall formulate and present to each house and office thereof recommendations concerning the form and preparation of such budgets and procedures for their adoption and transmission.

Section 20. Section 11.149, Florida Statutes, is amended to read:

11.149 Inapplicability of certain sections of ch. 68-35 to the Legislative Auditing and Accountability Committee.—The amendments to ss. 11.141-11.148, 11.23(1), 11.241, 11.242(6)(a), 11.243(3), 11.246(2)(a), 11.25(1), and 11.26 enacted by chapter 68-35, Laws of Florida, shall not apply to the Legislative Auditing and Accountability Committee or the Auditor General.

Section 21. Section 11.401, Florida Statutes, is amended to read:

11.401 Legislative Auditing and Accountability Committee; annual audit of financial records and reports.—The Legislative Auditing and Accountability Committee shall contract with a certified public accountant licensed under chapter 473 for an annual audit of the financial records of the Legislative Auditing Committee and the Auditor General. Copies of the audit shall be delivered to the President of the Senate, the Speaker of the House of Representatives, the Auditor General, and the members of the Legislative Auditing and Accountability Committee. The committee shall not contract with the same certified public accountant or the firm of which he is a member for the purposes of the audit required by this section for more than 2 consecutive years.

Section 22. Subsection (1), paragraph (a) of subsection (2), and subsections (4) and (5) of section 11.42, Florida Statutes, are amended to read:

11.42 The Auditor General.—

(1) The Auditor General shall be appointed to office to serve at the pleasure of the Legislature, by a majority vote of the members of the Legislative Auditing and Accountability Committee, subject to confirmation by both houses of the Legislature. At the time of his appointment, the

Auditor General shall have been certified under the Public Accountancy Law in this state for a period of at least 10 years and shall have had not less than 10 years' experience in a governmental agency or 10 years' experience in the private sector or a combination of 10 years' experience in government and the private sector. On or before December 31 of the year following each decennial census, the Legislative Auditing and Accountability Committee shall review the performance of the Auditor General and shall submit a report to the Legislature which recommends whether the Auditor General should continue to serve in office. Vacancies in the office shall be filled in the same manner as the original appointment.

(2)(a) To carry out his duties the Auditor General shall employ qualified persons necessary for the efficient operation of his office and shall fix their duties and compensation and, with the approval of the Legislative Auditing and Accountability Committee, shall adopt and administer a uniform personnel, job classification, and pay plan for such employees.

(4) The Auditor General, before entering upon the duties of his office, shall give bond, with some surety company authorized to do business in Florida as surety, in the amount of \$10,000 payable to the President of the Senate and the Speaker of the House of Representatives and their successors in office and conditioned that he will well and faithfully discharge the duties of his office, promptly report any delinquency or shortage discovered in any accounts and records audited by him, and promptly pay over and account for any and all funds that shall come into his hands as such auditor. If the Auditor General, within 30 days after receiving notice of his appointment, fails to file with the Legislative Auditing and Accountability Committee the required oath and bond, such appointment shall be of no effect and another appointment shall be made.

(5) All auditors employed by the Auditor General shall be covered by individual bonds or by a blanket position bond. Said bonds or bond shall meet and contain the same conditions as are required in the bond of the Auditor General. All bonds shall be filed with the Legislative Auditing and Accountability Committee. If an auditor is not covered in the blanket position bond, an individual bond shall be filed within 30 days after such employee receives notice of his employment. The amount of any such bond shall be determined by the Auditor General. Failure thus to file such individual bond or to be covered in the blanket position bond shall terminate his employment.

Section 23. Section 11.43, Florida Statutes, is amended to read:

11.43 Mandatory duties; termination of appointment.—The duties of the Legislative Auditing and Accountability Committee and of the Auditor General under law or concurrent resolution are mandatory unless the context clearly indicates otherwise, and failure on the part of the Auditor General to perform such mandatory duties under the direction of the committee shall constitute cause for termination of appointment. The appointment of the Auditor General may be terminated at any time by a majority vote of both houses of the Legislature.

Section 24. Section 11.44, Florida Statutes, is amended to read:

11.44 Salaries and expenses.—

(1)(a) The expenses of the members of the Legislative Auditing and Accountability Committee shall be approved by the chairman of the committee and paid from the appropriation for legislative expense.

(b) The Auditor General shall prepare and submit annually to the Legislative Auditing and Accountability Committee a proposed budget for the ensuing fiscal year. The committee shall review the budget request and may amend or change the budget request as it deems necessary. The budget request, as amended or changed by the committee, shall become the operating budget of the Auditor General for the ensuing fiscal year; provided that the budget so adopted may subsequently be amended under the same procedure.

(c) Within the limitations of the approved operating budget, the salaries and expenses of the Auditor General and his staff shall be paid from the appropriation for legislative expense or any other moneys appropriated by the Legislature for that purpose. The Auditor General shall approve all bills for salaries and expenses, except expenses of members of the Legislative Auditing and Accountability Committee, before the same shall be paid.

(d) All payrolls and vouchers prepared by the Auditor General for the operations of his office shall be submitted directly to the Comptroller for preaudit and, if found to be correct, state warrants shall be issued therefor. The Auditor General shall submit a quarterly report of such expendi-

tures, including expenditures of the committee, to the Legislative Auditing and Accountability Committee, the President of the Senate, the Speaker of the House of Representatives, the Secretary of the Senate, the Clerk of the House of Representatives, and the Joint Legislative Management Committee.

(2) The Legislature hereby declares and determines that the Legislative Auditing and Accountability Committee is a standing committee of the Legislature with interim powers and that the Auditor General is an office under the legislative branch of government; they are not agencies of government within the intention of the Legislature as expressed in chapter 216, and no power shall rest in the Executive Office of the Governor or its successor to release or withhold funds appropriated to them, but the same shall be available for expenditure as provided by law and the rules or decisions of the committee. Agencies of the executive branch shall have no power to determine the number or fix the compensation of the employees of the committee or of the Auditor General or to exercise any manner of control over them. The Legislative Auditing and Accountability Committee shall submit to the Joint Legislative Management Committee, for planning purposes only, an estimate of the financial needs of the committee and the Auditor General.

Section 25. Section 11.45, Florida Statutes, is amended to read:

11.45 Definitions; duties; audits; reports.—

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

(a) "County agency," for the exclusive purposes of this section, means a board of county commissioners or other legislative and governing body of a county, however styled, including that of a consolidated or metropolitan government, a clerk of the circuit court, a separate or ex officio clerk of the county court, a sheriff, a property appraiser, a tax collector, a supervisor of elections, or any other officer in whom any portion of the fiscal duties of the above are under law separately placed. Each county agency is a local governmental entity for purposes of subparagraph (3)(a)4.

(b) "Financial audit" means an examination of financial statements in order to express an opinion on the fairness with which they present financial position, results of operations, and changes in financial position in conformity with generally accepted governmental accounting principles and an examination to determine whether operations are properly conducted in accordance with legal and regulatory requirements.

(c) "Governmental entity" means a state agency, a county agency, or any other entity, however styled, that independently exercises any type of state or local governmental function.

(d) "Local governmental entity" means a county agency, municipality, or special district as defined by s. 218.31(5), but does not include any housing authority created pursuant to chapter 421.

(e) "Management letter" means a statement of the auditor's comments and recommendations.

(f) "Performance audit" means an examination of the effectiveness of administration and the efficiency and adequacy of the program of the state agency authorized by law to be performed.

(g) "Political subdivision" means a separate agency or unit of local government created or established by law and includes, but is not limited to, the following and the officers thereof: authority, board, branch, bureau, city, commission, consolidated government, county, department, district, institution, metropolitan government, municipality, office, officer, public corporation, town, or village.

(h) "State agency" means a separate agency or unit of state government created or established by law and includes, but is not limited to, the following and the officers thereof: authority, board, branch, bureau, commission, department, division, institution, office, officer, or public corporation, as the case may be, except any such agency or unit within the legislative branch of state government.

(2) The Auditor General shall make financial audits and performance audits of public records and perform related duties as prescribed by law or concurrent resolution of the Legislature. He shall perform his duties independently but under the general policies established by the Legislative Auditing and Accountability Committee.

(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 and Accountability Committee, or whenever otherwise required by law or concurrent resolution. *In order to allow the Office of Program Policy Analysis and Governmental Accountability to carry out its responsibilities and to reduce duplicative auditing requirements, the Legislative Auditing and Accountability Committee may waive the requirements of any law existing as of the effective date of this act to conduct a performance audit.* 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 and Accountability 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 and Accountability 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 and Accountability 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 and Accountability Committee pursuant to s. 216.0165(3), unless directed otherwise by the Legislative Auditing and Accountability 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 sup-

porting 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 Accountability, 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 and Accountability 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 Accountability, 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 Plan of the agency in evaluating the performance of the agency.

(b) The Legislative Auditing and Accountability Committee may authorize and direct the Auditor General to make a financial audit of any municipality or independent agency or authority of any municipality within the state, and the committee shall direct him to make such audit whenever petitioned to do so by at least 20 percent of the electors of any municipality. The supervisor of elections of the county in which the municipality is located shall certify whether or not the petition contains the signatures of at least 20 percent of the electors of the municipality. The expenses of such audit shall be paid by the municipality and, in the event the municipality fails to pay the cost of the audit, the Department of Revenue shall, upon certification of the Auditor General, withhold from that portion of the municipal financial assistance trust fund for municipalities which is derived from the cigarette tax imposed under chapter 210, and which is distributable to such municipality, a sum sufficient to pay the cost of the audit and shall deposit that sum into the General Revenue Fund of the state.

(c) The Auditor General shall exercise any power and duty which by any law, general or otherwise, is now vested in the state auditor or the legislative auditor. The Auditor General shall make an annual financial audit of accounts and records of any other public body or political subdivision when required by law or concurrent resolution to do so.

(d) The Auditor General shall at least every 2 years make a performance audit of the local government financial reporting system required by this subsection; ss. 189.416-189.422; and part VII of chapter 112 and part III of chapter 218. The performance audit shall analyze each component of the reporting system separately and analyze the reporting system as a whole. The purpose of such an audit is to determine the efficiency and effectiveness of the reporting system in monitoring and evaluating the financial conditions of local governments and to make recommendations to the local governments, the Governor, and the Legislature as to how the reporting system can be improved and how program costs can be reduced.

(e) Whenever a unit of local government requests the Auditor General to conduct an audit of all or part of its operations and the Auditor General under his own authority or at the direction of the Legislative Auditing and Accountability Committee conducts the audit, the expenses of the audit shall be paid for by the unit of local government.

(4) If the Auditor General conducts an audit of a special district which indicates in its findings problems related to debt policy or practice, including failure to meet debt service payments, failure to comply with significant bond covenants, failure to meet bond reserve requirements, and significant erosion of a special district's revenue-producing capacity, a copy of the audit shall be submitted to the Division of Bond Finance of the State Board of Administration for review and comment. Upon receipt of this notification from the Auditor General, the Division of Bond Finance shall prepare a brief report describing the previous debt issued by the special district and submit the report to the Legislative Auditing and Accountability Committee for their review and consideration.

(5) Each audit required or authorized by this section, when practicable, shall be made and completed within not more than 12 months following the end of each fiscal year of the state agency or political subdivision, if an annual audit, or at such lesser time which may be provided by law or concurrent resolution or directed by the Legislative Auditing and Accountability Committee. When the Auditor General is required by law to make a financial audit of the whole or a portion of a fiscal year of a political subdivision and his current workload of audits of state agencies and political subdivisions is so great that it is not practicable within the required time to perform such audit and also to make financial audits of that political subdivision as to any other period not previously audited by him, then in his discretion he may temporarily or indefinitely postpone his audits of such other period or any portion thereof unless otherwise directed by the committee.

(6) The Legislative Auditing and Accountability Committee may at any time, without regard to whether the Legislature is then in session or out of session, take under investigation any matter within the scope of an audit either completed or then being conducted by the Auditor General, and in connection with such investigation may exercise the powers of subpoena by law vested in a standing committee of the Legislature.

(7)(a) The Auditor General may, when in his judgment it is necessary, designate and direct any auditor employed by him to audit any accounts or records within the power of the Auditor General to audit. The auditor shall report his findings for review by the Auditor General, who shall prepare the audit report.

(b) The audit report when final shall be a public record. The audit workpapers and notes are not a public record; however, those workpapers necessary to support the computations in the final audit report may be made available by a majority vote of the Legislative Auditing and Accountability Committee after a public hearing showing proper cause. The audit workpapers and notes shall be retained by the Auditor General until no longer useful in his proper functions, after which time they may be destroyed.

(c) The audit report must make special mention of:

1. Any violation of the laws within the scope of the audit; and
2. Any illegal or improper expenditure, any improper accounting procedures, all failures to properly record financial transactions, and all other inaccuracies, irregularities, shortages, and defalcations.

(d) At the conclusion of the audit, the Auditor General or his designated representative shall discuss the audit with the official whose office is subject to audit and submit to him a list of his adverse findings which may be included in the audit report. If the official is not available for receipt of the list of adverse audit findings, clearly designated as such, then delivery thereof is presumed to be made when it is delivered to his office. The official shall submit to the Auditor General or his designated representative, within 30 days after the receipt of the list of findings, his written statement of explanation or rebuttal concerning all of the findings, including therein corrective action to be taken to preclude a recurrence of all adverse findings.

(e) Each agency head shall provide to the Legislative Auditing and Accountability Committee, within 6 months after the published date of an audit report, a written explanation of the status of recommendations contained in the report.

(f) No later than 18 months after the Auditor General has released a performance audit report, the agencies which are the subject of that report shall provide the Auditor General with data and other information that describes with specificity what the agencies have done to respond to the Auditor General's recommendations. The Auditor General may verify the data and information provided by the agencies. After the Auditor General is satisfied with the sufficiency and accuracy of the data and information provided by the agencies, the Auditor General shall report to the Joint Legislative Auditing and Accountability Committee and to the legislative standing committees concerned with the subject areas of the audit. The Auditor General's report shall include a summary of the agencies' responses, the Auditor General's evaluation of those responses, and any recommendations the Auditor General may deem to be appropriate.

(8) A copy of the audit report shall be submitted to each member of the Legislative Auditing and Accountability Committee, to the Governor, to the Comptroller, and to the officer or person in charge of the state agency or political subdivision audited. One copy shall be filed as a permanent public record in the office of the Auditor General. In the case of county reports, one copy of the report of each county office, school district, or other district audited shall be submitted to the board of county commissioners of the county in which the audit was made and shall be filed in the office of the clerk of the circuit court of that county as a public record; when an audit is made of the records of the district school board, a copy of the audit report shall also be filed with the district school board, and thereupon such report shall become a part of the public records of such board. Copies of such reports may also be furnished such other persons as in the opinion of the Auditor General may be directly interested in the audit or who may have some duty to perform in connection therewith.

(9) If the Auditor General discovers any errors, unusual practices, or any other discrepancies in connection with his audits of a state agency or

state officer, the Auditor General shall, as soon as practicable, notify in writing the President of the Senate and the Speaker of the House of Representatives, respectively, who, in turn, shall promptly thereafter forward a copy thereof to the chairmen of the respective legislative committees, which in the judgment of the President of the Senate and the Speaker of the House of Representatives, respectively, are substantially concerned with the functions of the state agency or state officer involved. Thereafter, and in no event later than the 10th day of the next succeeding legislative session, the person in charge of the state agency involved, or the state officer involved, as the case may be, shall explain in writing to the chairmen of the respective legislative committees and to the Legislative Auditing and Accountability Committee the reasons or justifications for such errors, unusual practices, or discrepancies and the corrective measures, if any, taken by the agency.

(10) All agencies, other than state agencies as defined herein, and all district school boards and district boards of trustees of community colleges shall have the power to have a performance audit or financial audit of their accounts and records by an independent certified public accountant retained by them and paid from their public funds.

(11) The Auditor General shall provide annually a list of those special districts which are in compliance with this section and a list of those special districts which are not in compliance with this section for the Special District Information Program of the Department of Community Affairs.

Section 26. Subsections (4) and (5) of section 11.46, Florida Statutes, are amended to read:

11.46 Accounting procedures.—

(4) In addition to the postauditing functions of the Auditor General he shall have the following duties with respect to accounting systems and procedures:

(a) To develop and promulgate an overall plan for management accounting and reporting designed to provide an economical and efficient management accounting system for state officers and agencies consistent with generally accepted governmental accounting principles, practices, and internal control, within the requirements and spirit of the laws of Florida;

(b) Consistent with such overall plan, to expedite, guide, and assist in the installation of modern accounting and data processing systems and procedures in the offices administered by state officers and agencies;

(c) To stimulate the building of competent and efficient accounting and internal audit organizations in the offices administered by state officers and agencies;

(d) To provide to state officers and agencies consultation services on their financial and accounting systems and procedures and related problems;

(e) To conduct field studies of fiscal and accounting problems of state officers and agencies;

(f) Whenever in his judgment it is practicable, to develop and recommend uniform accounting systems and procedures for state officers and agencies insofar as their accounting and procedural requirements are similar; and

(g) To report annually to the Legislative Auditing and Accountability Committee concerning accounting systems and procedures employed by state officers and agencies.

(5) If the Auditor General finds that any state officers and agencies have failed to install an adequate management accounting system he shall immediately report his findings in detail to the Legislative Auditing and Accountability Committee, together with his recommendations for corrective action.

Section 27. Paragraph (a) of subsection (1) and subsections (3) and (5) of section 11.50, Florida Statutes, are amended to read:

11.50 Division of Public Assistance Fraud.—

(1)(a) The Auditor General shall investigate, on his own initiative or when required by the Legislative Auditing and Accountability Committee, public assistance made under the provisions of chapter 409. In the course of such investigation the Auditor General shall examine all records, including electronic benefits transfer records and make inquiry of

all persons who may have knowledge as to any irregularity incidental to the disbursement of public moneys, food stamps, or other items or benefits authorizations to recipients.

(3) The results of such investigation shall be reported by the Auditor General to the Legislative Auditing and Accountability Committee and the Department of Health and Rehabilitative Services and to such others as that committee or the Auditor General may determine.

(5) All lawful fees and expenses of officers and witnesses, expenses incident to taking testimony and transcripts of testimony and proceedings requested by the Legislative Auditing and Accountability Committee or the Auditor General shall be a proper charge to the appropriation of the Auditor General. All payments for these purposes shall be on vouchers approved by the Auditor General.

Section 28. Subsection (3) of section 11.51, Florida Statutes, is amended to read:

11.51 Office of Policy Analysis and Agency Review.—

(3) The Auditor General shall provide administrative support and services to the Office of Policy Analysis and Agency Review to the extent required by the Legislative Auditing and Accountability Committee.

Section 29. Paragraph (a) of subsection (1), paragraph (a) of subsection (3), and subsections (4), (6), and (7) of section 11.511, Florida Statutes, are amended to read:

11.511 Director of the Office of Policy Analysis and Agency Review; appointment; employment of staff; powers and duties.—

(1)(a) The Legislative Auditing and Accountability Committee shall appoint a director of the Office of Policy Analysis and Agency Review by majority vote of the committee, subject to confirmation by a majority vote of the Senate and the House of Representatives. At the time of his appointment, the director must have had 10 years' experience in policy analysis and program evaluation. The Legislative Auditing and Accountability Committee shall review the performance of the director every 4 years and shall submit a report to the Legislature recommending whether the director should be reappointed. The reappointment of a director is subject to confirmation by a majority vote of the Senate and the House of Representatives. A vacancy in the office must be filled in the same manner as the original appointment.

(3)(a) Within available funds, the director shall employ and set the compensation of such professional, technical, legal, and clerical staff as may be necessary to perform all the requirements of ss. 11.511 and 11.513, in accordance with the policies and procedures of the Legislative Auditing and Accountability Committee, and may remove these personnel. The staff must be chosen to provide a broad background of experience and expertise and, to the maximum extent possible, to represent a range of disciplines that includes law, engineering, public administration, environmental science, policy science, economics, sociology, and philosophy.

(4) The director shall conduct policy analyses and other related duties as prescribed by law. As part of these analyses, the director shall perform or contract for the performance of agency evaluation and justification reviews. He shall perform his duties independently but under general policies established by the Legislative Auditing and Accountability Committee.

(6) The director, with the consent of the Legislative Auditing and Accountability Committee, may enter into contracts on behalf of the Office of Policy Analysis and Agency Review.

(7) The director shall prepare and submit annually to the Legislative Auditing and Accountability Committee a proposed budget for the ensuing fiscal year. The committee shall review the budget request and may amend or change the budget request as it deems necessary. The budget request shall become the operating budget of the Office of Policy Analysis and Agency Review for the ensuing fiscal year; provided that the budget so adopted may subsequently be amended under the same procedure.

Section 30. Subsections (3), (6), and (7) of section 11.513, Florida Statutes, are amended to read:

11.513 Agency evaluation and justification review.—

(3) The director, in consultation with the Legislative Auditing and Accountability Committee, shall develop specific measures of performance and criteria for each agency evaluation and justification review.

(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 and Accountability Committee for submittal, the director shall submit a report of the agency evaluation and justification review findings to the President of the Senate, the Speaker of the House of Representatives, the Legislative Auditing and Accountability 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 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. These recommendations must be forwarded to the President of the Senate, the Speaker of the House of Representatives, the Legislative Auditing and Accountability 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.

Section 31. Subsections (7) and (8) of section 20.055, Florida Statutes, are amended to read:

20.055 Agency chief internal auditors.—

(7) The Auditor General, in connection with his independent postaudit of the same agency pursuant to s. 11.45, shall give appropriate consideration to internal audit reports and the resolution of findings therein. The Legislative Auditing and Accountability Committee may inquire into the reasons or justifications for failure of the agency head to correct the deficiencies reported in internal audits that are also reported by the Auditor General and shall take appropriate action. The Auditor General shall also review a sample of each agency's internal audit reports at least once every 3 years to determine compliance with current Standards for the Professional Practice of Internal Auditing or, if appropriate, generally accepted governmental auditing standards. If the Auditor General finds that these standards have not been complied with, he shall include a statement of this fact in his audit report of the agency.

(8) The chief internal auditor shall monitor the implementation of the agency's response to any audit of the agency conducted by the Auditor General pursuant to s. 11.45. No later than 6 months after the Auditor General publishes a report of his audit of the agency, the chief internal auditor shall report to the agency head on the status of corrective actions taken. A copy of such report shall be filed with the Joint Legislative Auditing and Accountability Committee.

Section 32. Subsection (6) of section 20.23, Florida Statutes, is amended to read:

20.23 Department of Transportation.—There is created a Department of Transportation which shall be a decentralized agency.

(6) To facilitate the efficient and effective management of the department in a businesslike manner, the department shall develop a system for the submission of monthly management reports to the Florida Transportation Commission and secretary from the district secretaries. The commission and the secretary shall determine which reports are required to fulfill their respective responsibilities under this section. A copy of each such report shall be submitted monthly to the appropriations and transportation committees of the Senate and the House of Representatives. Recommendations made by the Auditor General in his audits of the department that relate to management practices, systems, or reports shall be implemented in a timely manner. However, if the department determines that one or more of the recommendations should be altered or should not be implemented, it shall provide a written explanation of such determination to the Legislative Auditing and Accountability Committee within 6 months after the date the recommendations were published.

Section 33. Subsections (1) and (3) of section 24.123, Florida Statutes, are amended to read:

24.123 Annual audit of financial records and reports.—

(1) The Legislative Auditing and Accountability Committee shall contract with a certified public accountant licensed pursuant to chapter 473 for an annual financial audit of the department. The certified public accountant shall have no financial interest in any vendor with whom the department is under contract. The certified public accountant shall present an audit report no later than 7 months after the end of the fiscal year and shall make recommendations to enhance the earning capability of the state lottery and to improve the efficiency of department operations. The certified public accountant shall also perform a study and evaluation of internal accounting controls and shall express an opinion on those controls in effect during the audit period. The cost of the annual financial audit shall be paid by the department.

(3) A copy of any audit performed pursuant to this section shall be submitted to the secretary, the commission, the Governor, the President of the Senate, the Speaker of the House of Representatives, and members of the Legislative Auditing and Accountability Committee.

Section 34. Paragraphs (c) and (d) of subsection (9) of section 112.3189, Florida Statutes, are amended to read:

112.3189 Investigative procedures upon receipt of whistle-blower information from certain state employees.—

(9)

(c) The Chief Inspector General shall transmit any final report under this section, any comments provided by the complainant, and any appropriate comments or recommendations by the Chief Inspector General to the Governor, to the ~~Joint~~ Legislative Auditing and Accountability Committee, to the investigating agency, and to the Comptroller.

(d) If the Chief Inspector General does not receive the report of the agency head within the time prescribed in paragraph (a), the Chief Inspector General may conduct the investigation in accordance with paragraph (7)(b) or request that another agency inspector general conduct the investigation in accordance with subsection (6) and shall report the complaint to the Governor, to the ~~Joint~~ Legislative Auditing and Accountability Committee, and to the investigating agency, together with a statement noting the failure of the agency head to file the required report.

Section 35. Section 189.409, Florida Statutes, is amended to read:

189.409 Determination of financial emergency.—A special district shall notify the Governor and Legislative Auditing and Accountability Committee when the health, safety, and welfare of the citizens of the state are affected by the occurrence of one or more of the conditions described in s. 218.503, or if said condition or conditions will occur if action is not taken to assist the special district. The Governor may adopt rules to implement the provisions of this section.

Section 36. Paragraph (d) of subsection (2) of section 215.95, Florida Statutes, is amended to read:

215.95 Fiscal Accounting Information Board.—

(2) To carry out its duties and responsibilities, the board shall by majority vote:

(d) Submit to the ~~Joint~~ Legislative Auditing and Accountability Committee an annual report containing, but not limited to, the following:

1. Current status of all information subsystems.
2. Detailed plans related to all information subsystems provided for in s. 215.96(3)(a).

Section 37. Paragraphs (a) and (d) of subsection (1) and subsections (2) and (3) of section 216.0165, Florida Statutes, are 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 and Accountability Committee pursuant to subsection (3).

(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 direc-

tor'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 and Accountability Committee, and the chairmen of the appropriate substantive committees of the Senate and the House of Representatives.

(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 evaluation and justification review of an agency or entity shall include all adjunct authorities, boards, committees, offices, and commissions within or connected to the 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 and Accountability 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) The Department of Banking and Finance.
- (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 Management Services.
- (dd) The Department of Highway Safety and Motor Vehicles.
- (ee) The Department of Citrus.

(3) The Legislative Auditing and Accountability 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 and Accountability 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 and Accountability Committee.

Section 38. Subsection (8) of section 216.052, Florida Statutes, is amended to read:

216.052 Legislative budget requests; appropriations; grants.—

(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 and Accountability 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 39. Paragraph (a) of subsection (2) of section 216.251, Florida Statutes, is amended to read:

216.251 Salary appropriations; limitations.—

(2)(a) The salary for each position not specifically indicated in the appropriations acts shall be as provided in one of the following subparagraphs:

1. Within the classification and pay plans provided for in chapter 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 and Accountability Committee, as the case may be, for employees of the Legislature.
5. Within the approved classification and pay plan for the judicial branch.
6. The salary of all positions not specifically included in this subsection shall be set by the commission or by the Chief Justice for the judicial branch.

Section 40. Paragraph (c) of subsection (1) of section 218.32, Florida Statutes, is amended to read:

218.32 Financial reporting; units of local government.—

(1)

(c) If the department fails to receive the financial report within such period, it shall notify the Legislative Auditing and Accountability Committee of the failure to report. Following receipt of notification of failure to report, a hearing shall be scheduled by the committee for the purpose of receiving additional testimony addressing the failure of units of local government to comply with the reporting requirements of this section. After the hearing, the committee shall determine which units of local government will be subjected to further state action. If it finds that one or more units of local government should be subjected to further state action, the committee shall:

1. In the case of a unit of local government, request the Department of Revenue and the Department of Banking and Finance to withhold any funds payable to such governmental entity until the required report is received by the department.

2. In the case of a special district, notify the Department of Community Affairs that the special district has failed to provide the required financial report. Upon notification, the Department of Community Affairs shall proceed pursuant to ss. 189.421 and 189.422.

Section 41. Subsection (3) of section 218.38, Florida Statutes, is amended to read:

218.38 Notice of bond issues required; verification.—

(3) If a unit of local government fails to verify pursuant to subsection (2) the information held by the division, or fails to provide the information required by subsection (1), the division shall notify the Legislative Auditing and Accountability Committee of such failure to comply. Following receipt of such notification of failure to comply with these provisions, a hearing shall be scheduled by the committee for the purpose of receiving testimony addressing the failure of units of local government to comply with the requirements of this section. After the hearing, the committee shall determine which units of local government will be subjected to further state action. If it finds that one or more units of local government should be subjected to further state action, the committee shall:

(a) In the case of a unit of local government, request the Department of Revenue and the Department of Banking and Finance to withhold any funds not pledged for bond debt service satisfaction which are payable to such governmental entity.

(b) In the case of a special district, notify the Department of Community Affairs that the special district has failed to comply. Upon notification, the Department of Community Affairs shall proceed pursuant to ss. 189.421 and 189.422.

Section 42. Subsection (2) of section 218.503, Florida Statutes, is amended to read:

218.503 Determination of financial emergency.—

(2) A unit of local government shall notify the Governor and the Legislative Auditing and Accountability Committee when one or more of the conditions specified in subsection (1) have occurred or will occur if action is not taken to assist the unit of local government. In addition, any state agency may notify the Governor and the Legislative Auditing and Accountability Committee when one or more of the conditions specified in subsection (1) have occurred or will occur if action is not taken to assist a unit of local government.

Section 43. Subsection (6) of section 286.036, Florida Statutes, is amended to read:

286.036 Taxation and Budget Reform Commission; powers.—

(6) The Legislative Auditing and Accountability Committee may at any time, without regard to whether the Legislature is then in session or out of session, take under consideration any matter within the scope of the duties of the Taxation and Budget Reform Commission, and in connection therewith may exercise the powers of subpoena by law vested in a standing committee of the Legislature.

Section 44. Section 287.114, Florida Statutes, is amended to read:

287.114 Duties of the Auditor General.—The Auditor General shall make an annual performance audit of and report on the Division of Purchasing and submit such report to the Legislative Auditing and Accountability Committee within 60 days after the affected agency has responded to the findings of the audit.

Section 45. Paragraph (a) of subsection (2) of section 288.906, Florida Statutes, is amended to read:

288.906 Annual report of Enterprise Florida, Inc.; audits; confidentiality.—

(2)(a) The Auditor General may, pursuant to his own authority or at the direction of the Joint Legislative Auditing and Accountability Committee, conduct an audit of Enterprise Florida, Inc. The audit or report may not reveal the identity of any person who has anonymously made a donation to Enterprise Florida, Inc., pursuant to paragraph (b).

Section 46. Subsection (3) of section 288.9517, Florida Statutes, is amended to read:

288.9517 Audits; confidentiality.—

(3) The Auditor General may, pursuant to his own authority or at the direction of the ~~Joint~~ Legislative Auditing and Accountability Committee, conduct an audit of Enterprise Florida Innovation Partnership or the programs or entities created by the partnership. The audit or report may not reveal the identity of any person who has anonymously made a donation to Enterprise Florida Innovation Partnership pursuant to subsection (4).

Section 47. Subsection (3) of section 288.9616, Florida Statutes, is amended to read:

288.9616 Audits; confidentiality.—

(3) The Auditor General may, pursuant to his own authority or at the direction of the ~~Joint~~ Legislative Auditing and Accountability Committee, conduct an audit of the Florida Development Finance Corporation or the Enterprise Florida Capital Partnership or the programs or entities created by the partnership. The audit or report may not reveal the identity of any person who has anonymously made a donation to Enterprise Florida Capital Partnership pursuant to subsection (4).

Section 48. Subsection (12) of section 339.149, Florida Statutes, is amended to read:

339.149 Periodic audits.—The Auditor General shall conduct periodic audits, as defined in s. 11.45, of the following functions and processes of the department, which audits shall include, at a minimum, a review of:

(12) AUDIT PERIODS.—The Auditor General has the discretion to schedule the audits required by this section. However, such audits must be performed by July 1, 1996, and must be performed during each subsequent 6-year period thereafter. The Auditor General must make audits of department functions or programs identified in this section or of other department functions or programs whenever directed to do so by the Legislature or the ~~Joint~~ Legislative Auditing and Accountability Committee. The Auditor General shall annually report to the Legislature on the efforts made by the department to rectify problems noted in prior audits.

Section 49. Subsection (1) of section 350.061, Florida Statutes, is amended to read:

350.061 Public Counsel; appointment; oath; restrictions on Public Counsel and his employees.—

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

Section 50. Subsection (2) of section 350.0614, Florida Statutes, is amended to read:

350.0614 Public Counsel; compensation and expenses.—

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

Section 51. Section 400.335, Florida Statutes, is amended to read:

400.335 Audit of trust funds.—The Auditor General shall conduct an audit of the trust funds and related accounts established under this part for fiscal year 1992-1993 and fiscal year 1993-1994 and, for subsequent years, shall conduct such audits as are directed by the Legislative Auditing and Accountability Committee. The Auditor General shall submit audit reports to the Legislature by December 31 after each year audited.

Section 52. Paragraph (b) of subsection (3) of section 570.903, Florida Statutes, is amended to read:

570.903 Direct-support organization.—

(3)

(b) If the direct-support organization fails to submit the audit report at the appropriate time, the Auditor General may, pursuant to his own authority, conduct the audit, or the Auditor General shall conduct the audit at the direction of the ~~Joint~~ Legislative Auditing and Accountability Committee, or the department shall engage an independent certified public accountant to conduct the audit. The direct-support organization shall pay for the entire costs of the audit.

Section 53. Paragraph (e) of subsection (3) of section 766.105, Florida Statutes, is amended to read:

766.105 Florida Patient's Compensation Fund.—

(3) THE FUND.—

(e) Fund accounting and audit.—

1. Money shall be withdrawn from the fund only upon a voucher as authorized by the board of governors.

2. All books, records, and audits of the fund shall be open for reasonable inspection to the general public, except that a claim file in possession of the fund, fund members, and their insurers shall not be available for review during processing of that claim. Any book, record, document, audit, or asset acquired by, prepared for, or paid for by the fund is subject to the authority of the board of governors, which shall be responsible therefor.

3. Persons authorized to receive deposits, issue vouchers, or withdraw or otherwise disburse any fund moneys shall post a blanket fidelity bond in an amount reasonably sufficient to protect fund assets. The cost of such bond shall be paid from the fund.

4. Annually, the fund shall furnish, upon request, audited financial reports to any fund participant and to the Department of Insurance and the ~~Joint~~ Legislative Auditing and Accountability Committee. The reports shall be prepared in accordance with accepted accounting procedures and shall include income and such other information as may be required by the Department of Insurance or the ~~Joint~~ Legislative Auditing and Accountability Committee.

5. Any money held in the fund shall be invested in interest-bearing investments by the board of governors of the fund as administrator. However, in no case may any such money be invested in the stock of any insurer participating in the Joint Underwriting Association authorized by s. 627.351(4) or in the parent company of, or company owning a controlling interest in, such insurer. All income derived from such investments shall be credited to the fund.

6. Any health care provider participating in the fund may withdraw from such participation only at the end of a fiscal year; however, such health care provider shall remain subject to any assessment or any refund pertaining to any year in which such member participated in the fund.

Section 54. Paragraph (d) of subsection (5) of section 766.315, Florida Statutes, is amended to read:

766.315 Florida Birth-Related Neurological Injury Compensation Association; board of directors.—

(5)

(d) Annually, the association shall furnish audited financial reports to any plan participant upon request, to the Department of Insurance, and to the ~~Joint~~ Legislative Auditing and Accountability Committee. The reports must be prepared in accordance with accepted accounting procedures and must include such information as may be required by the Department of Insurance or the ~~Joint~~ Legislative Auditing and Accountability Committee. At any time determined to be necessary, the Department of Insurance or the ~~Joint~~ Legislative Auditing and Accountability Committee may conduct an audit of the plan.

Section 55. Subsection (3) of section 946.516, Florida Statutes, is amended to read:

946.516 Report to Governor and Legislature by the corporation; Department of Corrections report; report to Governor and Legislature by Auditor General.—

(3) Beginning January 1, 1984, the Auditor General shall conduct an annual financial audit of the corporation in conjunction with an

independent audit conducted by the auditors of the corporation. The Auditor General shall also conduct a biennial performance audit of the corporation for the period beginning January 1, 1983, through January 1, 1985, and, thereafter, upon the request of the Joint Legislative Auditing and Accountability Committee.

Section 56. Section 11.40, Florida Statutes, creating the Legislative Auditing and Accountability Committee is repealed effective October 1, 1995, and the committee shall cease to exist and shall cease to perform its duties as of that date. Prior to October 1, 1995, the Legislature, in considering the re-creation of the committee, shall review the jurisdiction and duties of the committee to determine whether those duties, or a portion thereof, should remain the responsibility of that committee or could be more properly performed by another existing or proposed legislative committee.

Section 57. Section 110.1231, Florida Statutes, is amended to read:

110.1231 Health care insurance for persons retired under state-administered retirement systems before January 1, 1976, and their surviving spouses.—The Division of Retirement of the Department of Management Services may contract with a private health insurance carrier or the Social Security Administration or any other federal agency to provide health care coverage for persons who retired before January 1, 1976, under any of the state-administered retirement systems and for the surviving spouses of such persons not covered by social security.

Section 58. Paragraph (d) of subsection (4) of section 112.3173, Florida Statutes, is amended to read:

112.3173 Felonies involving breach of public trust and other specified offenses by public officers and employees; forfeiture of retirement benefits.—

(4) NOTICE.—

(d) The Commission on Ethics shall forward any notice and any other document received by it pursuant to this subsection to the governing body of the public retirement system of which the public officer or employee is a member or from which the public officer or employee may be entitled to receive a benefit. When called on by the Commission on Ethics, the Division of Retirement of the Department of Management Services shall assist the commission in identifying the appropriate public retirement system.

Section 59. Subsection (2) of section 112.63, Florida Statutes, is amended to read:

112.63 Actuarial reports and statements of actuarial impact; review.—

(2) The frequency of actuarial reports shall be at least every 3 years commencing from the last actuarial report of the plan or system or October 1, 1980, if no actuarial report has been issued within the 3-year period prior to October 1, 1979. The results of each actuarial report shall be filed with the plan administrator within 60 days of certification. Thereafter, the results of each actuarial report shall be made available for inspection upon request. Additionally, each retirement system or plan covered by this act which is not administered directly by the Department of Management Services through the Division of Retirement shall furnish a copy of each actuarial report to the Division of Retirement within 60 days of receipt from the actuary.

Section 60. Subsection (1) of section 112.665, Florida Statutes, is amended to read:

112.665 Duties of Division of Retirement.—

(1) The Division of Retirement of the Department of Management Services shall:

(a) Gather, catalog, and maintain complete, computerized data information on all public employee retirement systems or plans in the state, based upon a review of audits, reports, and other data pertaining to the systems or plans;

(b) Receive and comment upon all actuarial reviews of retirement systems or plans maintained by units of local government;

(c) Cooperate with local retirement systems or plans on matters of mutual concern and provide technical assistance to units of local government in the assessment and revision of retirement systems or plans;

(d) Issue, by January 1 annually, a report to the President of the Senate and the Speaker of the House of Representatives, which report details division activities, findings, and recommendations concerning all governmental retirement systems. The report may include legislation proposed to carry out such recommendations;

(e) Issue, by January 1 annually, a report to the Special District Information Program of the Department of Community Affairs that includes the participation in and compliance of special districts with the local government retirement system provisions in s. 112.63 and the state-administered retirement system provisions as specified in chapter 121; and

(f) Adopt reasonable rules to administer the provisions of this part.

Section 61. Section 121.025, Florida Statutes, is amended to read:

121.025 Administrator; powers and duties.—The director of the Division of Retirement shall be the administrator of the retirement and pension systems assigned or transferred to the Division of Retirement by law and, upon delegation of such authority by the Secretary of Management Services, shall have the authority to sign the contracts necessary to carry out the duties and responsibilities assigned by law to the Division of Retirement.

Section 62. Subsection (1) of section 121.031, Florida Statutes, is amended to read:

121.031 Administration of system; appropriation; oaths; actuarial studies; public records.—

(1) The Department of Management Services, through the Division of Retirement, shall make such rules as are necessary for the effective and efficient administration of this system. The funds to pay the expenses for such administration are hereby appropriated from the interest earned on investments made for the retirement and social security trust funds and the assessments allowed under chapter 650.

Section 63. Section 121.135, Florida Statutes, is amended to read:

121.135 Annual report to Legislature concerning state-administered retirement systems.—The Department of Management Services, through its Division of Retirement, shall make to each regular session of the Legislature a written report on the operation and condition of the state-administered retirement systems.

Section 64. Section 121.136, Florida Statutes, is amended to read:

121.136 Annual benefit statement to members.—Beginning January 1, 1993, and each January thereafter, the Department of Management Services, through its Division of Retirement, shall provide each active member of the Florida Retirement System with 5 or more years of creditable service an annual statement of benefits. Such statement should provide the member with basic data about the member's retirement account. Minimally, it shall include the member's retirement plan, the amount of funds on deposit in his retirement account, and an estimate of retirement benefits.

Section 65. Section 121.1815, Florida Statutes, is amended to read:

121.1815 Special pensions to individuals; administration of laws by Division of Retirement Department of Management Services.—All powers, duties, and functions related to the administration of laws providing special pensions to individuals, including chapter 18054, Laws of Florida, 1937; chapter 26788, Laws of Florida, 1951, as amended by chapter 57-871, Laws of Florida; chapter 26836, Laws of Florida, 1951; and chapter 63-953, Laws of Florida, are vested in the Department of Management Services and shall be assigned to the Division of Retirement. All laws hereinafter enacted by the Legislature pertaining to special pensions for individuals shall be administered by said division, unless contrary provisions are contained in such law. Upon the death of any person receiving a monthly pension under this section, the monthly pension shall be paid through the last day of the month of death and shall terminate on that date, unless contrary provisions are contained in the special pension law.

Section 66. Section 121.1905, Florida Statutes, is created to read:

121.1905 Division of Retirement; creation.—

(1) There is created the Division of Retirement within the Department of Management Services, to be headed by a director who shall be

appointed by the Governor and Cabinet and confirmed by the Senate. The division shall be a separate budget entity and the director shall be its agency head for all purposes. The Department of Management Services shall provide administrative support and service to the division to the extent requested by the director. The division shall not be subject to control, supervision, or direction by the Department of Management Services in any manner, including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters.

(2) The mission of the Division of Retirement is to provide quality and cost-effective retirement services as measured by member satisfaction and by comparison with administrative costs of comparable retirement systems.

Section 67. Subsection (1) of section 121.22, Florida Statutes, is amended to read:

121.22 State Retirement Commission; creation; membership; compensation.—

(1) There is created within the *Division of Retirement* ~~Department of Management Services~~ a State Retirement Commission composed of seven members: One member who is retired under a state-supported retirement system administered by the Division of Retirement; two members from different occupational backgrounds who are active members in a state-supported retirement system which is administered by the Division of Retirement; and four members who are not retirees, beneficiaries, or members of a state-supported retirement system which is administered by the Division of Retirement.

Section 68. Subsection (1) of section 121.23, Florida Statutes, is amended to read:

121.23 Disability retirement and special risk membership applications; Retirement Commission; powers and duties; judicial review.—The provisions of this section apply to all proceedings in which the administrator has made a written final decision on the merits respecting applications for disability retirement, reexamination of retired members receiving disability benefits, applications for special risk membership, and reexamination of special risk members in the Florida Retirement System. The jurisdiction of the State Retirement Commission under this section shall be limited to written final decisions of the administrator on the merits.

(1) In accordance with the rules of procedure adopted by the ~~Department of Management Services~~ through the Division of Retirement, the administrator shall:

(a) Give reasonable notice of his proposed action, or his decision to refuse action, together with a summary of the factual, legal, and policy grounds therefor.

(b) Give affected members, or their counsel, an opportunity to present to the division written evidence in opposition to the proposed action or refusal to act or a written statement challenging the grounds upon which the administrator has chosen to justify his action or inaction.

(c) If the objections of the member are overruled, provide a written explanation within 21 days.

Section 69. Subsections (2) and (3) of section 121.24, Florida Statutes, are amended to read:

121.24 Conduct of commission business; legal and other assistance; compensation.—

(2) Legal counsel for the commission may be provided by the Department of Legal Affairs or by the *Division of Retirement* ~~Department of Management Services~~, with the concurrence of the commission, and shall be paid by the *Division of Retirement* ~~Department of Management Services~~ from the appropriate funds.

(3) The *Division of Retirement* ~~Department of Management Services~~ shall provide timely and appropriate training for newly appointed members of the commission. Such training shall be designed to acquaint new members of the commission with the duties and responsibilities of the commission.

Section 70. Subsection (1) and paragraph (c) of subsection (2) of section 121.35, Florida Statutes, are amended to read:

121.35 Optional retirement program for the State University System.—

(1) **OPTIONAL RETIREMENT PROGRAM ESTABLISHED.**—The Division of Retirement ~~of the Department of Management Services~~ shall establish an optional retirement program under which contracts providing retirement and death benefits may be purchased for eligible members of the State University System who elect to participate in the program. The benefits to be provided for or on behalf of participants in such optional retirement program shall be provided through individual contracts or individual certificates issued for group annuity contracts, which may be fixed, variable, or a combination thereof. Any individual contract or certificate shall state the annuity plan on its face page, and shall include, but not be limited to, a statement of ownership, the contract benefits, annuity income options, limitations, expense charges, and surrender charges, if any. The state shall contribute, as provided in this section, toward the purchase of such optional benefits.

(2) **ELIGIBILITY FOR PARTICIPATION IN OPTIONAL PROGRAM.**—

(c) For purposes of this section, the Division of Retirement ~~of the Department of Management Services~~ is referred to as the "division."

Section 71. Subsection (1) of section 123.01, Florida Statutes, is amended to read:

123.01 Supreme Court Justices, District Court of Appeal Judges, and Circuit Judges Retirement System established; divisions.—

(1) A retirement system for Supreme Court justices, district court of appeal judges, and circuit judges of the state is hereby established, which shall be administered by and under the supervision of the Division of Retirement ~~of the Department of Management Services~~.

Section 72. Paragraph (a) of subsection (2) of section 218.32, Florida Statutes, is amended to read:

218.32 Financial reporting; units of local government.—

(2) The department shall annually file a verified report by May 1 with the Governor, the Legislature, and the Special District Information Program of the Department of Community Affairs showing, in detail, the numbers and types of units of local government and the revenues, both locally derived and derived from intergovernmental transfers, and expenditures of such units. The report shall include, but shall not be limited to:

(a) Analyses of retirement information of all local retirement systems as provided by the Division of Retirement ~~of the Department of Management Services~~.

Section 73. Subsection (1) of section 238.03, Florida Statutes, is amended to read:

238.03 Administration.—

(1) The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of this chapter are vested in the Division of Retirement ~~of the Department of Management Services~~. Subject to the limitation of this chapter, the division shall, from time to time, establish rules and regulations for the administration and transaction of the business of the retirement system and shall perform such other functions as are required for the execution of this chapter.

Section 74. Subsection (6) of section 250.22, Florida Statutes, is amended to read:

250.22 Retirement.—

(6) All powers, duties, and functions related to the administration of this section are vested in the ~~Department of Management Services~~ and shall be assigned to the Division of Retirement.

Section 75. Subsection (2) of section 321.17, Florida Statutes, is amended to read:

321.17 Contributions; leaving patrol; leave of absence; transferees.—

(2) Such members as are eligible for service credit as set forth under s. 321.19(1) may pay to the Treasurer to the credit of the Highway Patrol Pension Trust Fund, the sum of \$5 for each month of such service credit. Satisfactory proof of former service must be furnished the Division of Retirement ~~of the Department of Management Services~~ in the form of a sworn, written statement from the member's former employer or other

reliable person, or other documents of proof as may be required by them. Such money as becomes due by reason of this clause shall be paid by said employee in equal monthly payments over a period not to exceed 60 months after October 1, 1945. Employees who fail to take advantage of the benefits offered under s. 321.19(1) within 90 days after October 1, 1945, shall forfeit such service credits forever. New members who may hereafter enter the service of division of the Florida Highway Patrol who fail to take advantage of the benefits offered under s. 321.19(1) within 90 days after time of employment shall forfeit such service credits forever.

Section 76. Paragraph (d) of subsection (1) of section 321.19, Florida Statutes, is amended to read:

321.19 Computing length of service; definitions; examining committee.—

(1)

(d) The surviving spouse or other dependent of any member whose employment is terminated by death shall, upon application to the director of the Division of Retirement of the Department of Management Services, be permitted to pay the required contributions for any service performed by the member which could have been claimed by the member at the time of his death. Such service shall be added to the creditable service of the member and used in the calculation of any benefits which may be payable to the surviving spouse or other surviving dependent.

Section 77. Subsection (1) of section 321.191, Florida Statutes, is amended to read:

321.191 Non-service-connected disability retirement.—

(1) A member who becomes totally and permanently disabled after completing 10 years of service shall be entitled to a disability benefit. The disability retirement date for such member shall be the first day of the month following the month during which the Division of Retirement of the Department of Management Services approved payment of disability retirement benefits.

Section 78. Section 321.202, Florida Statutes, is amended to read:

321.202 Termination by death subsequent to normal retirement date but prior to actual retirement.—If the employment of a member is terminated by reason of his death subsequent to his normal retirement date but prior to his actual retirement, it shall be assumed that the member retired as of his date of death and that he had elected the optional form of payment most favorable to his legal spouse as determined by the Division of Retirement of the Department of Management Services. The benefits so determined shall be payable monthly to the spouse until the death of the spouse.

Section 79. Subsection (1) of section 321.2205, Florida Statutes, is amended to read:

321.2205 Surviving spouses' benefit options.—Notwithstanding any other provision in this chapter to the contrary, the following provisions shall apply to any member who has accumulated at least 10 years of service and dies:

(1) If the deceased member's surviving spouse has previously received a refund of the member's contributions made to the Highway Patrol Pension Trust Fund, such spouse may pay to the Division of Retirement of the Department of Management Services an amount equal to the sum of the amount of the deceased member's contributions previously refunded and interest at 3 percent compounded annually on the amount of such refunded contributions from the date of refund to the date of payment to the Division of Retirement, and receive the monthly retirement benefit provided in subsection (3).

Section 80. Unless otherwise provided by law, the administrative rules in effect immediately before the effective date of this act which have been adopted on behalf of the Division of Retirement shall remain in effect until specifically changed in the manner provided by law. The provisions of this act do not affect the validity of any judicial or administrative proceeding that involves the Division of Retirement and is pending on the effective date of this act. The Division of Retirement shall remain, or be substituted as, the party in interest for any such proceeding.

Section 81. There is appropriated \$427,411 from the Florida Retirement System Trust Fund to the Division of Retirement to fund eight positions and expenses and equipment to implement the provisions of

this act. The positions created shall be a Senior Personnel Manager, Personnel Technician III, Purchasing Agent III, Staff Assistant, Accountant II, Office Operator Supervisor I, and two Senior Clerks, which shall be used to establish personnel, purchasing, mail room, and copy functions. The funds used for this appropriation shall be those which had been transferred to the Department of Management Services Administrative Trust Fund and used for similar services.

Section 82. The Division of Retirement shall not be included in the expenditure reduction requirement provided for in section 338 of chapter 92-279, Laws of Florida.

Section 83. Subsection (5) is added to section 186.021, Florida Statutes, to read:

186.021 State agency strategic plans.—

(5) *The objectives in agency strategic plans shall not be inconsistent with state agency performance measures, as defined in s. 216.011, which have been approved by the Executive Office of the Governor and the Legislature.*

Section 84. The Division of Statutory Revision of the Joint Legislative Management Committee is requested to prepare a reviser's bill to conform the Florida Statutes to the revisions made by this act relating to the Division of Retirement.

Section 85. Nothing in this act shall be construed to allow use of any funds for any purpose not currently authorized by law.

Section 86. 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 87. This act shall take effect July 1, 1994.

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 governmental performance and accountability; providing legislative intent; amending s. 11.40, F.S.; renaming the Legislative Auditing Committee as the Legislative Auditing and Accountability Committee; prescribing its membership and duties; creating s. 216.0313, F.S.; providing for review of performance-based programs; creating s. 11.507, F.S.; providing for policy evaluation and review; creating s. 14.271, F.S.; creating the Commission on Government Accountability to the People; prescribing its membership and duties; amending s. 216.011, F.S.; defining the terms "baseline data," "outcome," "output," "performance-based program budget," "performance measure," "program," and "standard" for purposes of fiscal affairs of the state and budgeting; creating s. 216.0166, F.S.; prescribing guidelines for state agencies and the judicial branch to use in submitting performance-based program budget requests; providing for adjustments to performance measures or standards; creating s. 216.0172, F.S.; requiring establishment of performance-based program budgets for each program that can be properly administered under such a budget; creating s. 216.0235, F.S.; requiring state agencies to furnish legislative program budget requests; providing for review of such budgets by the Executive Office of the Governor; amending s. 216.031, F.S.; requiring certain information relating to performance-based program budgets to be submitted with agencies' and the judicial branch's legislative budget requests; amending s. 216.163, F.S.; providing for the Executive Office of the Governor to recommend budgetary incentives or disincentives after reviewing evaluations of state agency performance; requiring legislative ratification of such incentives or disincentives; creating s. 216.183, F.S.; requiring entities with performance-based program budgets to use a state chart of accounts; amending s. 216.292, F.S.; providing for distribution by agency heads or by the Chief Justice of lump-sum appropriations for performance-based programs; authorizing transfer of funds and providing for legislative oversight of transfers; transferring certain positions and fund balances from the Auditor General to the Legislative Auditing and Accountability Committee; amending s. 20.055, F.S.; abolishing the position of agency chief internal auditor and creating the position of inspector general in each state agency; prescribing the duties of that office with respect to ensuring accountability, integrity, and efficiency in agency performance; creating s. 14.32, F.S.; creating the position of Chief Inspector General in the Executive Office of the Governor and prescribing duties of that position; providing for agency inspectors general to assume other statutory duties

of agency chief internal auditors not specifically addressed in this act; providing for reviser's bills; amending ss. 11.13, 11.149, 11.401, 11.42, 11.43, 11.44, 11.45, 11.46, 11.50, 11.51, 11.511, 11.513, 20.055, 20.23, 24.123, 112.3189, 189.409, 215.95, 216.0165, 216.052, 216.251, 218.32, 218.38, 218.503, 286.036, 287.114, 288.906, 288.9517, 299.9616, 339.149, 350.061, 350.0614, 400.335, 570.903, 766.105, 766.315, 946.516, F.S.; conforming those sections to the renaming of the Legislative Auditing Committee; authorizing the committee to waive certain performance-audit requirements; repealing, at a future date, s. 11.40, F.S., relating to the Legislative Auditing and Accountability Committee, and providing for legislative review of the committee before that date; creating s. 121.1905, F.S.; establishing the Division of Retirement as a separate budget entity within, but independent of, the Department of Management Services; amending ss. 110.1231, 112.3173, 112.63, 112.665, 121.025, 121.031, 121.135, 121.136, 121.1815, 121.22, 121.23, 121.24, 121.35, 123.01, 218.32, 238.03, 250.22, 321.17, 321.19, 321.191, 321.202, 321.2205, F.S., to conform; establishing the State Retirement Commission within the division; specifying effect on existing rules and pending judicial or administrative proceedings; providing an appropriation and authorizing positions; exempting the division from certain expenditure reduction requirements; amending s. 186.021, F.S.; providing for consistency of objectives in agency strategic plans; providing intent relating to use of funds; providing for severability; providing an effective date.

WHEREAS, state agencies should be granted appropriate statutory authority and flexibility to use their resources in the best possible way in order to better serve the citizens of the State of Florida through the efficient delivery of services and products and the effective administration of governmental programs, and

WHEREAS, state agencies should be held accountable for the services and products they deliver, and each state agency's mission, goals, and objectives should be clearly defined and performance measures for evaluating performance and assessing progress in achieving goals and objectives should be developed, integrated into the planning and budgeting process, and maintained on an ongoing basis, and

WHEREAS, state agencies should have incentives to deliver services and products in the most efficient and effective manner, and, if appropriate, to recommend the restructuring of ineffective programs or the elimination of unnecessary programs, and

WHEREAS, state agencies should have their performance in achieving desired outcomes and in efficiently operating programs measured and evaluated in an effort to improve program coordination, eliminate duplicative programs or activities, and provide better information to the Governor, the Legislature, and state agencies, and

WHEREAS, state agencies should strive to keep the citizens of this state informed of the public benefits derived from the delivery of state agency services and products and of the progress state agencies are making with regard to improving performance, NOW, THEREFORE,

SENATOR SIEGEL PRESIDING

Senator Boczar moved the following amendment to **Amendment 2** which failed:

Amendment 2A (with Title Amendment)—On page 1, line 12 through page 2, line 12, strike all of said lines and insert:

Section 1. This act may be cited as the "Government Performance and Accountability Act."

Section 2. For purposes of this act, except as otherwise provided herein, "state agency" or "agency" means any unit of organization of the executive branch, including any official, officer, department, board, commission, division, bureau, section, district, office, authority, committee, or council or any other unit of government, however designated, and the Public Service Commission. "State agency" in this act does not include the judicial branch. For purposes of this act, the "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.

Section 3. Paragraphs (oo) through (vv) are added to subsection (1) of section 216.011, Florida Statutes, 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:

(oo) "Baseline data" means indicators of a state agency's current performance level, pursuant to guidelines established by the Executive Office of the Governor.

(pp) "Outcome" means an indicator of the actual impact or public benefit of a program.

(qq) "Output" means the actual service or product delivered by a state agency.

(rr) "Performance-based program budget" means a budget that incorporates approved service areas, programs, and performance measures.

(ss) "Performance measure" means a quantitative or qualitative indicator used to assess state agency performance.

(tt) "Program" means a set of activities undertaken in accordance with a plan of action organized to realize identifiable goals and objectives based on legislative authorization.

(uu) "Service area" means a set of programs within a state agency providing assistance, benefits, coordination, or guidance that forms a core of related activities for the purpose of achieving specified outcomes.

(vv) "Standard" means the level of performance of an outcome or output.

Section 4. Section 216.0166, Florida Statutes, is created to read:

216.0166 Submission by state agencies of performance-based budget requests, service areas, programs, and performance measures.—

(1) Prior to October 15 of the fiscal year preceding the date in which a state agency is required to submit a performance-based program budget request pursuant to s. 216.0172, such state agency shall identify and submit a list of its proposed service areas and programs to the Executive Office of the Governor. Such identification shall be conducted in consultation with the appropriations committee and the appropriate substantive committees of each house of the Legislature and the Legislative Auditing Committee, and must be approved by the Executive Office of the Governor. State agencies specified in s. 216.0172(1) shall submit such list prior to May 1, 1994. The Executive Office of the Governor, in consultation with legislative committees, shall review the list, may make any changes, and shall approve or disapprove the list within 30 days of receipt. The Executive Office of the Governor shall provide the approved list to the Legislature.

(2) The following documentation shall accompany such list:

(a) The constitutional or statutory direction and authority for each program.

(b) Identification of the customers, clients, and users of each program.

(c) The purpose of each program or the benefit derived by the customers, clients, and users of the program.

(d) Direct and indirect costs of each program.

(e) Information on fees collected and the adequacy of those fees in funding programs for which they are collected.

(3) Upon approval of the list required pursuant to subsection (1) and prior to June 1, each state agency is required to submit to the Executive Office of the Governor performance measures for each approved program. State agencies shall also identify the outputs produced by the state agency, the outcomes resulting from the state agency's programs, and baseline data associated with each performance measure. Performance measures shall be reviewed, in consultation with the appropriations committee and the appropriate substantive committees of each house of the Legislature, the Legislative Auditing Committee, and the Office of Program Evaluation and Budget Review, revised as necessary, and approved or disapproved by the Executive Office of the Governor within 30 days of receipt. For those state agencies specified in s. 216.0172(1), performance measures, outputs, outcomes, and baseline data shall be submitted prior to July 1, 1994.

(4) Each state agency shall submit documentation to the Executive Office of the Governor regarding the validity, reliability, and appropriateness of each performance measure. In addition, each state agency shall indicate how the performance measure relates to its strategic plan and how it is used in management decisionmaking and other agency processes.

(5) Annually, no later than 45 days after the General Appropriations Act becomes law, state agencies may submit to the Executive Office of the Governor any adjustments to their performance measures or standards based on the amounts appropriated for each program by the Legislature. When such adjustment is made, all performance measures or standards, including any adjustments made, shall be submitted to and reviewed and revised as necessary by the Executive Office of the Governor, and, upon approval, submitted to the Legislature pursuant to the review and approval process provided in s. 216.177. The Executive Office of the Governor shall maintain the official record of adjustments to the performance measures and standards.

(6) A state agency operating under a performance-based program budget pursuant to s. 216.0172 shall not have the authority to amend or establish service areas or programs. However, a state agency may propose a revision to the list of approved service areas or programs used in its legislative budget request. Such revision is subject to review and approval by the Executive Office of the Governor and the Legislature and shall be submitted to the Executive Office of the Governor prior to April 15 of the year in which the state agency intends to incorporate these changes into its legislative budget request. The Executive Office of the Governor shall have 30 days to act on the proposed revisions. Revised performance measures, standards, and baseline data shall be submitted along with the preliminary legislative budget request.

Section 5. (1) The State Board of Administration and any unit of organization, however designated, of the legislative branch, except for the Public Service Commission, shall submit, by September 1, 2000, performance measures and standards for each of their respective programs to the Executive Office of the Governor for review pursuant to s. 216.0166, Florida Statutes. The Executive Office of the Governor shall submit such performance measures and standards, and any comments as to such performance measures and standards to the Legislature at the same time the Governor's recommended budget is submitted pursuant to s. 216.163, Florida Statutes.

(2) By January 15, 2000, the judicial branch shall identify and propose to the Legislature a list of programs that the Chief Justice of the Supreme Court has identified as being susceptible to performance-based evaluation. Notwithstanding any other provision of this act, the Legislature, in consultation with the judicial branch, shall develop statutory procedures for performance-based budget evaluation of judicial branch programs that are susceptible to performance-based evaluation. By September 1, 2000, the judicial branch shall submit performance measures and standards for its programs approved for performance-based program budgeting by the Legislature.

Section 6. Section 216.0172, Florida Statutes, is created to read:

216.0172 Schedule for submission of performance-based program budgets.—It is the intent of the Legislature that all agencies be appropriated funds by performance-based program budgets by the 2001-2002 fiscal year. However, programs which have been specifically identified and determined as not conducive to performance-based program budgeting, as recommended by the Executive Office of the Governor and approved by the Legislature pursuant to s. 216.0166, will not be funded by performance-based program budgets. In order to implement the provisions of this act, performance-based program budgets shall be submitted to the Executive Office of the Governor and the Legislature based on the following schedule:

(1) For fiscal year 1994-1995, and for each fiscal year thereafter, the Department of Management Services and the Department of Revenue shall be appropriated funds pursuant to a performance-based program budget and in accordance with the provisions of this act.

(2) All other agencies shall submit a performance-based program budget on the following schedule:

(a) By September 1, 1995, for fiscal year 1996-1997, a performance-based program budget constituting at least 10 percent of the agency's total budget;

(b) By September 1, 1996, for fiscal year 1997-1998, a performance-based program budget constituting at least 25 percent of the agency's total budget;

(c) By September 1, 1997, for fiscal year 1998-1999, a performance-based program budget constituting at least 40 percent of the agency's total budget;

(d) By September 1, 1998, for fiscal year 1999-2000, a performance-based program budget constituting at least 60 percent of the agency's total budget;

(e) By September 1, 1999, for fiscal year 2000-2001, a performance-based program budget constituting at least 75 percent of the agency's total budget.

(f) For each subsequent year, agencies shall submit a performance-based program budget for all programs determined conducive to performance-based budgeting pursuant to this section.

Section 7. Subsection (7) of section 216.023, Florida Statutes, as amended by chapter 92-142, Laws of Florida, is hereby repealed, subsections (5) and (6) of said section are renumbered as subsections (6) and (7), respectively, and a new subsection (5) is added to said section to read:

216.023 Legislative budget requests to be furnished by agencies.—

(5) Pursuant to the budget instructions provided by the Executive Office of the Governor and the legislative appropriations committees, each agency shall submit a performance-based program budget request using the service area and program list approved pursuant to s. 216.0166 in accordance with the schedule provided in s. 216.0172. An approved service area shall be considered a budget entity. Requests for each program identified in the approved agency program list required by s. 216.0166 shall take the form of a single appropriation category with positions. Other requests by the agency shall be in compliance with the budget format provided in the budget instructions. Appropriate performance measures shall be provided for each program identified in the approved agency program list required by s. 216.0166.

Section 8. Paragraph (a) of subsection (5) of section 216.031, Florida Statutes, is amended, and subsection (10) is added to said section, to read:

216.031 Budgets for operational expenditures.—A legislative budget request, reflecting the independent judgment of the head of the state agency, and of the Chief Justice of the Supreme Court, with respect to the needs of the agency and 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:

(5) Detailed information for the next fiscal year necessary for the Legislature and the Governor to evaluate:

(a) The baseline data, outcomes, performance measures, and standards for effectiveness of current programs, including justification for those programs.

(10) For those agencies operating under a performance-based program budget, an evaluation of the agency's progress in meeting the performance measures and standards approved pursuant to s. 216.0166. Such evaluation shall be developed as prescribed by the budget instructions, and shall include any responses by the agency to the findings of the Office of Program Evaluation and Budget Review pursuant to s. 11.513.

Either chairman of a legislative appropriations committee, or the Executive Office of the Governor for state agencies, 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 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 judgment in making legislative budget requests, as required by law.

Section 9. Subsection (1) of section 216.053, Florida Statutes, is amended 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 *service areas, programs, and performance program areas*.

Section 10. Subsections (3) and (4) of section 216.163, Florida Statutes, are renumbered as subsections (5) and (6), respectively, and new subsections (3) and (4) are added to said section to read:

216.163 Governor's recommended budget; form and content; declaration of collective bargaining impasses.—

(3) *The Governor shall provide to the Legislature a performance-based program budget for approved programs in each state agency by the time specified in s. 216.162(1) according to the schedule provided in s. 216.0172. Information submitted to the Legislature shall be provided in a fashion that will allow comparison of the requested information with the agency request and legislative appropriation by the automated legislative appropriation planning and budgeting system.*

(4) *The Executive Office of the Governor shall review the evaluation report required by s. 216.031(10) and the findings of the Office of Program Evaluation and Budget Review, to the extent they are available, request any reports or additional analyses as necessary, and submit a recommendation pursuant to paragraph (2)(g) which may include a recommendation regarding incentives or disincentives for agency performance. Incentives or disincentives may apply to all or part of a state agency.*

(a) *Incentives may include, but are not limited to:*

1. *Additional flexibility in budget management.*
2. *Additional flexibility in salary rate and position management.*
3. *Retention of up to 50 percent of unexpended and unencumbered balances of appropriations, excluding special categories and grants and aids, which may be used for nonrecurring purposes including, but not limited to, lump-sum bonuses, employee training, or productivity enhancements, including technology and other improvements. In addition, such funds may be used to pay insurance costs as an annuity to offer active employees, who are eligible to retire from a state administered retirement system, a one time voluntary reduction-in-force bonus. Such payments, however, shall not negatively impact the actuarial soundness of the Florida Retirement System.*
4. *Additional funds to be used for, but not limited to, lump-sum bonuses, employee training, or productivity enhancements, including technology and other improvements.*

(b) *Disincentives may include, but are not limited to:*

1. *Mandatory quarterly reports to the Executive Office of the Governor and the Legislature on the agency's progress in meeting performance standards.*
2. *Mandatory quarterly appearances before the Legislature, the Governor, or the Governor and Cabinet to report on the agency's progress in meeting performance standards.*
3. *Elimination or restructuring of the program, which may include, but not be limited to, transfer of the program between service areas, transfer of the program between departments, or outsourcing all or a portion of the program.*
4. *Reduction of total positions for a service area.*
5. *Restriction on or reduction of the spending authority provided in s. 216.292(2)(c).*

6. *Reduction of managerial salaries.*

Section 11. Section 216.183, Florida Statutes, is created to read:

216.183 Entities using performance-based program budgets; chart of accounts.—State agencies and the judicial branch for which a performance-based program budget has been appropriated shall utilize the chart of accounts used by the State Automated Management Accounting Subsystem in the manner described in s. 215.93(3). The chart of accounts for state agencies and the judicial branch for which a performance-based program budget has been appropriated shall be developed and amended, if necessary, in consultation with the Department of Banking and Finance and the Executive Office of the Governor.

Section 12. Paragraph (c) of subsection (2) of section 216.292, Florida Statutes, is redesignated as paragraph (d), and a new paragraph (c) is added to said subsection to read:

216.292 Appropriations nontransferable; exceptions.—

(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:

(c) *Additionally, spending authority between categories of appropriations and between funding sources within a budget entity that is comprised of programs operating under a performance-based program budget, except that a transfer between funding sources shall not increase the total general revenue for the budget entity.*

Such authorized revisions, together with related changes, if any, in the plan for release of appropriations, shall be transmitted by the state agency or by the 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.

Section 13. Subsection (3) of section 287.14, Florida Statutes, is amended to read:

287.14 Purchase of motor vehicles by state officers and employees.—

(3) It is unlawful for any state officer or employee to authorize the purchase or continuous lease of any motor vehicle to be paid for out of funds of the state or any department thereof unless funds therefor have been appropriated by the Legislature. This subsection does not apply to motor vehicles needed to meet unforeseen or emergency situations, if approved by the Executive Office of the Governor after consultation with the legislative appropriations committees. *This subsection does not apply to a budget entity that is comprised of programs operating under a performance-based program budget.*

Section 14. The Department of Management Services and the Department of Revenue shall each be considered an agency operating under a performance-based program budget beginning July 1, 1994, prior to their respective budget submissions pursuant to s. 216.0172, Florida Statutes. Each budget entity within these departments that meets its performance measures as set forth in the General Appropriations Act for fiscal year 1994-1995 is hereby appropriated for, fiscal year 1995-1996, 25 percent of the unexpended and unencumbered balances of appropriations, excluding special categories and grants and aids, as approved by the Governor, which may be used for nonrecurring purposes as outlined in s. 216.163(4)(a)3., Florida Statutes.

Section 15. Subsection (7) is added to section 11.143, Florida Statutes, to read:

11.143 Standing or select committees; powers.—

(7) *A chairman of any standing committee may designate up to two members, pursuant to the provisions of s. 11.144, to participate in the development, review, and evaluation of performance measures and standards, as defined in s. 216.011, developed by the state agency or agencies that are under the standing committee's jurisdiction and that are operating under a performance-based program budget pursuant to s. 216.0172*

Section 16. Paragraph (f) of subsection (1) and paragraph (a)3. of subsection (3) of section 11.45, Florida Statutes, are amended to read:

11.45 Definitions; duties; audits; reports.—

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

(f) "Performance audit" means an examination of a program, activity, or function of a governmental entity, conducted in accordance with applicable government auditing standards adopted by the Legislative Auditing Committee. ~~the effectiveness of administration and the efficiency and adequacy of the program of the state agency authorized by law to be performed.~~

(3)(a)

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. 216.022(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.~~

Section 17. Section 11.51, Florida Statutes, is amended to read:

11.51 Office of Program Evaluation Policy Analysis and Budget Agency Review.—

(1) There is hereby created the Office of Program Evaluation Policy Analysis and Budget Agency Review as a unit of the Legislative Auditing Committee. ~~The Office of Program Evaluation and Budget Review shall perform program evaluation and justification reviews as required by s. 11.513 in accordance with the policies and procedures established by the Legislative Auditing Committee.~~

(2) ~~The Office of Policy Analysis and Agency Review is a unit of the legislative branch of state government and is independent of the Auditor General appointed pursuant to s. 11.42, the Public Counsel appointed pursuant to s. 350.061, and the executive branch of state government.~~

(3) ~~The Auditor General shall provide administrative support and services to the Office of Policy Analysis and Agency Review to the extent required by the Legislative Auditing Committee.~~

(4) ~~This section expires October 1, 2001, and must be reviewed by the Legislature in advance of that date.~~

Section 18. Section 11.513, Florida Statutes, is amended to read:

11.513 Program Agency evaluation and justification review.—

(1) ~~Each state agency shall be subject to a program evaluation and justification review by the Office of Program Evaluation and Budget Review in accordance with the schedule provided in s. 216.0172 or as determined by the Legislative Auditing Committee. Each state agency shall offer its complete cooperation to the Office of Program Evaluation and Budget Review so that such review may be accomplished. As used in this section, the term:~~

(a) ~~"Director" means the Director of the Office of Policy Analysis and Agency Review.~~

(b) ~~"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.~~

(2) ~~Prior to the initiation of a state agency's program evaluation and justification review and no later than July 1 of the year in which a state agency begins operating under a performance-based program budget, the state agency's inspector general, internal auditor, or other person designated by the agency head shall develop, in consultation with the Office of Program Evaluation and Budget Review, a plan for monitoring and reviewing the state agency's major programs to ensure that performance data are maintained and supported by agency records. 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(3), the director shall initiate an evaluation and review of the agency.~~

(3) ~~The director, in consultation with the Legislative Auditing Committee, shall develop specific measures of performance and criteria for each agency evaluation and justification review.~~

(3)(4) ~~The program scheduled evaluation and justification review shall be conducted on major programs, but may include other programs. The review shall 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 each program 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) ~~Progress toward achieving the outputs and outcomes associated with each program.~~

(d) ~~An explanation of circumstances contributing to the state agency's ability to achieve, not achieve, or exceed its projected outputs and outcomes, as defined in s. 216.011, associated with each program.~~

(e)(e) ~~Alternate courses of action that would result in administration of the same program 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 program implementing agency could be organized in a more efficient and effective cost-effective manner, whether the program's mission, goals, or objectives should be redefined, or, when the state agency cannot demonstrate that its efforts have had a positive effect, whether the program or should be reduced in size or eliminated.~~

2. ~~Whether the program 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 program activities of an agency that implements programs or activities in a particular policy area could be performed more efficiently or more effectively assumed by another unit a level of government or a private entity, or whether a program performed by a private entity could be performed more efficiently and effectively by a state agency other than the state.~~

4. When compared to costs, whether effectiveness warrants elimination of the program or, if the program serves a limited interest, whether it should be redesigned to require users to finance program costs.

5. Whether the cost to administer the program exceeds license and other fee revenues paid by those being regulated.

6.4. Whether other changes could improve the efficiency and effectiveness of the program 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.~~

(f)(e) ~~The consequences of discontinuing such program programs or activities within each policy area. If any discontinuation is recommended, such recommendation must be accompanied by a the description of alternatives methods to implement such recommendation, including an implementation schedule for discontinuation discontinuing the programs or activities and recommended procedures for assisting state 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 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.~~

(g)(h) ~~Whether the information reported pursuant to s. 216.031(5) has relevance and utility for the evaluation of each program the policy area.~~

(h) ~~Whether state agency management has established control systems sufficient to ensure that performance data are maintained and supported by state agency records and accurately presented in state agency performance reports.~~

(5) ~~The director shall develop, where appropriate, criteria by which the performance of programs or activities may be measured.~~

(4)(6) ~~No later than July 1 of the second 1 year following the year in which an agency begins operating under a performance-based program budget after the initiation of an agency evaluation and review or no later than the time established by the Legislative Auditing Committee for submittal, the Office of Program Evaluation and Budget Review director shall submit a report of the agency evaluation and justification review findings and recommendations to the President of the Senate, the Speaker of the House of Representatives, the chairpersons of the appropriate substantive committees, the chairpersons of the appropriations committees, the Legislative Auditing Committee, the Auditor General, the Governor, the head of each state 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 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. These recommendations must be forwarded to the President of the Senate, the Speaker of the House of Representatives, 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.~~

(5)(8) ~~The Legislature intends that the program agency evaluation and justification review procedure be designed to assess the efficiency,~~

effectiveness, and long-term implications of current or alternative state policies, and that the procedure results in recommendations for the improvement of such policies and state government. To that end, whenever possible, all reports submitted pursuant to subsection (4) subsections (6) and (7) must include an identification of the estimated financial consequences, including any potential savings, that could be realized if the recommendations or alternative courses of action were implemented.

(6) ~~At any time, the Legislative Auditing Committee may direct that a program evaluation and justification review be conducted by the Office of Program Evaluation and Budget Review. In order to allow the Office of Program Evaluation and Budget Review to carry out the provisions of this act and to reduce duplicative auditing requirements, the Legislative Auditing Committee may waive the requirements of any law existing as of the effective date of this act to conduct a performance audit.~~

(7) ~~Evaluation and justification reviews may include consideration of programs provided by other agencies which are integrally related to the programs administered by the state agency or entity which is scheduled for review pursuant to s. 216.0172 or the schedule determined by the Legislative Auditing Committee.~~

(8) ~~The Office of Program Evaluation and Budget Review may contract, within available resources, with consulting firms or similar organizations to assist in conducting program evaluation and justification reviews of state agencies.~~

(9) ~~Upon completion of the initial program evaluation and justification review of each state agency listed in s. 216.0172, the Office of Program Evaluation and Budget Review shall conduct such reviews only at the direction of the Legislative Auditing Committee.~~

(9) ~~This section expires October 1, 2001, and must be reviewed by the Legislature in advance of that date.~~

Section 19. Section 20.21, Florida Statutes, is amended to read:

20.21 Department of Revenue.—There is created a Department of Revenue.

(1) The head of the Department of Revenue is the Governor and Cabinet.

(2) ~~The mission of the Department of Revenue is to efficiently and impartially collect all taxes levied to the greatest extent practicable without unduly burdening the taxpayer, and to supervise the fair and equitable assessment of property taxes. The following divisions are established within the Department of Revenue:~~

(a) ~~Division of Administration.~~

(b) ~~Division of Ad Valorem Tax.~~

(c) ~~Division of Audits.~~

(d) ~~Division of Collection and Enforcement.~~

(e) ~~Division of Information Systems and Services.~~

(f) ~~Division of Taxpayer Assistance.~~

(g) ~~Division of Tax Processing.~~

(3) ~~The department shall be responsible for achieving the following primary outcomes:~~

(a) ~~Ensuring that the assessment of property is in substantial compliance with law as measured by actual property assessment compared to the statutorily required assessment.~~

(b) ~~Maximizing the amount of taxes collected, adjusted for recessionary and inflationary factors, given the department's budget for such collection.~~

(4) ~~The department shall have the following service areas, as defined in s. 216.011, and each shall be considered a budget entity for all purposes:~~

(3)(a) ~~Administrative support. The responsibilities of the Division of Administration shall be to plan, organize, and control the administrative support services for the department. The functions of this division shall include, but are not limited to, finance and accounting, revenue accounting, personnel, and office services.~~

(b) ~~Property tax administration.~~ The responsibilities of the Division of Ad Valorem Tax shall be to carry out the relevant provisions of ad valorem tax law. The functions of this division shall include, but are not limited to, ad valorem administration, assessment standards and review, central property valuation, and field operations.

(c) ~~General tax administration.~~ The responsibilities of the Division of Audits shall be to plan, organize, administer, and control tax auditing activities. The functions of this division shall include, but are not limited to, audit selection and standards development for those taxes collected by the department. The standards development function shall include development of standard audit criteria and provision of functional direction to field audit staff.

(d) ~~The responsibilities of the Division of Collection and Enforcement shall include tax collection and enforcement activities. The functions of this division shall include, but are not limited to, investigative services and central and field operations.~~

(e) ~~The responsibilities of the Division of Information Systems and Services shall include development, maintenance, and management of all information systems for tax return processing and taxpayer registration activities. The functions of this division shall include, but are not limited to, automation of all information systems.~~

(f) ~~The responsibilities of the Division of Taxpayer Assistance shall include the rendering of advice to department personnel and the public on tax matters. The functions of the division shall include, but are not limited to, the preparation of departmental rules for all taxes, the rendition of opinions pursuant to s. 213.23, and the provision of informal assistance to the public on tax matters.~~

(g) ~~The responsibilities of the Division of Tax Processing include, but are not limited to, receipts processing, tax returns processing, license registration, and taxpayer registration.~~

(4) ~~The following offices are established within the Department of Revenue:~~

- (a) ~~Office of the Inspector General.~~
- (b) ~~Office of the General Counsel.~~
- (c) ~~Office of Tax Research.~~
- (d) ~~Office of Legislative and Cabinet Affairs.~~
- (e) ~~Office of Planning and Budgeting.~~

(5) The position of taxpayers' rights advocate is created within the Department of Revenue. The taxpayers' rights advocate shall be appointed by and report to the executive director of the department. The responsibilities of the taxpayers' rights advocate include, but are not limited to, the following:

(a) Facilitating the resolution of taxpayer complaints and problems which have not been resolved through normal administrative channels within the department, including any taxpayer complaints regarding unsatisfactory treatment of taxpayers by employees of the department.

(b) Issuing a stay action on behalf of a taxpayer who has suffered or is about to suffer irreparable loss as a result of action by the department.

(6) Necessary legal services, pursuant to chapter 16, including litigation shall be provided to the Department of Revenue by the Department of Legal Affairs.

(7) Notwithstanding any other law, the department may process taxes, fines, or license or regulatory fees for the benefit of any other state agency. Such processing may be done only pursuant to a written agreement between the department and the agency requesting this service.

Section 20. Section 20.22, Florida Statutes, is amended to read:

20.22 Department of Management Services.—There is created a Department of Management Services.

(1) The head of the Department of Management Services is the Secretary of Management Services, who shall be appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor.

(2) ~~The mission of the Department of Management Services is to assist state agencies to better accomplish their missions through cost-effective and quality products and services. The following divisions and bureaus within the Department of Management Services are established:~~

(3) ~~The department shall be responsible for achieving the following primary outcomes:~~

(a) ~~Producing quality construction projects that are cost-effective compared to industry standards for comparable facilities.~~

(b) ~~Providing a clean, safe, and comfortable workplace that is cost-effective as measured by comparison of long-term overall ownership costs with long-term leasing costs in the private sector.~~

(c) ~~Providing effective security services as measured by the rate of criminal incidents.~~

(d) ~~Providing effective, efficient, and integrated information systems as measured by customer satisfaction.~~

(e) ~~Providing cost-effective, reliable, and comprehensive communications services as measured by network availability and by comparison with the cost of comparable services.~~

(f) ~~Providing cost-effective radio communications system planning and engineering services to state and local governments in an effort to improve public safety as measured by the cost of providing comparable services and by communications system performance.~~

(g) ~~Providing cost-effective personnel services as measured by cost per employee, cost avoidance, and customer satisfaction.~~

(h) ~~Providing employee services at a cost per participant as measured by the cost of such services offered by similar employer groups.~~

(i) ~~Maximizing state purchasing power as measured by the savings, in both percent and total dollar value, generated by state contract purchases, while complying with legislated purchasing policies, such as recycling requirements.~~

(j) ~~Increasing the distribution of federal surplus property to state and local governments and other entities as measured by the inventory turnover rate and the number of eligible participants.~~

(k) ~~Providing state agency executives with cost-effective air travel as measured by comparison with the cost of private sector executive aircraft pools.~~

(l) ~~Providing cost-effective motor vehicle transportation as measured by comparison with the cost of private sector motor vehicle transportation, while complying with legislated vehicle policies, such as alternative fuel requirements.~~

(4) ~~The department shall have the following service areas, as defined in s. 216.011, and each shall be considered a budget entity for all purposes:~~

- (a) ~~Facilities Division of Administration.~~
- (b) ~~Information technology Division of Building Construction.~~
- (c) ~~State workforce Division of Communications.~~
- (d) ~~General support Division of Facilities Management.~~
- (e) ~~Administrative support Division of Information Services.~~
- (f) ~~Division of Motor Pool.~~
 - 1. ~~Bureau of Aircraft.~~
 - 2. ~~Bureau of Motor Vehicles.~~
- (g) ~~Division of Personnel Management Services.~~
- (h) ~~Division of Purchasing.~~
 - 1. ~~Bureau of Surplus Property.~~
- (i) ~~Division of Retirement.~~
- (j) ~~Division of State Employees' Insurance.~~
- (k) ~~Division of Administrative Hearings.~~
- (l) ~~Division of Capitol Police.~~

(3) ~~The Division of Information Services shall operate and manage the Administrative Management Information Center.~~

Section 21. Section 110.1231, Florida Statutes, is amended to read:

110.1231 Health care insurance for persons retired under state-administered retirement systems before January 1, 1976, and their surviving spouses.—The Division of Retirement of the Department of Management Services may contract with a private health insurance carrier or the Social Security Administration or any other federal agency to provide health care coverage for persons who retired before January 1, 1976, under any of the state-administered retirement systems and for the surviving spouses of such persons not covered by social security.

Section 22. Paragraph (d) of subsection (4) of section 112.3173, Florida Statutes, is amended to read:

112.3173 Felonies involving breach of public trust and other specified offenses by public officers and employees; forfeiture of retirement benefits.—

(4) NOTICE.—

(d) The Commission on Ethics shall forward any notice and any other document received by it pursuant to this subsection to the governing body of the public retirement system of which the public officer or employee is a member or from which the public officer or employee may be entitled to receive a benefit. When called on by the Commission on Ethics, the Division of Retirement of the Department of Management Services shall assist the commission in identifying the appropriate public retirement system.

Section 23. Subsection (2) of section 112.63, Florida Statutes, is amended to read:

112.63 Actuarial reports and statements of actuarial impact; review.—

(2) The frequency of actuarial reports shall be at least every 3 years commencing from the last actuarial report of the plan or system or October 1, 1980, if no actuarial report has been issued within the 3-year period prior to October 1, 1979. The results of each actuarial report shall be filed with the plan administrator within 60 days of certification. Thereafter, the results of each actuarial report shall be made available for inspection upon request. Additionally, each retirement system or plan covered by this act which is not administered directly by the Department of Management Services through the Division of Retirement shall furnish a copy of each actuarial report to the Division of Retirement within 60 days of receipt from the actuary.

Section 24. Subsection (1) of section 112.665, Florida Statutes, is amended to read:

112.665 Duties of Division of Retirement.—

(1) The Division of Retirement of the Department of Management Services shall:

(a) Gather, catalog, and maintain complete, computerized data information on all public employee retirement systems or plans in the state, based upon a review of audits, reports, and other data pertaining to the systems or plans;

(b) Receive and comment upon all actuarial reviews of retirement systems or plans maintained by units of local government;

(c) Cooperate with local retirement systems or plans on matters of mutual concern and provide technical assistance to units of local government in the assessment and revision of retirement systems or plans;

(d) Issue, by January 1 annually, a report to the President of the Senate and the Speaker of the House of Representatives, which report details division activities, findings, and recommendations concerning all governmental retirement systems. The report may include legislation proposed to carry out such recommendations;

(e) Issue, by January 1 annually, a report to the Special District Information Program of the Department of Community Affairs that includes the participation in and compliance of special districts with the local government retirement system provisions in s. 112.63 and the state-administered retirement system provisions as specified in chapter 121; and

(f) Adopt reasonable rules to administer the provisions of this part.

Section 25. Section 121.025, Florida Statutes, is amended to read:

121.025 Administrator; powers and duties.—The director of the Division of Retirement shall be the administrator of the retirement and pension systems assigned or transferred to the Division of Retirement by law and, upon delegation of such authority by the Secretary of Management Services, shall have the authority to sign the contracts necessary to carry out the duties and responsibilities assigned by law to the Division of Retirement.

Section 26. Subsection (1) of section 121.031, Florida Statutes, is amended to read:

121.031 Administration of system; appropriation; oaths; actuarial studies; public records.—

(1) The Department of Management Services, through the Division of Retirement, shall make such rules as are necessary for the effective and efficient administration of this system. The funds to pay the expenses for such administration are hereby appropriated from the interest earned on investments made for the retirement and social security trust funds and the assessments allowed under chapter 650.

Section 27. Section 121.135, Florida Statutes, is amended to read:

121.135 Annual report to Legislature concerning state-administered retirement systems.—The Department of Management Services, through its Division of Retirement, shall make to each regular session of the Legislature a written report on the operation and condition of the state-administered retirement systems.

Section 28. Section 121.136, Florida Statutes, is amended to read:

121.136 Annual benefit statement to members.—Beginning January 1, 1993, and each January thereafter, the Department of Management Services, through its Division of Retirement, shall provide each active member of the Florida Retirement System with 5 or more years of creditable service an annual statement of benefits. Such statement should provide the member with basic data about the member's retirement account. Minimally, it shall include the member's retirement plan, the amount of funds on deposit in his retirement account, and an estimate of retirement benefits.

Section 29. Section 121.1815, Florida Statutes, is amended to read:

121.1815 Special pensions to individuals; administration of laws by Division of Retirement Department of Management Services.—All powers, duties, and functions related to the administration of laws providing special pensions to individuals, including chapter 18054, Laws of Florida, 1937; chapter 26788, Laws of Florida, 1951, as amended by chapter 57-871, Laws of Florida; chapter 26836, Laws of Florida, 1951; and chapter 63-953, Laws of Florida, are vested in the Department of Management Services and shall be assigned to the Division of Retirement. All laws hereinafter enacted by the Legislature pertaining to special pensions for individuals shall be administered by said division, unless contrary provisions are contained in such law. Upon the death of any person receiving a monthly pension under this section, the monthly pension shall be paid through the last day of the month of death and shall terminate on that date, unless contrary provisions are contained in the special pension law.

Section 30. Section 121.1905, Florida Statutes, is created to read:

121.1905 Division of Retirement; creation.—

(1) There is created the Division of Retirement within the Department of Management Services, to be headed by a director who shall be appointed by the Governor and confirmed by the Senate. The division shall be a separate budget entity and the director shall be its agency head for all purposes. The Department of Management Services shall provide administrative support and service to the division to the extent requested by the director. The division shall not be subject to control, supervision, or direction by the Department of Management Services in any manner, including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters.

(2) The mission of the Division of Retirement is to provide quality and cost-effective retirement services as measured by member satisfaction and by comparison with administrative costs of comparable retirement systems.

Section 31. Subsection (1) of section 121.22, Florida Statutes, is amended to read:

121.22 State Retirement Commission; creation; membership; compensation.—

(1) There is created within the *Division of Retirement* ~~Department of Management Services~~ a State Retirement Commission composed of seven members: One member who is retired under a state-supported retirement system administered by the Division of Retirement; two members from different occupational backgrounds who are active members in a state-supported retirement system which is administered by the Division of Retirement; and four members who are not retirees, beneficiaries, or members of a state-supported retirement system which is administered by the Division of Retirement.

Section 32. Subsection (1) of section 121.23, Florida Statutes, is amended to read:

121.23 Disability retirement and special risk membership applications; Retirement Commission; powers and duties; judicial review.—The provisions of this section apply to all proceedings in which the administrator has made a written final decision on the merits respecting applications for disability retirement, reexamination of retired members receiving disability benefits, applications for special risk membership, and reexamination of special risk members in the Florida Retirement System. The jurisdiction of the State Retirement Commission under this section shall be limited to written final decisions of the administrator on the merits.

(1) In accordance with the rules of procedure adopted by ~~the Department of Management Services~~ through the Division of Retirement, the administrator shall:

(a) Give reasonable notice of his proposed action, or his decision to refuse action, together with a summary of the factual, legal, and policy grounds therefor.

(b) Give affected members, or their counsel, an opportunity to present to the division written evidence in opposition to the proposed action or refusal to act or a written statement challenging the grounds upon which the administrator has chosen to justify his action or inaction.

(c) If the objections of the member are overruled, provide a written explanation within 21 days.

Section 33. Subsections (2) and (3) of section 121.24, Florida Statutes, are amended to read:

121.24 Conduct of commission business; legal and other assistance; compensation.—

(2) Legal counsel for the commission may be provided by the Department of Legal Affairs or by the *Division of Retirement* ~~Department of Management Services~~, with the concurrence of the commission, and shall be paid by the *Division of Retirement* ~~Department of Management Services~~ from the appropriate funds.

(3) The *Division of Retirement* ~~Department of Management Services~~ shall provide timely and appropriate training for newly appointed members of the commission. Such training shall be designed to acquaint new members of the commission with the duties and responsibilities of the commission.

Section 34. Subsection (1) and paragraph (c) of subsection (2) of section 121.35, Florida Statutes, are amended to read:

121.35 Optional retirement program for the State University System.—

(1) **OPTIONAL RETIREMENT PROGRAM ESTABLISHED.**—The Division of Retirement ~~of the Department of Management Services~~ shall establish an optional retirement program under which contracts providing retirement and death benefits may be purchased for eligible members of the State University System who elect to participate in the program. The benefits to be provided for or on behalf of participants in such optional retirement program shall be provided through individual contracts or individual certificates issued for group annuity contracts, which may be fixed, variable, or a combination thereof. Any individual contract or certificate shall state the annuity plan on its face page, and shall include, but not be limited to, a statement of ownership, the contract benefits, annuity income options, limitations, expense charges, and surrender charges, if any. The state shall contribute, as provided in this section, toward the purchase of such optional benefits.

(2) **ELIGIBILITY FOR PARTICIPATION IN OPTIONAL PROGRAM.**—

(c) For purposes of this section, the Division of Retirement ~~of the Department of Management Services~~ is referred to as the "division."

Section 35. Subsection (1) of section 123.01, Florida Statutes, is amended to read:

123.01 Supreme Court Justices, District Court of Appeal Judges, and Circuit Judges Retirement System established; divisions.—

(1) A retirement system for Supreme Court justices, district court of appeal judges, and circuit judges of the state is hereby established, which shall be administered by and under the supervision of the Division of Retirement ~~of the Department of Management Services~~.

Section 36. Paragraph (a) of subsection (2) of section 218.32, Florida Statutes, is amended to read:

218.32 Financial reporting; units of local government.—

(2) The department shall annually file a verified report by May 1 with the Governor, the Legislature, and the Special District Information Program of the Department of Community Affairs showing, in detail, the numbers and types of units of local government and the revenues, both locally derived and derived from intergovernmental transfers, and expenditures of such units. The report shall include, but shall not be limited to:

(a) Analyses of retirement information of all local retirement systems as provided by the Division of Retirement ~~of the Department of Management Services~~.

Section 37. Subsection (1) of section 238.03, Florida Statutes, is amended to read:

238.03 Administration.—

(1) The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of this chapter are vested in the Division of Retirement ~~of the Department of Management Services~~. Subject to the limitation of this chapter, the division shall, from time to time, establish rules and regulations for the administration and transaction of the business of the retirement system and shall perform such other functions as are required for the execution of this chapter.

Section 38. Subsection (6) of section 250.22, Florida Statutes, is amended to read:

250.22 Retirement.—

(6) All powers, duties, and functions related to the administration of this section are vested in the ~~Department of Management Services~~ and shall be assigned to the Division of Retirement.

Section 39. Subsection (2) of section 321.17, Florida Statutes, is amended to read:

321.17 Contributions; leaving patrol; leave of absence; transferees.—

(2) Such members as are eligible for service credit as set forth under s. 321.19(1) may pay to the Treasurer to the credit of the Highway Patrol Pension Trust Fund, the sum of \$5 for each month of such service credit. Satisfactory proof of former service must be furnished the Division of Retirement ~~of the Department of Management Services~~ in the form of a sworn, written statement from the member's former employer or other reliable person, or other documents of proof as may be required by them. Such money as becomes due by reason of this clause shall be paid by said employee in equal monthly payments over a period not to exceed 60 months after October 1, 1945. Employees who fail to take advantage of the benefits offered under s. 321.19(1) within 90 days after October 1, 1945, shall forfeit such service credits forever. New members who may hereafter enter the service of division of the Florida Highway Patrol who fail to take advantage of the benefits offered under s. 321.19(1) within 90 days after time of employment shall forfeit such service credits forever.

Section 40. Paragraph (d) of subsection (1) of section 321.19, Florida Statutes, is amended to read:

321.19 Computing length of service; definitions; examining committee.—

(1)

(d) The surviving spouse or other dependent of any member whose employment is terminated by death shall, upon application to the director of the Division of Retirement of the Department of Management Services, be permitted to pay the required contributions for any service performed by the member which could have been claimed by the member at the time of his death. Such service shall be added to the creditable service of the member and used in the calculation of any benefits which may be payable to the surviving spouse or other surviving dependent.

Section 41. Subsection (1) of section 321.191, Florida Statutes, is amended to read:

321.191 Non-service-connected disability retirement.—

(1) A member who becomes totally and permanently disabled after completing 10 years of service shall be entitled to a disability benefit. The disability retirement date for such member shall be the first day of the month following the month during which the Division of Retirement of the Department of Management Services approved payment of disability retirement benefits.

Section 42. Section 321.202, Florida Statutes, is amended to read:

321.202 Termination by death subsequent to normal retirement date but prior to actual retirement.—If the employment of a member is terminated by reason of his death subsequent to his normal retirement date but prior to his actual retirement, it shall be assumed that the member retired as of his date of death and that he had elected the optional form of payment most favorable to his legal spouse as determined by the Division of Retirement of the Department of Management Services. The benefits so determined shall be payable monthly to the spouse until the death of the spouse.

Section 43. Subsection (1) of section 321.2205, Florida Statutes, is amended to read:

321.2205 Surviving spouses' benefit options.—Notwithstanding any other provision in this chapter to the contrary, the following provisions shall apply to any member who has accumulated at least 10 years of service and dies:

(1) If the deceased member's surviving spouse has previously received a refund of the member's contributions made to the Highway Patrol Pension Trust Fund, such spouse may pay to the Division of Retirement of the Department of Management Services an amount equal to the sum of the amount of the deceased member's contributions previously refunded and interest at 3 percent compounded annually on the amount of such refunded contributions from the date of refund to the date of payment to the Division of Retirement, and receive the monthly retirement benefit provided in subsection (3).

Section 44. Unless otherwise provided by law, the administrative rules in effect immediately before the effective date of this act which have been adopted on behalf of the Division of Retirement shall remain in effect until specifically changed in the manner provided by law. The provisions of this act shall not affect the validity of any judicial or administrative proceeding which involves the Division of Retirement and is pending on the effective date of this act. The Division of Retirement shall remain, or be substituted as, the party in interest for any such proceeding.

Section 45. There is appropriated \$427,411 from the Florida Retirement System Trust Fund to the Division of Retirement to fund eight positions and expenses and equipment to implement the provisions of this act. The positions created shall be a Senior Personnel Manager, Personnel Technician III, Purchasing Agent III, Staff Assistant, Accountant II, Office Operator Supervisor I, and two Senior Clerks, which shall be used to establish personnel, purchasing, mail room, and copy functions. The funds used for this appropriation shall be those which had been transferred to the Department of Management Services Administrative Trust Fund and used for similar services.

Section 46. The Division of Retirement shall not be included in the expenditure reduction requirement provided for in s. 338 of chapter 92-279, Laws of Florida.

Section 47. Subsection (5) is added to section 186.021, Florida Statutes, to read:

186.021 State agency strategic plans.—

(5) *The objectives in agency strategic plans shall not be inconsistent with state agency performance measures, as defined in s. 216.011, which have been approved by the Executive Office of the Governor and the Legislature.*

Section 48. The Office of Program Evaluation and Budget Review created pursuant to s. 11.51, Florida Statutes, shall initiate, by July 1, 1994, a program evaluation and justification review as provided in s. 11.513, Florida Statutes, of the design and construction of educational facilities to determine whether such activity, currently administered by the Department of Education, is efficiently and cost-effectively administered. The Office of Program Evaluation and Budget Review shall report its findings to the Speaker of the House of Representatives and the President of the Senate by October 1, 1994.

Section 49. The Division of Statutory Revision of the Joint Legislative Management Committee shall prepare a reviser's bill to make the necessary name changes to the former divisions and bureaus of the Department of Revenue. Any reference to such divisions or bureaus shall be replaced with a reference to the Department of Revenue. Any reference to a director, division director, chief, or bureau chief shall be replaced with a reference to the executive director or his or her designee.

Section 50. The Division of Statutory Revision of the Joint Legislative Management Committee shall prepare a reviser's bill to make the necessary name changes to the former divisions and bureaus of the Department of Management Services. Any reference to such divisions or bureaus shall be changed to the Department of Management Services. Any reference to a director, division director, chief, or bureau chief shall be replaced with a reference to the Secretary of Management Services or his or her designee.

Section 51. The Division of Statutory Revision of the Joint Legislative Management Committee shall prepare a reviser's bill to conform the Florida Statutes to the revisions made by this act relating to the Division of Retirement.

Section 52. It is the policy of this state that all state services be performed in the most effective and efficient manner in order to provide the best value to the citizens of the state. The state also recognizes that competition among service providers may improve the quality of services provided, and that competition, innovation, and creativity among service providers should be encouraged.

(1) For the purposes of this section:

(a) "Commercial activity" means an activity that provides a product or service that is available from a private source.

(b) "Identified state service" means a service provided by the state that is under consideration to determine whether the service may be better provided through competition with private sources.

(2) The Governor and Cabinet, sitting as the Administration Commission as defined in s. 14.202, Florida Statutes, on their own initiative, or the Office of Program Evaluation and Budget Review, created pursuant to s. 11.51, Florida Statutes, may identify commercial activities currently being performed by state agencies and, if it is determined that such services may be better provided by requiring competition with private sources or other state agency service providers, may recommend that a state agency engage in any process, including competitive bidding, that creates competition with private sources or other state agency service providers.

(3) In performing its duties under this section, the Administration Commission may:

(a) Adopt rules to implement any provision of this section.

(b) Hold public hearings or conduct studies.

(c) Consult with private sources.

(d) Require a state agency to conduct an in-house cost estimate, a management study, or any other hearing, study, review, or cost estimate concerning any aspect of an identified state service.

(e) Develop and require for use by state agencies methods to accurately and fairly estimate and account for the cost of providing an identified state service.

(f) Require that an identified state service be submitted to competitive bidding or another process that creates competition with private sources or other governmental entities. In determining whether an identified state service should be submitted to competitive bidding, the Administration Commission shall consider, at a minimum:

1. Any constitutional and legal implications that may arise as a result of such action.
2. The cost of supervising the work of any private contractor.
3. The total cost to the state agency of such state agency's performance of a service, including all indirect costs related to that state agency and costs of such agencies as the Comptroller, the Treasurer, the Attorney General, and other such support agencies to the extent such costs would not be incurred if a contract is awarded. Costs for the current provision of the service shall be considered only when such costs would actually be saved if the contract were awarded to another entity.

(g) Prescribe, in consultation with affected state agencies, the specifications and conditions of purchase procedures that must be followed by a state agency or a private source engaged in competitive bidding to provide an identified state service.

(h) Pursuant to the review and approval process provided in s. 216.177, Florida Statutes, award a contract to a state agency currently providing the service, another state agency, a private source, or any combination of such entities, if the bidder presents the best and most reasonable bid, which is not necessarily the lowest bid. It is intended that bids are to be for a period of at least 1 year and that consideration be given to how to transfer the program back if the bidder is not successful in carrying out the requirements of the contract. The bid shall also include an analysis of health care benefits, retirement, and workers' compensation insurance for employees of the contractor which are reasonably comparable to those provided by the state.

(i) Determine the terms and conditions of a contract for service or interagency contract to provide an identified state service or other commercial activity. Such terms and conditions may include the requirement that a minimum level of health insurance coverage, including optional family coverage, is available to employees.

(j) Require the state agency to encourage state employees to organize and submit a bid for the identified state service.

(4) A state agency shall perform any activities required by the Administration Commission in the performance of its duties or the exercise of its powers under this section.

(5) Contracts entered into by the Administration Commission and decisions regarding whether a state agency shall engage in competitive bidding are exempt from state law regulating or limiting purchasing practices and decisions, including chapter 120, Florida Statutes.

Section 53. Section 11.511, Florida Statutes, is hereby repealed.

Section 54. Section 322 of chapter 92-279, Laws of Florida, appearing as section 11.55, Florida Statutes, is hereby repealed.

Section 55. Section 216.0165, Florida Statutes, as amended by chapters 92-142 and 92-279, Laws of Florida, is hereby repealed.

Section 56. Section 20.055, Florida Statutes, is amended to read:

20.055 Agency inspectors general ~~chief internal auditors.~~

(1) For the purposes of this section:

(a) "State agency" means each department created pursuant to chapter 20, and also includes the Executive Office of the Governor, the Department of Military Affairs, the Parole Commission, each water management district, the Board of Regents, the Game and Fresh Water Fish Commission, the Public Service Commission, and the state courts system.

(b) "Agency head" means the Governor, a Cabinet officer, a secretary as defined in s. 20.03(5), or an executive director as defined in s. 20.03(6). It also includes the chairman of the Public Service Commission, the governing board of each water management district, and the Chief Justice of the State Supreme Court.

~~(c) "Chief internal auditor" means the person appointed by the agency head to direct the internal audit function for the state agency.~~

(2) *The Office of Inspector General is hereby established in each state agency to provide a central point for coordination of and responsibility for activities that promote accountability, integrity, and efficiency in government. It shall be the duty and responsibility of each inspector general, with respect to the state agency in which the office is established, to:*

(a) *Advise in the development of performance measures, standards, and procedures for the evaluation of state agency programs.*

(b) *Assess the reliability and validity of the information provided by the state agency on performance measures and standards, and make recommendations for improvement, if necessary.*

(c) *Review the actions taken by the state agency to improve program performance and meet program standards and make recommendations for improvement, if necessary.*

(d) *Provide direction for, supervise, and coordinate audits, investigations, and management reviews relating to the programs and operations of the state agency, except that when the inspector general does not possess the qualifications specified in subsection (4), the director of auditing shall conduct such audits.*

(e) *Conduct, supervise, or coordinate other activities carried out or financed by that state agency for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations.*

(f) *Keep such agency head informed concerning fraud, abuses, and deficiencies relating to programs and operations administered or financed by the state agency, recommend corrective action concerning fraud, abuses, and deficiencies, and report on the progress made in implementing corrective action.*

(g) *Ensure effective coordination and cooperation between the Auditor General, federal auditors, and other governmental bodies with a view toward avoiding duplication.*

(h) *Review, as appropriate, rules relating to the programs and operations of such state agency and make recommendations concerning their impact.*

(i) *Ensure that an appropriate balance is maintained between audit, investigative, and other accountability activities.*

~~(3)(a)(2) The inspector general Each state agency shall employ a chief internal auditor who shall be appointed by and directly responsible to the agency head. For agencies under the direction of the Governor, the appointment shall be made after notifying the Governor in writing, at least 7 days prior to an offer of employment, of the agency head's intention to hire the inspector general.~~

(b) *Each inspector general shall report to and be under the general supervision of the agency head and shall not be subject to supervision by any other employee of the state agency. The inspector general shall be appointed without regard to political affiliation.*

(c) *An inspector general may be removed from office by the agency head. For agencies under the direction of the Governor, the agency head shall notify the Governor, in writing, of the intention to terminate the inspector general at least 7 days prior to the removal. For state agencies under the direction of the Governor and Cabinet, the agency head shall notify the Governor and Cabinet in writing of the intention to terminate the inspector general at least 7 days prior to the removal.*

(d) *The agency head shall not prevent or prohibit the inspector general or director of auditing from initiating, carrying out, or completing any audit or investigation.*

~~(4)(3) To ensure that state agency audits are performed in accordance with applicable auditing standards, the inspector general or the director of auditing within the inspector general's office shall possess the following qualifications. The chief internal auditor shall possess the following qualifications:~~

(a) *A bachelor's degree from an accredited college or university with a major in accounting, or with a major in business which includes five courses in accounting, and 5 years of experience as an internal auditor or independent postauditor, electronic data processing auditor, accountant, or any combination thereof. The experience shall at a minimum consist of audits of units of government or private business enterprises, operating for profit or not for profit; or*

(b) A master's degree in accounting, business administration, or public administration from an accredited college or university and 4 years of experience as required in paragraph (a); or

(c) A certified public accountant license issued pursuant to chapter 473 or a certified internal audit certificate issued by the Institute of Internal Auditors or earned by examination, and 4 years of experience as required in paragraph (a).

(5)(4) *In carrying out the auditing duties and responsibilities of this act, each inspector general ~~the chief internal auditor~~ shall review and evaluate internal controls necessary to ensure the fiscal accountability of the state agency. The ~~inspector general chief internal auditor~~ shall conduct financial, compliance, electronic data processing, and performance audits of the agency and prepare audit reports of his findings. The scope and assignment of the audits shall be determined by the ~~inspector general chief internal auditor~~; however, the agency head of the agency may at any time direct the ~~inspector general chief internal auditor~~ to perform an audit of a special program, function, or organizational unit. The performance of the audit shall be under the direction of the ~~inspector general~~, except that if the ~~inspector general~~ does not possess the qualifications specified in subsection (4), the director of auditing shall perform the functions listed in this subsection ~~chief internal auditor~~.*

(a) Such audits shall be conducted in accordance with the current Standards for the Professional Practice of Internal Auditing and subsequent Internal Auditing Standards or Statements on Internal Auditing Standards published by the Institute of Internal Auditors, Inc., or, where appropriate, in accordance with generally accepted governmental auditing standards. All audit reports issued by internal audit staff shall include a statement that the audit was conducted pursuant to the appropriate standards.

(b) Audit workpapers and reports shall be public records to the extent that they do not include information which has been made confidential and exempt from the provisions of s. 119.07(1) pursuant to law. However, when the ~~inspector general chief internal auditor~~ or a member of the his staff receives from an individual a complaint or information that falls within the definition provided in s. 112.3187(5), the name or identity of the individual shall not be disclosed to anyone ~~else other than the chief internal auditor~~ without the written consent of the individual, unless the ~~inspector general chief internal auditor~~ determines that such disclosure is unavoidable during the course of the audit or investigation. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(c) The ~~inspector general chief internal auditor~~ and the his staff shall have access to any records, data, and other information of the state agency he deems necessary to carry out his duties. *The inspector general is also authorized to request such information or assistance as may be necessary from the state agency or from any federal, state, or local government entity.*

(d)(5) At the conclusion of each audit, the ~~inspector general chief internal auditor~~ shall submit his preliminary findings and recommendations to the person responsible for supervision of the program function or operational unit who shall respond to any adverse findings of the ~~chief internal auditor~~ within 20 working days after receipt of the tentative findings. Such response and the ~~inspector general's chief internal auditor's~~ rebuttal to the response shall be included in the final audit report.

(e)(6) The ~~inspector general chief internal auditor~~ shall submit the final report to the ~~agency head of the agency~~ and to the Auditor General.

(f)(7) The Auditor General, in connection with the his independent postaudit of the same agency pursuant to s. 11.45, shall give appropriate consideration to internal audit reports and the resolution of findings therein. The Legislative Auditing Committee may inquire into the reasons or justifications for failure of the agency head to correct the deficiencies reported in internal audits that are also reported by the Auditor General and shall take appropriate action. The Auditor General shall also review a sample of each agency's internal audit reports at least once every 3 years to determine compliance with current Standards for the Professional Practice of Internal Auditing or, if appropriate, generally accepted governmental auditing standards. If the Auditor General finds that these standards have not been complied with, *the Auditor General* he shall include a statement of this fact in the his audit report of the agency.

(g)(8) The ~~inspector general chief internal auditor~~ shall monitor the implementation of the state agency's response to any audit of the state

agency conducted by the Auditor General pursuant to s. 11.45. No later than 6 months after the Auditor General publishes a report of the his audit of the state agency, the ~~inspector general chief internal auditor~~ shall report to the agency head on the status of corrective actions taken. A copy of such report shall be filed with the Joint Legislative Auditing Committee.

(h) *The inspector general shall develop long-term and annual audit plans based on the findings of periodic risk assessments. The plan shall show the individual audits to be conducted during each year and related resources to be devoted to the respective audits. For state agencies under the Governor, the audit plans shall be submitted to the Governor's Chief Inspector General. The plan shall be submitted to the agency head for approval. A copy of the approved plan shall be submitted to the Auditor General.*

(6) *In carrying out the investigative duties and responsibilities specified in this section, each inspector general shall initiate, conduct, supervise, and coordinate investigations designed to detect, deter, prevent, and eradicate fraud, waste, mismanagement, misconduct, and other abuses in state government. For these purposes, each state agency shall:*

(a) Receive complaints and coordinate all activities of the agency as required by the Whistle-blower's Act pursuant to ss. 112.3187-112.31895.

(b) Receive and consider the complaints which do not meet the criteria for an investigation under the Whistle-blower's Act and conduct, supervise, or coordinate such inquiries, investigations, or reviews as the inspector general deems appropriate.

(c) Report expeditiously to the Department of Law Enforcement or other law enforcement agencies, as appropriate, whenever the inspector general has reasonable grounds to believe there has been a violation of criminal law.

(d) Conduct investigations and other inquiries free of actual or perceived impairment to the independence of the inspector general or the inspector general's office. This shall include freedom from any interference with investigations and timely access to records and other sources of information.

(e) Submit in a timely fashion final reports on investigations conducted by the inspector general to the agency head, except for whistle-blower's investigations, which shall be conducted and reported pursuant to s. 112.3189.

(7) Each inspector general shall, not later than September 30 of each year, prepare an annual report summarizing the activities of the office during the immediately preceding state fiscal year. The final report shall be furnished to the agency head. Such report shall include, but need not be limited to:

(a) A description of activities relating to the development, assessment, and validation of performance measures.

(b) A description of significant abuses and deficiencies relating to the administration of programs and operations of the agency disclosed by investigations, audits, reviews, or other activities during the reporting period.

(c) A description of the recommendations for corrective action made by the inspector general during the reporting period with respect to significant problems, abuses, or deficiencies identified.

(d) The identification of each significant recommendation described in previous annual reports on which corrective action has not been completed.

(e) A summary of each audit and investigation completed during the reporting period.

Section 57. Section 14.32, Florida Statutes, is created to read:

14.32 Office of Chief Inspector General.—

(1) There is created in the Executive Office of the Governor the Office of Chief Inspector General. The Chief Inspector General shall be responsible for promoting accountability, integrity, and efficiency in the agencies under the jurisdiction of the Governor. The Chief Inspector General shall be appointed by and serve at the pleasure of the Governor.

(2) The Chief Inspector General shall:

(a) Initiate, supervise, and coordinate investigations, recommend policies, and carry out other activities designed to deter, detect, prevent, and eradicate fraud, waste, abuse, mismanagement, and misconduct in government.

(b) Investigate, upon receipt of a complaint or for cause, any administrative action of any agency, the administration of which is under the direct supervision of the Governor, regardless of the finality of the administrative action.

(c) Request such assistance and information as may be necessary for the performance of the duties of the Chief Inspector General.

(d) Examine the records and reports of any agency the administration of which is under the direct supervision of the Governor.

(e) Coordinate complaint-handling activities with agencies.

(f) Coordinate the activities of the Whistle-blower's Act pursuant to chapter 112 and maintain the whistle-blower's hotline to receive complaints and information concerning the possible violation of law or administrative rules, mismanagement, fraud, waste, abuse of authority, malfeasance, or a substantial or specific danger to the health, welfare, or safety of the public.

(g) Report expeditiously to and cooperate fully with the Department of Law Enforcement, the Department of Legal Affairs, and other law enforcement agencies when there are recognizable grounds to believe that there has been a violation of criminal law or that a civil action should be initiated.

(h) Act as liaison with outside agencies and the Federal Government to promote accountability, integrity, and efficiency in state government.

(i) Act as liaison and monitor the activities of the inspectors general in the agencies under the Governor's jurisdiction.

(j) Review, evaluate, and monitor the policies, practices, and operations of the Executive Office of the Governor.

(k) Conduct special investigations and management reviews at the request of the Governor.

(3) The Chief Inspector General shall serve as the inspector general for the Executive Office of the Governor.

Section 58. Any powers, duties, functions, or activities of the chief internal auditor provided by any other specific statutory provision shall become the powers, duties, functions, and activities of the inspector general as defined in this act.

Section 59. Nothing in this act shall be construed to allow use of any funds for any purpose not currently authorized by law.

Section 60. The Division of Statutory Revision of the Joint Legislative Management Committee shall prepare a reviser's bill to conform the Florida Statutes to the changes made by this act relating to chief internal auditors and inspectors general.

Section 61. 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 62. Thirty-eight full-time equivalent positions and a proportionate share of the associated unexpended balances of appropriations, allocations, or other funds are transferred from the Office of the Auditor General, Program Audit Division, to the Office of Program Evaluation and Budget Review.

Section 63. This act shall take effect upon becoming a law.

And the title is amended as follows:

In title, on page 2, line 26 through page 101, line 16, strike all of said lines and insert: An act relating to government performance and accountability; providing a short title; defining "state agency" and "agency" for purposes of the act; amending s. 216.011, F.S.; providing definitions; creating s. 216.0166, F.S.; requiring state agencies to provide certain information for approval by the Executive Office of the Governor according to a specified schedule; providing for adjustment based on annual appropriations; providing requirements for revision of the service

areas or programs of state agencies operating under a performance-based program budget; requiring the State Board of Administration and the legislative branch to submit performance measures and standards for review; creating s. 216.0172, F.S.; providing a schedule for submission of performance-based program budgets by state agencies; amending s. 216.023, F.S., and repealing subsection (7) thereof; removing provisions relating to submission of budget requests and point-by-point responses by agencies subject to evaluation pursuant to s. 216.0165, F.S.; providing requirements relating to submittal of performance-based program budget requests; amending s. 216.031, F.S.; revising requirements relating to budget requests for operational expenditures; requiring agencies operating under a performance-based program budget to submit an evaluation regarding performance measures and standards; amending s. 216.053, F.S.; revising requirements for summary information in the General Appropriations Act; amending s. 216.163, F.S.; providing requirements for submittal by the Governor to the Legislature of performance-based program budgets; providing for recommendations regarding incentives and disincentives for agency performance; creating s. 216.183, F.S.; requiring state agencies and the judicial branch submitting performance-based program budgets to use a specified chart of accounts; amending s. 216.292, F.S.; authorizing certain transfer of appropriations for departments operating under a performance-based program budget; amending s. 287.14, F.S.; providing an exception to provisions relating to purchase or lease of motor vehicles for agencies operating under a performance-based program budget; providing that the Department of Management Services and the Department of Revenue shall be considered to be operating under performance-based program budgets on a specified date; authorizing those departments to retain certain balances of appropriations; amending s. 11.143, F.S.; providing for designation by standing legislative committees of members to participate in the performance measures and standards process; amending s. 11.45, F.S.; deleting provisions relating to performance audits of new programs, evaluations regarding agencies reviewed under s. 216.0165, F.S., and audit schedules; amending s. 11.51, F.S.; renaming the Office of Policy Analysis and Agency Review as the Office of Program Evaluation and Budget Review; deleting the repeal of said section; amending s. 11.513, F.S.; requiring the performance of program evaluation and justification reviews by the office and providing requirements with respect thereto; providing duties of agencies; requiring a report; authorizing the Legislative Auditing Committee to direct that such reviews be conducted; deleting the repeal of said section; amending s. 20.21, F.S.; providing a mission statement for the Department of Revenue; specifying outcomes for the department; providing for service areas rather than divisions of the department; amending s. 20.22, F.S.; providing a mission statement for the Department of Management Services; specifying outcomes for the department; providing for service areas rather than divisions of the department; creating s. 121.1905, F.S.; establishing the Division of Retirement as a separate budget entity within, but independent of, the Department of Management Services; amending ss. 110.1231, 112.3173, 112.63, 112.665, 121.025, 121.031, 121.135, 121.136, 121.1815, 121.22, 121.23, 121.24, 121.35, 123.01, 218.32, 238.03, 250.22, 321.17, 321.19, 321.191, 321.202, and 321.2205, F.S., to conform; establishing the State Retirement Commission within the division; specifying effect on existing rules and pending judicial or administrative proceedings; providing an appropriation and authorizing positions; exempting the division from certain expenditure reduction requirements; amending s. 186.021, F.S.; providing for consistency of objectives in agency strategic plans; requiring the Office of Program Evaluation and Budget Review to initiate a program evaluation and justification review of educational facilities and report its findings; providing policy regarding state services; providing for identification of commercial activities being performed by state agencies and determination whether competition with private sources or other state agencies should be required; providing powers of the Administration Commission; providing for award of contracts; repealing s. 11.511, F.S., which provides for a director of the Office of Policy Analysis and Agency Review; repealing s. 11.55, F.S., which creates the State Agency Evaluation and Review Committee; repealing s. 216.0165, F.S., which provides for periodic agency and judicial branch evaluation and justification; amending s. 20.055, F.S.; revising the agencies to which said section applies; providing for an inspector general rather than chief internal auditor for each state agency; providing duties of inspectors general; providing for appointment and removal; providing qualifications; providing duties of state agencies; requiring reports; creating s. 14.32, F.S.; creating the Office of Chief Inspector General within the Executive Office of the Governor; providing duties and responsibilities of the office; specifying that responsibilities of chief internal auditors are to become the responsibilities of inspectors general; providing intent relating to use of funds; directing the Division of Statutory Revision to prepare reviser's bills; providing for severability; providing an effective date.

WHEREAS, state agencies should be granted sufficient statutory authority and flexibility to use their resources in the best possible way in order to better serve the citizens of the State of Florida through the efficient delivery of services and products and the effective administration of governmental programs, and

WHEREAS, state agencies should be held accountable for the services and products they deliver, and each state agency's mission, goals, and objectives should be clearly defined and performance measures for evaluating performance and assessing progress in achieving goals and objectives should be developed, integrated into the planning and budgeting process, and maintained on an ongoing basis, and

WHEREAS, state agencies should have incentives to deliver services and products in the most efficient and effective manner, and, if appropriate, to recommend the restructuring of ineffective programs or the elimination of unnecessary programs, and

WHEREAS, state agencies should have their performance in achieving desired outcomes and in efficiently operating programs measured and evaluated in an effort to improve program coordination, eliminate duplicative programs or activities, and provide better information to the Governor, the Legislature, and state agencies, and

WHEREAS, state agencies should strive to keep the citizens of this state informed of the public benefits derived from the delivery of state agency services and products and of the progress state agencies are making with regard to improving performance, and

WHEREAS, the legislative and judicial branches must independently carry out their mandates provided by the Florida Constitution, but nonetheless should endeavor to develop performance measures to evaluate certain functions of the legislative and judicial branches to encourage efficient performance of their duties for the benefit of the public, NOW, THEREFORE,

Senator Burt moved the following amendment to **Amendment 2** which was adopted:

Amendment 2B (with Title Amendment)—On page 92, between lines 5 and 6, insert:

Section 89. Task force created.—There is created the Real Property Lease-Procurement Task Force.

(1) The activities of the task force shall be coordinated by the Department of Management Services, and the task force shall be composed of five members: one member appointed by the President of the Senate, one member appointed by the Speaker of the House of Representatives, and three members appointed by the Governor. The Governor shall designate one member to serve as chair. Members of the task force shall receive no salary for their service on the task force but are entitled to receive travel and per diem under section 112.061, Florida Statutes.

(2) The task force shall meet as soon as is practicable after the members are appointed and shall meet as often as is necessary at the call of the chair. The Department of Management Services shall provide administrative and staff support to the task force. The task force shall study the efficiency and effectiveness of the state's real property lease-procurement process. The study shall include, but is not limited to, a comparison of a centralized process to the current decentralized process to determine which is more efficient and cost effective; an examination of the current roles and performance of the Division of Facilities Management and other state agencies in the lease-procurement process; whether the development of a method for using market analysis in lease procurement would improve the efficiency and effectiveness of the process; whether the state should develop a mechanism for considering telecommuting in determining future office space needs; whether the Department of Management Services should develop a system for reviewing agencies' real property needs and conduct business case analyses for determining the most cost-effective alternative; and an examination of alternative methods of creating fixed capital outlay projects in order to more expeditiously meet agencies' needs to buy, build, or lease property.

(3) No later than December 1, 1994, the task force shall provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report of its findings and recommendations with respect to the efficiency and effectiveness of the real property lease-procurement program.

(4) This section expires December 31, 1994.

Section 90. Present paragraph (b) of subsection (1) of section 255.25, Florida Statutes, is redesignated as paragraph (c), and a new paragraph (b) is added to that subsection to read:

255.25 Approval required prior to construction or lease of buildings.—

(1)

(b) During the term of existing leases, each agency shall monitor market conditions and shall initiate negotiations for each lease held in the private sector to effect the best overall lease terms reasonably available to that agency. Amendments to leases may be permitted to modify any lease provisions or any other terms or conditions, except to the extent specifically prohibited by this chapter. The Department of Management Services shall serve as a mediator in lease renegotiations if the agency and the lessor are unable to reach a compromise within 6 months of renegotiation and if either the agency or lessor requests the Department of Management Services' intervention.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 96, line 2, after the semicolon (;) insert: creating a task force on leasing; providing membership; requiring a study of the state's real property lease-procurement process; requiring a report; amending s. 255.25, F.S.; requiring each agency to monitor market conditions and to initiate negotiations for each lease held in the private sector; authorizing modifications of leases;

Senator Harden moved the following amendment to **Amendment 2**:

Amendment 2C (with Title Amendment)—On page 7, line 30 through page 10, line 20, strike all of said lines and renumber subsequent sections.

And the title is amended as follows:

In title, on page 93, strike all of lines 4-7 and insert: evaluation and review; amending s. 216.011,

POINT OF ORDER

Senator Dyer raised a point of order that pursuant to Rule 7.1, **Amendment 2C** contained language of a bill not reported favorably by a Senate committee and was therefore out of order.

RULING ON POINT OF ORDER

On recommendation of Senator Kirkpatrick, Chairman of the Committee on Rules and Calendar, the President ruled the point well taken and the amendment out of order.

Senator Harden moved the following amendments to **Amendment 2** which failed:

Amendment 2D (with Title Amendment)—On page 21, between lines 20 and 21, insert:

Section 12. Subsection (1) of 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 and any funding restrictions or enhancements relating to state agencies' performance during the preceding fiscal year evaluated against performance and productivity measures;

(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, the 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.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 94, line 3, after the semicolon (;) insert: amending s. 216.177, F.S.; providing for chairs of the legislative appropriations committees to include funding restrictions or enhancements based upon agency performance and productivity in the annual statement of intent;

Amendment 2E—On page 23, line 22, strike “Sixty-five” and insert: Thirty-five

Senator Dyer moved the following amendments to **Amendment 2** which were adopted:

Amendment 2F—On page 24, line 11, strike “each water management district”

Amendment 2G—On page 24, lines 17 and 18, strike “the governing board of each water management district,”

Amendment 2H (with Title Amendment)—On page 34, line 19, insert:

Section 19. Paragraph (b) of subsection (4) of section 373.079, Florida Statutes, is amended to read:

373.079 Members of governing board; oath of office; staff.—

(4)

(b)1. The governing board of each water management district shall employ an *inspector general* ~~a chief internal auditor~~, who shall report directly to the board. However, the governing boards of the Suwannee River Water Management District and the Northwest Florida Water Management District may *jointly employ an inspector general*, or provide for *inspector general internal audit services by contract*, ~~or may enter into an interagency agreement to jointly employ with a state agency or water management district inspector general a chief internal auditor~~.

2. An *inspector general* ~~A chief internal auditor~~ must have the qualifications prescribed and *perform the applicable duties of state agency inspectors general as conduct audits in the manner* provided in s. 20.055.

3. Within 45 days of the adoption of the final budget, the governing board shall submit a 5-year capital improvement plan and fiscal report for the district to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Secretary of the Department of Environmental Regulation. The capital improvement plan must include expected sources of revenue for planned improvements and shall be prepared in a manner comparable to the fixed capital outlay format set forth in s. 216.043. The fiscal report shall cover the preceding fiscal year and shall include a summary statement of the financial operations of the district.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 94, line 28, after “bills;” insert: amending s. 373.079(4)(b), F.S.; providing for an inspector general rather than a chief internal auditor for each water management district; providing qualifications for said inspector general;

Senator Dudley moved the following amendment to **Amendment 2** which was adopted:

Amendment 2I—On page 26, lines 20 and 24, after “before the removal” insert: *and shall outline in the notification the reasons for the removal*

Senators Dudley and Dyer offered the following amendment to **Amendment 2** which was moved by Senator Dudley and adopted:

Amendment 2J—On page 83, line 23 through page 84, line 10, strike all said lines

RECONSIDERATION OF AMENDMENT

On motion by Senator Williams, the Senate reconsidered the vote by which **Amendment 2J** was adopted. **Amendment 2J** was withdrawn.

THE PRESIDENT PRESIDING

Senator Dudley moved the following amendment to **Amendment 2** which failed:

Amendment 2K—On page 79, line 8 through page 91, line 20, strike all of said lines

The vote was:

Yeas—16 Nays—23

Senator Harden moved the following amendment to **Amendment 2** which failed:

Amendment 2L—On page 9, lines 29-31 and on page 10, lines 1-8, strike all of said lines and insert: 15 voting members. Seven members shall be appointed by the Governor, four members by the President of the Senate, and four members by the Speaker of the House of Representatives. The Governor may appoint up to two state officers or employees of his seven appointees. The Senate President and Speaker of the House of Representatives may each appoint one state officer or employee of their respective appointees. The members shall serve staggered terms. In making the initial appointments, each appointing entity shall appoint one member for a 2-year term, one member for a 3-year term, and all other members for 4-year terms. Thereafter, all terms shall be for 4 years. Upon request of the chair of the commission, or upon his own initiative, the respective appointing entity may replace a commission member who is absent from two meetings within any calendar year.

(Renumber subsequent sections.)

Senator Dudley moved the following amendment to **Amendment 2** which was adopted:

Amendment 2M—On page 26, line 6, after “the agency head” insert: *and shall be confirmed by the Senate*

POINT OF ORDER

Senator Harden raised a point of order that pursuant to Rule 7.1 **Amendment 2** as amended 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 not well taken.

The question recurred on **Amendment 2** as amended which was adopted.

On motion by Senator Williams, by two-thirds vote **CS for CS for SB 1824** 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—2

MOTION

On motion by Senator Kirkpatrick, the rules were waived and time of recess was extended until final action on CS for SB 1440.

The Senate resumed consideration of—

CS for SB 1440—A bill to be entitled An act relating to administrative rules; amending s. 11.60, F.S.; requiring reports of the Administrative Procedures Committee to contain certain information; prescribing duties of the committee to continuously review the administrative rulemaking process; amending s. 120.51, F.S.; prescribing requirements that must be considered before an agency may be given rulemaking power by the Legislature; amending s. 120.52, F.S.; redefining the term "invalid exercise of delegated legislative authority," for purposes of the Administrative Procedure Act; amending s. 120.535, F.S.; prescribing authority of the Administrative Procedures Committee to seek an administrative determination that an agency statement violates the requirement that rule-making be feasible and practicable; creating s. 120.534, F.S.; describing rulemaking authority that must be granted before an agency may adopt a rule; providing for repeal of rules that were adopted in excess of rulemaking authority as limited in this act; amending s. 120.54, F.S.; requiring additional information to be given in notices of proposed rules; providing for agencies to prepare rule development statements and prescribing the content of such statements; revising provisions on who may challenge a proposed rule and when a challenge must be filed; revising limits on when a rule may be filed for adoption; requiring filing of additional materials; providing for notice when a rule to be adopted is unchanged from the rule as previously filed; requiring additional information to be included with that certified when a rule is filed; providing for the Department of State to reject certain rules; amending s. 120.545, F.S.; prescribing procedures when the Administrative Procedures Committee objects to a rule; creating the Florida Administrative Law Revision Council and prescribing its membership and duties; providing an appropriation; providing an effective date.

—which had been considered April 4. Pending **Amendment 1** by Senator Williams was withdrawn.

Senator Williams moved the following amendment:

Amendment 2 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. Subsections (1) and (2) of section 11.60, Florida Statutes, 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," composed of ~~eight six~~ members appointed as follows: ~~four three~~ members of the House of Representatives appointed by the Speaker of the House of Representatives, including the chairman of the standing committee with oversight of the Administrative Procedure Act, and the vice chairman of the Committee on Appropriations, and one of whom shall be a member of the minority party; and ~~four three~~ members of the Senate appointed by the President of the Senate, including the chairman of the standing committee with oversight of the Administrative Procedure Act and the vice chairman of the Committee on Appropriations, and 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:

(a) Maintain a continuous review of the statutory authority on which each administrative rule is based and, whenever such authority is eliminated or significantly changed by repeal, amendment, holding by a court of last resort, or other factor, advise the agency concerned of the fact.

(b) Maintain a continuous review of administrative rules and identify and request an agency to repeal any rule or any provision of any rule which reiterates or paraphrases any statute or for which the statutory authority has been repealed.

(c) Review administrative rules and advise the agencies concerned of its findings.

(d) Have the duties prescribed by chapter 120 concerning the adoption and promulgation of rules.

(e) Generally review agency action pursuant to the operation of the Administrative Procedure Act.

(f) Report to the Legislature at least annually, no later than the first week of the regular session, and recommend needed legislation or other appropriate action. Such report shall include the number of objections voted by the committee, the number of suspensions voted by the committee, the number of administrative determinations filed on the invalidity of a proposed or existing rule, the number of petitions for judicial review filed on the invalidity of a proposed or existing rule, and the outcomes of such actions.

(g) Consult regularly with legislative standing committees which have jurisdiction over the subject areas addressed in agency proposed rules regarding legislative authority for the proposed rules and other matters relating to legislative authority for agency action.

(h) Adopt rules and regulations necessary for its own organization and operation and for that of its staff, consistent with general law and the rules of each house.

(i) Appoint an executive director and general counsel, by majority vote of the members of the committee, and fill any vacancy in that office in the same manner.

(j) Have general administrative responsibility for the operations of its staff.

(k) Have standing to seek administrative and judicial review, 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.

(l) Maintain a continuous review of the administrative rulemaking process, including a review of agency procedure and of complaints based on such agency procedure.

Section 2. Section 120.51, Florida Statutes, is amended to read:

120.51 Short title; special requirements.—

(1) This chapter may be known and cited as the "Administrative Procedure Act."

(2) Prior to the enactment of any general law or special law, each house of the Legislature shall consider whether any rules implementing such law shall be adopted subject to any of the special requirements listed in paragraphs (a) through (f). Any special requirements imposed shall be in addition to the other rulemaking requirements imposed by this chapter.

(a) The agency shall provide notice of the development of proposed rules pursuant to s. 120.54(1)(c) and shall hold at least one public workshop for the purpose of rule development. If the rule is to be enforced statewide, the agency shall hold at least two workshops, one of which will be held in a county in which the official headquarters of the agency is not located. Notice of a workshop shall be given pursuant to the provisions of s. 120.54(1)(d).

(b) The agency shall provide monthly reports to the Legislature detailing the substance of the proposed rule, any significant change made in the proposed rule and the reason for such change, and any complaint or problem encountered with the substance of the proposed rule or the rulemaking process. The first report shall be made at the time the proposed rule is noticed. The last report shall be made within 30 days after the rule is filed with the Department of State.

(c) The agency rule shall reflect, to the extent allowed by law, the alternative that imposes the lowest cost to the regulated community consistent with achieving the regulatory objectives of the legislation.

(d) *The agency is authorized to adopt rules pursuant to chapter 120, but such proposed rules shall be submitted in bill form to the President of the Senate and the Speaker of the House of Representatives for their consideration and referral to the appropriate committee. Such proposed rules may be changed by the Legislature pursuant to its review and shall become effective only upon approval by act of the Legislature.*

(e) *The proposed rules shall become effective 60 days after being filed with the Department of State.*

(f) *The agency shall prepare an economic impact statement on the proposed rule, which shall be made available as provided in s. 120.54(1)(e).*

Section 3. Subsection (8) of section 120.52, Florida Statutes, is amended, and subsection (17) is added to that section, to read:

120.52 Definitions.—As used in this act:

(8) "Invalid exercise of delegated legislative authority" means action which goes beyond the powers, functions, and duties delegated by the Legislature. A rule does not acquire a presumption of validity because it has been through the rulemaking process or because it is within the range of permissible interpretations of the implemented statutes. A proposed or existing rule is an invalid exercise of delegated legislative authority if any one or more of the following apply:

(a) The agency has materially failed to follow the applicable rulemaking procedures set forth in s. 120.54 or, when applicable, has materially failed to comply with the requirements of s. 120.51. Failure to provide the advance notice of its proceedings to a person who has made such a request of an agency as provided by s. 120.54(1)(a) shall be presumed to be a material failure to follow applicable rulemaking procedures;

(b) The agency has exceeded its grant of rulemaking authority, citation to which is required by s. 120.54(7);

(c) The rule enlarges, modifies, or contravenes the specific provisions of law implemented, citation to which is required by s. 120.54(7);

(d) The rule is vague, fails to establish adequate standards for agency decisions, or vests unbridled discretion in the agency; or

(e) The rule lacks an adequate factual basis ~~is arbitrary or capricious.~~

(17) "Small county" means any county that has an unincarcerated population of fewer than 50,000 according to the most recent decennial census.

Section 4. Subsections (1) and (2) of section 120.535, Florida Statutes, are amended to read:

120.535 Rulemaking required.—

(1) Rulemaking is not a matter of agency discretion. Each agency statement defined as a rule under s. 120.52(16) shall be adopted by the rulemaking procedure provided by s. 120.54 as soon as feasible and practicable. Rulemaking shall be presumed feasible and practicable to the extent provided by this subsection unless one of the factors provided by this subsection is applicable.

(a) Rulemaking shall be presumed feasible unless the agency proves that:

1. The agency has not had sufficient time to acquire the knowledge and experience reasonably necessary to address a statement by rulemaking; or

2. Related matters are not sufficiently resolved to enable the agency to address a statement by rulemaking; or

3. The agency is currently using the rulemaking procedure expeditiously and in good faith to adopt rules which address the statement.

(b) Rulemaking shall be presumed practicable to the extent necessary to provide fair notice to affected persons of relevant agency procedures and applicable principles, criteria, or standards for agency decisions unless the agency proves that:

1. Detail or precision in the establishment of principles, criteria, or standards for agency decisions is not reasonable under the circumstances; or

2. The particular questions addressed are of such a narrow scope that more specific resolution of the matter is impractical outside of an adjudication to determine the substantial interests of a party based on individual circumstances.

(2)(a) Any person substantially affected by an agency statement may seek an administrative determination that the statement violates subsection (1). A petition for an administrative determination of an agency statement shall be in writing and shall state with particularity facts sufficient to show:

1. That the person is substantially affected by the statement.

2. That the statement constitutes a rule under s. 120.52(16), in which case the petition shall include the text of the statement or a description of the statement.

3. That the agency has not adopted the statement by the rulemaking procedure provided in s. 120.54.

(b) The petition shall be filed with the division which shall, immediately upon receipt, forward copies to the agency whose statement is challenged, to the Department of State, and to the committee. The Department of State shall publish notice of a petition which shall include the text or a description of each statement challenged in the first available issue of the Florida Administrative Weekly pursuant to s. 120.55(1)(b). Within 10 days after receiving the petition, the division director shall, if the petition complies with the above requirements, assign a hearing officer who shall conduct a hearing within 30 days thereafter, unless the petition is withdrawn. The hearing officer may extend the hearing date for good cause. If a hearing is held and the petitioner proves the allegations of the petition, the agency shall have the burden of proving that rulemaking is not feasible and practicable under subsection (1).

(c) *The committee has standing under this section to seek an administrative determination that the agency statement violates subsection (1). In filing the petition for an administrative determination, the committee shall, in writing, state with particularity facts sufficient to show:*

1. *That the statement constitutes a rule under s. 120.52(16), in which case the petition shall include the text of the statement or a description of the statement.*

2. *That the agency has not adopted the statement by the rulemaking procedure provided in s. 120.54. Nothing herein shall prohibit the committee from challenging, pursuant to s. 120.54(4), an agency rule proposed to address an agency statement that violates subsection (1).*

Section 5. Section 120.534, Florida Statutes, is created to read:

120.534 Rulemaking authority and law implemented.—

(1) A grant of rulemaking authority is necessary but not sufficient to allow an agency to adopt a rule; a specific law to be implemented is also required. An agency may adopt only rules that implement, interpret, or make specific the particular powers and duties granted by the enabling statute. No agency shall have authority to adopt a rule only because it is reasonably related to the purpose of the enabling legislation and is not arbitrary and capricious. Nor shall an agency have the authority to implement statutory provisions setting forth general legislative intent or policy. Statutory language granting rulemaking authority or generally describing the powers and functions of an agency shall be construed to extend no further than the particular powers and duties conferred by the same statute. Grants of rulemaking authority construed to confer broader authority to any agency are revoked.

(2) By July 1, 1995, each agency shall provide to the Department of State and the Joint Administrative Procedures Committee a listing of each rule, or portion thereof, adopted by that agency before July 1, 1994, which exceeds the rulemaking authority permitted by this section. For those rules of which only a portion exceeds the rulemaking authority permitted by this section, the agency shall also identify the language of the rule which exceeds this authority. By January 1, 1996, each agency shall initiate proceedings pursuant to s. 120.54, to repeal each rule, or portion thereof, identified as exceeding the rulemaking authority permitted by this section. By February 1, 1996, the Joint Administrative Procedures Committee shall submit to the President of the Senate and the Speaker of the House of Representatives a report identifying those rules that an agency had previously identified as exceeding the rulemaking authority permitted by this section for which proceedings to repeal the rule have

not been initiated. As of July 1, 1996, the Joint Administrative Procedures Committee or any substantially affected person may petition an agency to repeal any rule, or portion thereof, because it exceeds the rule-making authority permitted by this section. Not later than 30 days after the date of filing the petition, the agency shall initiate rulemaking proceedings to repeal the rule, or portion thereof, or deny the petition, giving a written statement of its reasons for the denial.

(3) All proposed rules or amendments to existing rules filed with the Department of State on or after July 1, 1994, shall be based on rulemaking authority no broader than that permitted by this section.

(4) Nothing in this section shall be construed to change the legal status of a rule that has otherwise been judicially or administratively determined to be invalid.

Section 6. Section 120.54, Florida Statutes, is 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, *the full text of the proposed rule or amendment, and a summary thereof. The notice must state whether the agency considers the rule to have substantial regulatory costs, based on the factors set forth in subparagraph (2)(b)1. The notice must state the procedure for requesting preparation of a statement of estimated regulatory costs and for requesting a public hearing on the proposed rule.*

(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 (1)(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. *When a proposed rule will have substantial regulatory costs based on the factors set forth in subparagraph (2)(b)1., an agency must publish a notice of rule development.* 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 policy consideration underlying the proposed rule, the major legal issues involved in the rule, the methodology being proposed or used to obtain and analyze data, the specific legal authority for rule development, and the preliminary text of proposed rules if available. The notice must state the procedure for requesting preparation of a statement of estimated regulatory costs and for requesting a workshop on the proposed rule. This paragraph does not provide the basis for a rule challenge, except that an agency's failure to include the required items in the notice is a violation of the procedural requirements of this chapter.*

(d) An agency may hold a public workshop for purposes of rule development. ~~If an agency provides notice of rule development under paragraph (1)(e), the agency shall hold a public workshop for purposes of rule development if requested in writing by any affected person, unless the agency head states in writing why a workshop is not necessary. When a workshop is held, an agency shall ensure that appropriate personnel are available to explain the agency's proposal and to respond to appropriate questions or comments regarding the rule being developed.~~ 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 21 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. *This paragraph does not provide the basis for a rule challenge, except that an agency's failure to respond to a request for a workshop, failure to ensure that appropriate personnel are available at the workshop, or failure to provide not less than 21 days' notice for a workshop with the information required is a violation of the procedural requirements of this chapter.*

(e) If an agency provides notice of rule development under paragraph (1)(c), and a statement of estimated regulatory costs ~~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 statement of estimated regulatory costs ~~economic impact statement~~ available to any person who requests a copy of the statement.

(2)(a) *Each agency, before the adoption, amendment, or repeal of a rule, shall consider the impact of the rule on small businesses as defined in s. 288.703 and the impact of the rule on small counties as defined in s. 120.52. Whenever practicable, an agency shall tier its rules to reduce disproportionate impacts on small businesses and on small counties to avoid regulating businesses and counties that do not contribute significantly to the problem the rule is designed to regulate. An agency may define the term "small business" to include more than 50 persons and may define the term "small county" to include those with populations greater than 50,000 if it finds that such a definition is necessary to adapt a rule to the needs and problems of small businesses or small counties. The agency shall consider each of the following methods for reducing the impact of the proposed rule on small businesses and on small counties:*

1. *Establishing less-stringent compliance or reporting requirements in the rule for small businesses and for small counties.*
2. *Establishing less-stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses and for small counties.*
3. *Consolidating or simplifying the rule's compliance or reporting requirements for small businesses and for small counties.*
4. *Establishing performance standards to replace design or operational standards in the rule for small businesses and for small counties.*
5. *Exempting small businesses or small counties from any or all requirements of the rule. 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 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 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 agency may provide information on its proposed action by preparing a *statement of estimated regulatory costs and a rule development statement* ~~an economic impact statement~~, and must prepare a *statement of estimated regulatory costs* ~~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, innovation, or international trade, 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 a *statement of estimated regulatory costs* ~~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 a *statement of estimated regulatory costs* ~~an economic impact statement~~ pursuant to subparagraph (2)(b)1. shall not be subject to challenge. If a *statement of estimated regulatory costs* ~~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 *statement of estimated regulatory costs* ~~economic impact statement~~ available to any person who requests a copy of the statement.

(c) The *statement of estimated regulatory costs* ~~economic impact statement~~ must include:

1. *A general description and the estimated number of persons likely to be economically affected by the rule. An estimate of the cost to the agency, and to any other state or local government entities, of implementing and enforcing the proposed action, including the estimated amount of paperwork, and any anticipated effect on state or local revenues;*

2. *An estimate of the transactional costs likely to be incurred by the regulated public in complying with the procedural requirements of the rule. Transactional costs are direct costs that are readily ascertainable based on standard business practices. An estimate of the cost or the economic benefit to all persons directly affected by the proposed action;*

3. *Estimates of the regulatory costs anticipated to be incurred by at least two persons or entities in complying with the proposed rule. The two entities chosen as examples should be of different sizes and, if applicable, from different geographic areas of the state. An estimate of the impact of the proposed action on competition and the open market for employment, if applicable;*

4. *An analysis of the impact on small business as defined in the Florida Small and Minority Business Assistance Act of 1985 and an analysis of the impact on small counties as defined in s. 120.52;*

These estimates may include data and information provided by persons affected by the proposed rule.

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 these 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.~~

(d) *The rule development statement must include:*

1. *A written statement of the evidence that the agency relied upon in the development of the rule and the reasons for such reliance;*

2. *A written statement of the evidence that the agency rejected in the development of the rule and the reasons for such rejection; and*

3. *A written statement of the evidence that the agency failed to consider in the development of the rule and reasons for such failure.*

(e)(d) No rule shall be declared invalid based on a challenge to the *statement of estimated regulatory costs* ~~economic impact statement~~ for the rule unless the issue is raised in an administrative 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 a *statement of estimated regulatory costs* ~~an economic impact statement~~ or lack thereof, unless a that person requested preparation of a *statement of regulatory costs* ~~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 *regulatory costs* ~~economic impact~~ of the proposed rule, by either participation in a public workshop, public hearing, or by submission of written comments, regarding the rule *in the manner specified in subsection (3)*. The grounds for invalidation of a rule based upon a challenge to the *statement of estimated regulatory costs* ~~economic impact statement~~ for the rule are limited to an agency's failure to adhere to the procedure for preparation of a *statement of estimated regulatory costs* ~~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 *regulatory costs* ~~economic impact~~ of a proposed rule when such failure substantially impairs the fairness of the rulemaking proceeding.

(3)(a) If the intended action concerns any rule other than one relating exclusively to organization, procedure, or practice, the agency shall, on the request of any affected person received within 21 days after the date of publication of the notice, give affected persons an opportunity to present evidence and argument on all issues under consideration appropriate to inform it of their contentions. Prisoners, as defined in s. 944.02(5), may be limited by the Department of Corrections to an opportunity to submit written statements concerning intended action on any department rule. The agency may schedule a public hearing on the rule and, if requested by any affected person, shall schedule a public hearing on the rule. Any material pertinent to the issues under consideration submitted to the agency within 21 days after the date of publication of the notice or submitted at a public hearing shall be considered by the agency and made a part of the record of the rulemaking proceeding.

(b) If the agency determines that the proposed action will affect small business as defined by the agency as provided in paragraph (2)(a), the agency shall send written notice of such rule to the Small Business Ombudsman within and Minority Business Advocate, the Minority Business Enterprise Assistance Office, and the Division of Economic Development of the Department of Commerce not less than 21 days prior to the intended action.

1. ~~Within the 21-day period after written notice has been sent and the day on which the intended action is to take place, the agency shall give the Small and Minority Business Advocate, the Minority Business Enterprise Assistance Office, and the Division of Economic Development of the Department of Commerce an opportunity to present evidence and argument and to offer alternatives regarding the impact of the rule on small business.~~

1.2. Each agency shall adopt those *regulatory* alternatives offered by the Small Business Ombudsman pursuant to this subsection which it finds are feasible and consistent with the stated objectives of the proposed rule and which would reduce the impact on small business.

2.3. If an agency does not adopt all alternatives offered pursuant to this subsection, it shall, prior to rule adoption or amendment and pursuant to subsection (11), file a detailed written statement with the committee explaining the reasons for failure to adopt such alternatives. Within 3 working days of the filing of such notice, the agency shall send a copy of such notice to the Small Business Ombudsman and Minority Business Advocate, the Minority Business Enterprise Assistance Office, and the Division of Economic Development of the Department of Commerce. *The agency's written statement is not subject to challenge. However, an agency's failure to consider alternatives offered by the Small Business Ombudsman is a violation of the procedural requirements of this chapter.*

(4)(a) Any substantially affected person may seek an administrative determination of the invalidity of any proposed rule on the ground that the proposed rule is an invalid exercise of delegated legislative authority.

(b) The request seeking a determination under this subsection shall be in writing and must be filed with the division within 21 days after the date of publication of the notice required in paragraph (1)(b) or, if applicable, within 20 days after the date of publication of the notice required in paragraph (11)(b). It must state with particularity the provisions of the rule or statement of estimated regulatory costs ~~economic impact statement~~ alleged to be invalid with sufficient explanation of the facts or grounds for the alleged invalidity and facts sufficient to show that the person challenging the proposed rule would be substantially affected by it. A request seeking a determination based on a change in the proposed rule shall be limited to such change. A group or class exempted in the proposed rule as initially noticed and now included as a result of a change may challenge any provision of the rule.

(c) Immediately upon receipt of the petition, the division shall forward copies of the petition to the agency whose rule is challenged, the Department of State, and the committee. Within 10 days after receiving the petition, the division director, if he determines that the petition complies with the above requirements, shall assign a hearing officer who shall conduct a hearing within 30 days thereafter, unless the petition is withdrawn or a continuance is granted by agreement of the parties or for good cause shown. Evidence of good cause includes, but is not limited to, written notice of an agency's decision to modify or withdraw the proposed rule or a letter from the chairman of the committee stating that the committee will consider an objection to the rule at its next scheduled meeting. Within 30 days after conclusion of the hearing, the hearing officer shall render his decision and state the reasons therefor in writing. The division shall forthwith transmit copies of the hearing officer's decision to the Department of State and to the committee. The hearing officer may declare the proposed rule wholly or partly invalid. The proposed rule or provision of a proposed rule declared invalid shall be withdrawn from the committee by the adopting agency and shall not be adopted. No rule shall be filed for adoption until 28 days after the notice required by subsection (1), until 21 days after the notice required by paragraph (11)(b), or until the hearing officer has rendered his decision, as the case may be. However, the agency may proceed with all other steps in the rule-making process, including the holding of a factfinding hearing pursuant to subsection (3). In the event part of a proposed rule is declared invalid, the adopting agency may, in its sole discretion, withdraw the proposed rule in its entirety. The agency whose proposed rule has been declared invalid in whole or part shall give notice of the decision in the first available issue of the Florida Administrative Weekly.

(d) Hearings held under this provision shall be conducted in the same manner as provided in s. 120.57 except that the hearing officer's order shall be final agency action. The agency proposing the rule and the person requesting the hearing shall be adversary parties. Other substantially affected persons may join the proceeding as parties or intervenors on appropriate terms which will not substantially delay the proceedings. Failure to proceed under this subsection shall not constitute failure to exhaust administrative remedies.

(5) Any person regulated by an agency or having a substantial interest in an agency rule may petition an agency to adopt, amend, or repeal a rule or to provide the minimum public information required by s. 120.53. The petition shall specify the proposed rule and action requested. Not later than 30 calendar days after the date of filing a petition, the agency shall initiate rulemaking proceedings under this act, otherwise comply with the requested action, or deny the petition with a written statement of its reasons for the denial.

(6)(a) In all rulemaking proceedings the agency shall compile a rule-making record. The record must include, if appropriate, copies of:

1. All notices given for the proposed rule.
2. The statement of estimated regulatory costs for the rule, if one is prepared.
3. A written summary of hearings on the proposed rule.
4. The written comments and responses to written comments as required by subsections (3) and (12).
5. All notices and findings made under subsection (9).
6. All materials filed by the agency with the committee under paragraph (11)(a).
7. All materials filed with the Department of State under paragraph (11)(b).

8. Any notice of disapproval filed by the committee under subsection (14).

9. All written inquiries from standing committees of the Legislature concerning the rule.

Each state agency shall retain the record of rulemaking as long as the rule is in effect. When a rule is no longer in effect, the record may be destroyed pursuant to the records-retention schedule developed under s. 257.36(6).

(b) In rulemaking proceedings, the agency may recognize any material which may be judicially noticed, and it may provide that materials so recognized be incorporated into the record of the proceeding. Before the record of any proceeding is completed, all parties shall be provided a list of such materials and given a reasonable opportunity to examine them and offer written comments thereon or written rebuttal thereto.

(7) Each rule adopted shall be accompanied by a reference to the specific rulemaking authority pursuant to which the rule was adopted and a reference to the section or subsection of the Florida Statutes or the Laws of Florida being implemented, interpreted, or made specific.

(8) Each rule adopted shall contain only one subject and shall be preceded by a concise statement of the purpose of the rule and reference to the rules repealed or amended, which statement need not be printed in the Florida Administrative Code. Pursuant to rule of the Department of State, a rule may incorporate material by reference but only as such material exists on the date the rule is adopted. For purposes of such rule, changes in such material shall have no effect with respect to the rule unless the rule is amended to incorporate such material as changed. No rule shall be amended by reference only. Amendments shall set out the amended rule in full in the same manner as required by the constitution for laws.

(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.

(b) Rules pertaining to the public health, safety, or welfare shall include, but not be limited to, those rules pertaining to perishable agricultural commodities.

(c) An emergency rule adopted under this subsection may not be effective for a period longer than 90 days and shall not be renewable, except during the pendency of a challenge to proposed rules addressing the subject of the emergency rule. However, the agency may take identical action by normal rulemaking procedures.

(d) Subject to applicable constitutional and statutory provisions, an emergency rule becomes effective immediately on filing, or at a date less than 20 days thereafter if specified in the rule, if the adopting agency finds that such effective date is necessary because of an immediate danger to the public health, safety, or welfare.

(10)(a) By July 1, 1995, the Administration Commission shall promulgate one or more sets of model rules of procedure which shall be reviewed by the committee and filed with the Department of State. The model rules must establish procedures that comply with the requirements of this chapter and may provide alternative means for meeting the requirements of this chapter. On filing with the department, the

appropriate model rules ~~become shall be~~ the rules of procedure for each agency subject to this act ~~unless the Administration Commission grants an exception to the agency in accordance with this subsection to the extent that each agency does not adopt a specific rule of procedure covering the subject matter contained in the model rules applicable to that agency.~~

(b) An agency may seek ~~exceptions to modification of~~ the model rules of procedure by filing a petition with the Administration Commission. The Administration Commission shall approve exceptions to the extent necessary to implement other statutes, to the extent necessary to conform to any requirement imposed as a condition precedent to receipt of federal funds or permit persons in this state to receive tax benefits under federal law or as required for the most efficient operation of the agency as determined by the Administration Commission. The reasons for the ~~exception modification~~ shall be published in the Florida Administrative Weekly.

(c) Agency rules that provide exceptions to the model rules may not be filed with the department unless the Administration Commission has approved the exceptions. Each agency that adopts rules that provide exceptions to the model rules shall publish a separate chapter in the Florida Administrative Code that delineates clearly the provisions of the agency's rules which provide exceptions to the model rules and that specifies each alternative chosen from among those authorized by the model rules. Each chapter must be organized in the same manner as the model rules.

(d) The Administration Commission shall adopt rules that establish procedures for the consideration of requests for exceptions to the model rules. ~~Agency rules adopted to comply with ss. 120.53 and 120.566 must be in substantial compliance with the model rules.~~

(11)(a) The adopting agency shall file with the committee, at least 21 days prior to the proposed adoption date, ~~three copies of each of the following documents: a copy of each rule it proposes to adopt; a detailed written statement of the facts and circumstances justifying the proposed rule; a copy of the statement of estimated regulatory costs estimate of economic impact required by subsection (2); a statement of the extent to which the proposed rule establishes standards more restrictive than federal standards or a statement that the proposed rule is no more restrictive than federal standards or that a federal rule on the same subject does not exist; and the notice required by subsection (1). After the final public hearing on the proposed rule, or after the time for requesting a hearing has expired, the adopting agency shall file a notice with the committee which states that the proposed rule to be adopted is unchanged from the rule as previously filed with the committee or which contains any changes made in the proposed rule and the reasons for such changes~~ ~~therefor with the committee or advise the committee that there are no changes.~~

(b) ~~In addition,~~ When any change is made in a proposed rule, other than a technical change, the adopting agency shall provide a copy of such ~~notice detailed statement of such change~~ by certified mail or actual delivery to any person who requests it in writing ~~at the public hearing~~. The agency shall file the ~~notice change~~ with the committee, and provide the ~~notice statement of change~~ to persons requesting it, at least 21 7 days prior to filing the rule for adoption. ~~The notice shall be published in the Florida Administrative Weekly at least 21 days prior to filing the rule for adoption.~~ Educational units, other than units of the State University System and the Florida School for the Deaf and the Blind, and local units of government with jurisdiction in only one county or part thereof shall not be required to make filings with the committee. This paragraph does not apply to emergency rules adopted pursuant to subsection (9). However, agencies, other than those listed herein, adopting emergency rules shall file a copy of each emergency rule with the committee.

(c)(b) If the adopting agency is required to publish its rules in the Florida Administrative Code, it shall file with the Department of State three certified copies of the rule it proposes to adopt, a summary of the rule, a summary of any hearings held on the rule, and a detailed written statement of the facts and circumstances justifying the rule. Agencies not required to publish their rules in the Florida Administrative Code shall file one certified copy of the proposed rule, and the other material required above, in the office of the agency head; and such rules shall be open to the public pursuant to s. 120.53(2). Filings shall be made no less than 28 days or more than 90 days after the notice required by subsection (1). If a public hearing is held, the 90-day limit is extended to 21 days after adjournment of the final hearing on the rule, 21 days after receipt

of all material authorized to be submitted at the hearing, or 21 days after receipt of the transcript, if one is made, whichever is latest. For purposes of this paragraph, the term "public hearing" includes any public meeting held by any agency at which the rule is considered. The filing of a petition for an administrative determination under the provisions of subsection (4) will toll the 90-day period during which a rule must be filed for adoption until the hearing officer has filed his order with the clerk. At the time a rule is filed, the agency shall certify that the time limitations prescribed by this subsection have been complied with, ~~that all statutory rulemaking requirements have been met,~~ and that there is no administrative determination pending on the rule. ~~At the time a rule is filed, the committee shall certify whether the agency has responded to all material and timely written comments or written inquiries made on behalf of the committee.~~ The department shall reject any rule not filed within the prescribed time limits; ~~that does not satisfy all statutory rulemaking requirements; upon which an agency has not responded to all material and timely written inquiries or written comments; or upon which an administrative determination is pending.~~ If a rule has not been adopted within the time limits imposed by this section or ~~has not been adopted in compliance with all statutory rulemaking requirements,~~ the agency proposing the rule shall withdraw the rule and give notice of its action in the same manner as is prescribed in paragraphs (1)(a) and (b).

(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 within 180 days after the effective date of the act, unless the act provides otherwise.

(b) In adopting rules, all agencies ~~should 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 ~~on the regulated community which substantially accomplishes the statutory directives.~~ ~~If an affected person provides an agency with a written proposal for a lower-cost regulatory alternative to a proposed rule which substantially accomplishes the statutory directive, the agency must either adopt the alternative approach or provide a detailed written explanation of its reasons for rejecting the alternative. Submissions under this paragraph must be made in accordance with the provisions of paragraph (3)(a). An agency's determination regarding the adoption of alternative approaches does not provide a basis for challenging a rule. However, an agency's failure to follow the procedures prescribed in this subsection is a violation of the procedural requirements of this chapter. 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.~~

(13)(a) The proposed rule shall be adopted on being filed with the Department of State and become effective 20 days after being filed, on a later date specified in the rule, or on a date required by statute. Rules not required to be filed with the Department of State shall become effective when adopted by the agency head or on a later date specified by rule or statute.

(b) After the notice required in subsection (1) and prior to adoption, the agency may withdraw the rule in whole or in part or may make such changes in the rule as are supported by the record of public hearings held on the rule, technical changes which do not affect the substance of the rule, changes in response to written material relating to the rule received by the agency within 21 days after the notice and made a part of the record of the proceeding, or changes in response to a proposed objection by the committee. After adoption and before the effective date, a rule may be modified or withdrawn only in response to an objection by the committee or may be modified to extend the effective date by not more than 60 days when the committee has notified the agency that an objection to the rule is being considered. The agency shall give notice of its decision to withdraw or modify a rule in the first available issue of the publication in which the original notice of rulemaking was published and shall notify the Department of State if the rule is required to be filed with the Department of State. After a rule has become effective, it may be repealed or amended only through regular rulemaking procedures.

(14) If the committee disapproves a proposed rule and the agency does not modify the rule, the committee shall file with the Department of State a notice of the disapproval detailing with particularity its objection to the rule. The Department of State shall publish this notice in the Florida Administrative Weekly and shall publish, as a history note to the rule when it is published in the Florida Administrative Code, a reference to the committee's disapproval and to the issue of the weekly in which the full text thereof appears.

(15) No agency has inherent rulemaking authority; nor has any agency authority to establish penalties for violation of a rule unless the Legislature, when establishing a penalty, specifically provides that the penalty applies to rules. However, an agency may adopt rules necessary to the proper implementation of a statute prior to the effective date of the statute, but the rules may not be enforced until the statute upon which they are based is effective.

(16) The rulemaking provisions of this chapter do not apply to compensation appeals referees.

(17) Rulemaking proceedings shall be governed solely by the provisions of this section unless a person timely asserts that his substantial interests will be affected in the proceeding and affirmatively demonstrates to the agency that the proceeding does not provide adequate opportunity to protect those interests. If the agency determines that the rulemaking proceeding is not adequate to protect his interests, it shall suspend the rulemaking proceeding and convene a separate proceeding under the provisions of s. 120.57. Similarly situated persons may be requested to join and participate in the separate proceeding. Upon conclusion of the separate proceeding, the rulemaking proceeding shall be resumed.

Section 7. Before July 1, 1996, each agency shall review its existing rules and file a written report with the President of the Senate, the Speaker of the House of Representatives, and the Governor identifying ways to simplify and clarify existing rules and regulatory schemes by combining redundant and overlapping rules and by deleting obsolete rules. Each agency shall also identify rules that it determines should be reviewed by the Legislature for a clarification of legislative authority or intent and shall evaluate its existing rules with respect to any invalid exercise of delegated legislative authority as defined in section 120.52(8), Florida Statutes.

Section 8. Subsection (8) of section 120.545, Florida Statutes, is amended to read:

120.545 Committee review of agency rules.—

(8)(a) If the committee objects to a proposed or existing rule and the agency refuses to modify, amend, withdraw, or repeal the rule, the committee shall file with the Department of State a notice of the objection, detailing with particularity its objection to the rule. The Department of State shall publish this notice in the Florida Administrative Weekly and shall publish, as a history note to the rule in the Florida Administrative Code, a reference to the committee's objection and to the issue of the Weekly in which the full text thereof appears. *When the committee has voted an objection to a rule, the burden of proof is on the agency in any proceeding for judicial review, administrative determination, application, or enforcement of the rule to establish that the rule, or portion of the rule, is not an invalid exercise of delegated legislative authority.*

(b) *If the committee objects to a proposed or existing rule, or a portion thereof, and the agency agrees to modify, amend, withdraw, or repeal the rule consistent with the objection, the agency shall initiate the appropriate administrative action within 30 days after such agreement.*

(c) *If the committee objects to a proposed rule, or a portion thereof, and the agency refuses to modify, amend, or withdraw, the proposed rule, the committee may vote to temporarily suspend the rule. A certified copy of the committee suspension shall be transmitted to the Governor, to the agency head, and to the Department of State for publication in the next available issue of the Florida Administrative Weekly. The committee shall prepare and present to the President of the Senate and the Speaker of the House of Representatives a proposed bill that prohibits the suspended proposed rule, or portion thereof, from being adopted. At the next regular session, the President of the Senate and the Speaker of the House of Representatives shall cause the bill to be introduced. The bill shall be filed as a general bill in both houses of the Legislature and shall be subject to gubernatorial action as such. If the bill fails to become a law, the suspension shall expire. If the bill is enacted into law, the agency is prohibited from adopting the suspended proposed rule or the suspended portion thereof. The Department of State shall publish in the next available issue of the Florida Administrative Weekly the final legislative and executive action taken on the suspension.*

(d) *An agency may not base any agency action on a suspended proposed rule, or portion thereof, prior to the suspension expiring or until*

appropriate legislative authority has been delegated. A proposed rule, or a portion thereof, on which the suspension has expired shall continue to be subject to an administrative determination and judicial review as provided by law

Section 9. Paragraph (a) of subsection (1), paragraph (a) of subsection (4), and paragraph (c) of subsection (5) of section 120.55, Florida Statutes, are amended to read:

120.55 Publication.—

(1) The Department of State shall:

(a)1. Publish in a permanent compilation entitled "Florida Administrative Code" all rules adopted by each agency, citing the specific rule-making authority pursuant to which each rule was adopted, all history notes as authorized in s. 120.545(8), and complete indexes to all rules contained in the code. Supplementation shall be made as often as practicable, but at least monthly. The department ~~may~~ shall contract with a publishing firm for the publication, in a timely and useful form, of the Florida Administrative Code; however, the department shall retain responsibility for the code as provided in this section. This publication shall be the official compilation of the administrative rules of this state. *The Department of State shall retain the copyright over the text of the administrative code.*

2. Rules general in form but applicable to only one school district, community college district, or county, or a part thereof, or university rules relating to internal personnel or business and finance shall not be published in the Florida Administrative Code. Exclusion from publication in the Florida Administrative Code shall not affect the validity or effectiveness of such rules.

3. At the beginning of the section of the code dealing with an agency that files copies of its rules with the department, the department shall publish a summary or listing of all rules of that agency excluded from publication in the code and a statement as to where those rules may be inspected or examined and shall also publish any exemptions granted that agency pursuant to s. 120.63, including the termination date of the exemption and a statement whether the exemption can be renewed pursuant to s. 120.63(2)(b).

4. Forms shall not be published in the Florida Administrative Code; but any form which an agency uses in its dealings with the public, along with any accompanying instructions, shall be filed with the committee before it is used. Any form or instruction which meets the definition of "rule" provided in s. 120.52(16) shall be incorporated by reference into the appropriate rule. The reference shall specifically state that the form is being incorporated by reference and shall include the number, title, and effective date of the form and an explanation of how the form may be obtained.

(4)(a) Each year the Department of State shall furnish the Florida Administrative Weekly, without charge and upon request, as follows:

1. One subscription to each federal and state court having jurisdiction over the residents of the state; the Legislative Library; each state university library; the State Library; each depository library designated pursuant to s. 257.05; and each standing committee of the Senate and House of Representatives and each state legislator ~~upon request of the Senate President's or House Speaker's Office.~~

2. Two subscriptions to each state department.

3. Three subscriptions to the library of the Supreme Court of Florida, the library of each state district court of appeal, the division, the library of the Attorney General, each law school library in Florida, the Secretary of the Senate, and the Clerk of the House.

4. Ten subscriptions to the committee.

(5)

(c) The unencumbered balance in the revolving trust fund at the beginning of each fiscal year shall not exceed \$300,000 ~~\$100,000~~, and any excess shall be transferred to the General Revenue Fund.

Section 10. Subsection (2) of section 120.56, Florida Statutes, is amended to read:

120.56 Administrative determination of rule by hearing officer.—

(2) The petition seeking an administrative determination under this section shall be in writing and shall state with particularity facts sufficient to show the person seeking relief is substantially affected by the rule and facts sufficient to show the invalidity of the rule. The petition shall be filed with the division which shall, immediately upon filing, forward copies of the petition to the agency whose rule is challenged, the Department of State, and the committee. Within 10 days after receiving the petition, the division director shall, if he determines that the petition complies with the above requirements, assign a hearing officer who shall conduct a hearing within 30 days thereafter, unless the petition is withdrawn or a continuance is granted by agreement of the parties or for good cause shown.

Section 11. Subsection (4) is added to section 120.58, Florida Statutes, to read:

120.58 Agency action; evidence, record and subpoenas.—

(4) In proceedings pursuant to ss. 120.54 and 120.56, evidence of legislative history is admissible, including the following:

- (a) Reports of special committees, commissions, and councils.
- (b) Reports of conference committees.
- (c) Records of committee proceedings.
- (d) Floor debates.
- (e) Journals of the Senate and the House of Representatives.

Section 12. Subsection (2) of section 120.68, Florida Statutes, is amended, and subsection (16) is added to that section, to read:

120.68 Judicial review.—

(2)(a) Except in matters for which judicial review by the Supreme Court is provided by law, all proceedings for review shall be instituted by filing a petition in the district court of appeal in the appellate district where the agency maintains its headquarters or where a party resides. If the appeal is of an order rendered in a proceeding initiated under s. 120.54(4) or under s. 120.56, the agency whose rule is being challenged shall transmit a copy of the notice of appeal to the committee. Review proceedings shall be conducted in accordance with the Florida Rules of Appellate Procedure.

(b) When proceedings under this chapter are consolidated for final hearing and the parties to the consolidated proceeding seek review of final or interlocutory orders in more than one district court of appeal, the courts of appeal may transfer and consolidate the review proceedings. A court may transfer such appellate proceedings on its own motion, upon motion of a party to one of the appellate proceedings, or by stipulation of the parties to the appellate proceedings. In determining whether to transfer a proceeding, the court may consider such factors as the interrelationships of the parties and the proceedings, the desirability of avoiding inconsistent results in related matters, judicial economy, and the burden on the parties of reproducing the record for use in multiple appellate courts.

(16) The standard for judicial review of a final order determining the validity of a rule or proposed rule is whether the decision of the hearing officer is supported by competent substantial evidence.

Section 13. Before October 1, 1996, the Legislature shall review chapter 120, Florida Statutes, to consider changes to that chapter based on the following factors:

- (1) An administrative process that is not overly complex or burdensome;
- (2) An administrative process that provides easy access to the process for parties affected by agency action;
- (3) An administrative process that is not costly to participate in;
- (4) An administrative process that gives equal consideration to the position of the affected party and the agency; and
- (5) Any other factor that the Legislature considers appropriate based on the Legislature's examination of the chapter or based on comments or recommendations made by any public official, organization, or person.

Section 14. The Joint Administrative Procedures Committee does not have the authority to vote to temporarily suspend a proposed rule, as provided in section 8 of this act, until January 1, 1995.

Section 15. This act shall take effect July 1, 1994.

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 administrative rules; amending s. 11.60, F.S.; revising membership of the Administrative Procedures Committee; requiring reports of the committee to contain certain information; prescribing duties of the committee to continuously review the administrative rulemaking process; amending s. 120.51, F.S.; prescribing requirements that must be considered before an agency may be given rulemaking power by the Legislature; amending s. 120.52, F.S.; redefining the term "invalid exercise of delegated legislative authority," and defining the term "small county," for purposes of the Administrative Procedure Act; amending s. 120.535, F.S.; prescribing authority of the Administrative Procedures Committee to seek an administrative determination that an agency statement violates the requirement that rulemaking be feasible and practicable; creating s. 120.534, F.S.; describing rulemaking authority that must be granted before an agency may adopt a rule; providing for review and repeal of rules that were adopted in excess of rulemaking authority as limited in this act; amending s. 120.54, F.S.; requiring additional information to be given in notices of proposed rules; providing for agencies to prepare rule development statements and prescribing the content of such statements; providing for statements of estimated regulatory costs; requiring consideration of rule impact on small counties as well as on small businesses; revising provisions on who may challenge a proposed rule, grounds for challenge, and when a challenge must be filed; providing for continuance of a rule hearing; requiring preparation of a rulemaking record; revising requirements for preparation of model rules; prescribing duties of agencies in considering alternative regulatory approaches; revising limits on when a rule may be filed for adoption; requiring filing of additional materials; providing for notice when a rule to be adopted is unchanged from the rule as previously filed; requiring additional information to be included with that certified when a rule is filed; providing for the Department of State to reject certain rules; requiring agencies to report to the Legislature with respect to simplifying and clarifying rules; amending s. 120.545, F.S.; prescribing procedures when the Administrative Procedures Committee objects to a rule; amending s. 120.55, F.S.; authorizing rather than requiring a contract; providing that the Department of State shall retain the copyright over the text of the Florida Administrative Code; increasing an allowable amount of unencumbered funds in the revolving trust fund; amending s. 120.56, F.S.; revising provisions with respect to the administrative determination of a rule by hearing officer; defining good cause; amending s. 120.58, F.S.; providing that legislative history shall be admissible under certain circumstances; amending s. 120.68, F.S.; revising provisions with respect to judicial review; providing for legislative review of ch. 120, F.S.; relating to administrative procedures; providing effective dates.

Senator Kiser offered the following amendment to Amendment 2 which was moved by Senator Williams and adopted:

Amendment 2A (with Title Amendment)—On page 39, between lines 27 and 28, insert:

Section . Subsection (1) of section 120.57, Florida Statutes, is amended to read:

120.57 Decisions which affect substantial interests.—The provisions of this section apply in all proceedings in which the substantial interests of a party are determined by an agency, unless such proceedings are exempt pursuant to subsection (5). Unless waived by all parties, subsection (1) applies whenever the proceeding involves a disputed issue of material fact. Unless otherwise agreed, subsection (2) applies in all other cases.

(1) FORMAL PROCEEDINGS.—

(a) A hearing officer assigned by the division shall conduct all hearings under this subsection, except for:

1. Hearings before agency heads or a member thereof other than an agency head or a member of an agency head within the Department of Business and Professional Regulation;
2. Hearings before the Unemployment Appeals Commission in unemployment compensation appeals, unemployment compensation appeals referees, and special deputies pursuant to s. 443.141;
3. Hearings regarding drivers' licensing pursuant to chapter 322;

4. Hearings conducted within the Department of Health and Rehabilitative Services in the execution of those social and economic programs administered by the former Division of Family Services of said department prior to the reorganization effected by chapter 75-48, Laws of Florida;

5. Hearings in which the division is a party, in which case an attorney assigned by the Administration Commission shall be the hearing officer;

6. Hearings which involve student disciplinary suspensions or expulsions and which are conducted by educational units;

7. Hearings of the Public Employees Relations Commission in which a determination is made of the appropriateness of the bargaining unit, as provided in s. 447.307;

8. Hearings held by the Department of Agriculture and Consumer Services pursuant to chapter 601; and

9. Hearings held by the Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles to deny, suspend, or remove a wrecker operator from participating in the wrecker rotation system established by s. 321.051. Such hearings shall be held by a hearing officer appointed by the director of the Division of Florida Highway Patrol.

(b) In any case to which this subsection is applicable, the following procedures apply:

1. A request for a hearing shall be granted or denied within 15 days of receipt.

2. All parties shall be afforded an opportunity for a hearing after reasonable notice of not less than 14 days; however, the 14-day notice requirement may be waived with the consent of all parties. In a preliminary hearing for the revocation of parole, no less than 7 days' notice shall be given. In a hearing involving a student disciplinary suspension or expulsion conducted by an educational unit, the 14-day notice requirement may be waived by the agency head or the hearing officer without the consent of the parties. The notice shall include:

a. A statement of the time, place, and nature of the hearing.

b. A statement of the legal authority and jurisdiction under which the hearing is to be held.

c. A reference to the particular sections of the statutes and rules involved.

d. Except for any hearing before an unemployment compensation appeals referee, a short and plain statement of the matters asserted by the agency and by all parties of record at the time notice is given. If the agency or any party is unable to state the matters in sufficient detail at the time initial notice is given, the notice may be limited to a statement of the issues involved, and thereafter, upon timely written application, a more definite and detailed statement shall be furnished not less than 3 days prior to the date set for the hearing.

3. Each announcement of an agency decision that affects substantial interests must advise whether mediation of the administrative dispute is available without affecting the right to an administrative hearing. If the agency and all parties to the administrative action consent to mediation, in writing, within the time period stated in the announcement for election of an administrative remedy under this section, the time limitations imposed by this section shall be tolled to allow the agency and parties to mediate the administrative dispute. The mediation agreement must include provisions for mediator selection, the allocation of costs and fees associated with mediation, and the mediating parties' understanding regarding the confidentiality of discussions and documents introduced during mediation. If mediation results in settlement of the administrative dispute, the agency shall enter a final order incorporating the agreement of the parties. If mediation terminates without settlement of the dispute, the agency shall notify the parties in writing that the administrative hearing processes under this section remain available for disposition of the dispute and shall state with particularity the deadlines for challenging the agency action and electing remedies under this section.

4.3. Except for any proceeding conducted as prescribed in s. 120.54(4) or s. 120.56, a petition or request for a hearing under this section shall be filed with the agency. If the agency elects to request a hearing officer from the division, it shall so notify the division within 15 days of receipt

of the petition or request. When the Florida Land and Water Adjudicatory Commission receives a notice of appeal pursuant to s. 380.07, the commission shall notify the division within 60 days of receipt of the notice of appeal if the commission elects to request the assignment of a hearing officer. On the request of any agency, the division shall assign a hearing officer with due regard to the expertise required for the particular matter. The referring agency shall take no further action with respect to the formal proceeding, except as a party litigant, as long as the division has jurisdiction over the formal proceeding. Any party may request the disqualification of the hearing officer by filing an affidavit with the division prior to the taking of evidence at a hearing, stating the grounds with particularity.

~~4. All parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of facts and orders, to file exceptions to any order or hearing officer's recommended order, and to be represented by counsel. When appropriate, the general public may be given an opportunity to present oral or written communications. If the agency proposes to consider such material, then all parties shall be given an opportunity to cross-examine or challenge or rebut it.~~

5. All pleadings, motions, or other papers filed in the proceeding must be signed by a party, the party's attorney, or the party's qualified representative. The signature of a party, a party's attorney, or a party's qualified representative 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 purposes, such as to harass or to cause unnecessary delay or for frivolous purpose 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 ~~must~~ may include an order to pay the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion, or other paper. ~~The sanction may also include an order to pay the other party or parties the amount of, including a reasonable attorney's fee incurred because of the filing of the pleading, motion, or other paper.~~

6. Each agency statement defined as a rule under s. 120.52 and not adopted by the rulemaking procedure provided by s. 120.54 which is relied upon by an agency to determine the substantial interests of a party shall be subject to de novo review by a hearing officer. A statement shall not enlarge, modify, or contravene the specific provision of law implemented or otherwise exceed delegated legislative authority. The statement applied as a result of a proceeding pursuant to this subsection shall be demonstrated to be within the scope of delegated legislative authority. Recommended and final orders pursuant to this subsection shall provide an explanation of the statement that includes the evidentiary basis which supports the statement applied and a general discussion of the justification for the statement applied.

7. Recognizing that the formal adjudicatory hearing process established by the Administrative Procedure Act of 1974 has become litigiously complex and financially burdensome to the residents and the governmental agencies of this state, the Legislature hereby establishes a bifurcated hearing process to encourage the expeditious and cost-effective resolution of administrative disputes.

a. Within 5 business days following the division's receipt of a petition or request for hearing, the division shall issue and serve on all parties an initial order that assigns the case to a specific hearing officer and provides general information regarding practice and procedure before the division. The initial order shall also contain a statement printed in at least 14-point boldfaced type, advising the addressees that a summary hearing is available under paragraph (c) and briefly describing the expedited time sequences, limited discovery, and final order provisions of the summary procedure.

b. Within 20 days after service of the initial order, any party may file with the division a motion for summary hearing in accordance with paragraph (c). Other parties to the proceeding may, within 7 days after service of the motion, file written memoranda in opposition, which may include an allegation that the case involves significant policy considerations for which the agency has special responsibility which are not susceptible to ordinary methods of proof and which cannot be addressed adequately in the summary hearing process. If the hearing officer determines that the case is not appropriate for summary disposition on the

grounds that it does involve significant policy considerations for which the agency has special responsibility which are not susceptible to ordinary methods of proof and which cannot be addressed adequately in the summary hearing process, the hearing officer shall issue an order, not subject to appeal under s. 120.68, directing that the case proceed in accordance with the formal adjudicatory processes of this paragraph and the remaining provisions of this subparagraph shall not apply.

c. In the discretion of the hearing officer, a hearing on the motion may be scheduled and conducted by telephone conference call. Within 20 days after service of the motion or within 15 days after any hearing on the motion, whichever is later, the hearing officer shall issue an order directing how the case will proceed and detailing the reasons for that decision.

d. The hearing officer shall determine whether to conduct the proceeding in accordance with the summary procedure described in paragraph (c) by considering the following six factors:

(I) Whether, having been duly served with the initial order, the parties understand the differences between the two types of formal administrative hearings available under this paragraph and paragraph (c), as well as the procedure for selecting the appropriate hearing process.

(II) The apparent factual and legal complexity of the issues.

(III) The number of entities involved, including any agency, party, and potential intervenor.

(IV) The number and expertise of witnesses who may testify at the final hearing.

(V) The amount of any fine or penalty that may be imposed if the allegations of the petition are proven at the final hearing.

(VI) The nature and type of the case and how cases involving similar parties and circumstances usually proceed.

e. The hearing officer's determination is not subject to appeal as an interlocutory or non-final order under s. 120.68. An order directing that the case proceed in accordance with paragraph (c) must also include a date for the final administrative hearing, which date must not be more than 45 days after the date of the order.

f. Intervenors in the proceeding are governed by the decision of the hearing officer regarding whether the case will proceed in accordance with the summary hearing process in paragraph (c) and do not have standing to challenge that decision.

g. If the case proceeds in accordance with paragraph (c), the remaining provisions of this paragraph do not apply.

h. If a motion for summary hearing under paragraph (c) is not filed within 20 days after service of the division's initial order, the matter shall proceed in accordance with the remaining provisions of this paragraph.

8. All parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of facts and orders, to file exceptions to any order or hearing officer's recommended order, and to be represented by counsel. When appropriate, the general public may be given an opportunity to present oral or written communications. If the agency proposes to consider such material, all parties must be given an opportunity to cross-examine or challenge or rebut it.

9.6. The record in a case governed by this paragraph subsection shall consist only of:

- a. All notices, pleadings, motions, and intermediate rulings;
- b. Evidence received or considered;
- c. A statement of matters officially recognized;
- d. Questions and proffers of proof and objections and rulings thereon;
- e. Proposed findings and exceptions;
- f. Any decision, opinion, proposed or recommended order, or report by the officer presiding at the hearing;

g. All staff memoranda or data submitted to the hearing officer during the hearing or prior to its disposition, after notice of the submission to all parties, except communications by advisory staff as permitted under s. 120.66(1), if such communications are public records;

h. All matters placed on the record after an ex parte communication pursuant to s. 120.66(2); and

i. The official transcript.

10.7. The agency shall accurately and completely preserve all testimony in the proceeding, and, on the request of any party, it shall make a full or partial transcript available at no more than actual cost. In any proceeding before a hearing officer initiated by a consumptive use permit applicant pursuant to subparagraph 17. 14., the applicant shall bear the cost of accurately and completely preserving all testimony and providing full or partial transcripts to the water management district. At the request of any other party, full or partial transcripts shall be provided at no more than cost.

11.8. Findings of fact shall be based exclusively on the evidence of record and on matters officially recognized.

12.9. Except as provided in subparagraph 16.13., the hearing officer shall complete and submit to the agency and all parties a recommended order consisting of his findings of fact, conclusions of law, interpretation of administrative rules, and recommended penalty, if applicable, and any other information required by law or agency rule to be contained in the final order. The agency shall allow each party at least 10 days in which to submit written exceptions to the recommended order.

13.10. The agency may adopt the recommended order as the final order of the agency. The agency in its final order may reject or modify the conclusions of law and interpretation of administrative rules in the recommended order. The agency may not reject or modify the findings of fact, including findings of fact that form the basis for an agency statement, unless the agency first determines from a review of the complete record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. The agency may accept the recommended penalty in a recommended order, but may not reduce or increase it without a review of the complete record and without stating with particularity its reasons therefor in the order, by citing to the record in justifying the action. When there is an appeal, the court in its discretion may award reasonable attorney's fees and costs to the prevailing party if the court finds that the appeal was frivolous, meritless, or an abuse of the appellate process or that the agency action which precipitated the appeal was an abuse of the agency's discretion.

14.11. If the hearing officer assigned to a hearing becomes unavailable, the division shall assign another hearing officer who shall use any existing record and receive any additional evidence or argument, if any, which the new hearing officer finds necessary.

15.12. A hearing officer who is a member of an agency head may participate in the formulation of the final order of the agency, provided he has completed all his duties as hearing officer.

16.13. In any application for a license or merger pursuant to title XXXVIII which is referred by the agency to the division for hearing pursuant to this section, the hearing officer shall complete and submit to the agency and to all parties a written report consisting of findings of fact and rulings on evidentiary matters. The agency shall allow each party at least 10 days in which to submit written exceptions to the report.

17.14. In any application for a consumptive use permit pursuant to part II of chapter 373, the water management district on its own motion may, or, at the request of the applicant for the permit, shall, refer the matter to the division for the appointment of a hearing officer to conduct a hearing under this section.

15. Each agency statement defined as a rule under s. 120.52 and not adopted by the rulemaking procedure provided by s. 120.54 which is relied upon by an agency to determine the substantial interests of a party shall be subject to de novo review by a hearing officer. A statement shall not enlarge, modify, or contravene the specific provision of law implemented or otherwise exceed delegated legislative authority. The statement applied as a result of a proceeding pursuant to this subsection shall be demonstrated to be within the scope of delegated legislative authority. Recommended and final orders pursuant to this subsection shall provide

~~an explanation of the statement that includes the evidentiary basis which supports the statement applied and a general discussion of the justification for the statement applied.~~

(c) In any case to which this paragraph applies, the following procedures apply:

1. Motions are be limited to the following:

a. A motion in opposition to the petition.

b. A motion requesting discovery beyond the informal exchange of documents and witness lists described in subparagraph 2. Upon a showing of necessity, additional discovery may be allowed in the discretion of the hearing officer, but only if it can be completed not later than 5 days before the final hearing.

c. A motion for continuance of the final hearing date.

d. A motion requesting a prehearing conference, or the hearing officer may require a prehearing conference, for the purpose of identifying: the legal and factual issues to be considered at the final hearing; the names and addresses of witnesses that may be called to testify at the final hearing; documentary evidence that will be offered at the final hearing; the range of penalties that may be imposed upon final hearing; and any other matter that the hearing officer determines would expedite resolution of the proceeding. The prehearing conference may be held by telephone conference call.

e. During or after any preliminary hearing or conference, any party or the hearing officer may suggest that the case is no longer appropriate for summary disposition based on the six factors described in subparagraph (b)7.d. Following any argument requested by the parties, the hearing officer may enter an order referring the case back to the formal adjudicatory process described in paragraph (b), in which event the parties shall proceed accordingly and the remaining provisions of this paragraph do not apply to the proceeding.

2. Not later than 5 days before the final hearing, the parties shall furnish to each other copies of documentary evidence and lists of witnesses who may testify at the final hearing.

3. All parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, and to be represented by counsel or other qualified representative.

4. The record in a case governed by this paragraph shall consist only of:

a. All notices, pleadings, motions, and intermediate rulings.

b. Evidence received.

c. A statement of matters officially recognized.

d. Proffers of proof and objections and rulings thereon.

e. Matters placed on the record after an *ex parte* communication pursuant to s. 120.66(2).

f. The written decision of the hearing officer presiding at the final hearing.

g. The official transcript of the final hearing.

5. The agency shall accurately and completely preserve all testimony in the proceeding and, upon request by any party, shall make a full or partial transcript available at no more than actual cost.

6. The decision of the hearing officer shall be rendered within 30 days after the conclusion of the final hearing or the filing of the transcript thereof, whichever is later. The hearing officer's decision, which shall be final agency action subject to judicial review under s. 120.68, shall include the following:

a. Findings of fact based exclusively on the evidence of record and matters officially recognized.

b. Conclusions of law and interpretations of administrative rules.

c. Imposition of a fine or penalty, if applicable.

d. Any other information required by law or rule to be contained in a final order.

7. If the hearing officer assigned to a proceeding becomes unavailable, the division shall assign another hearing officer who shall use the existing record and receive any additional evidence or argument that the new hearing officer finds necessary.

8. For a period of 2 years following the effective date of this act, the division shall maintain a register of the total number of formal proceedings filed with the division under this subsection. Unless otherwise prohibited by law, the register shall identify the cases wherein a party requested a summary final hearing under this paragraph, including the names, addresses, and telephone numbers of the party that requested a summary hearing and any party that objected to a summary hearing, and shall briefly summarize the reasons for the hearing officer's determination of whether or not the case would proceed through summary disposition. The division shall transmit a copy of the register to the President of the Senate and the Speaker of the House of Representatives on or before December 31 of the 3 calendar years following the effective date of this act.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 4, line 20, after the semicolon (;) insert: amending s. 120.57, F.S.; revising procedures for formal proceedings relating to state-agency decisions that affect the substantial interests of a party, when such proceeding involves a disputed issue of material fact;

Amendment 2 as amended was adopted.

On motion by Senator Williams, by two-thirds vote **CS for SB 1440** 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—2

MOTION

On motion by Senator Kirkpatrick, the rules were waived and time of recess was extended until 6:00 p.m.

The Senate resumed consideration of—

CS for HB 309—A bill to be entitled An act relating to referenda; amending s. 101.161, F.S.; providing filing requirements for challenges to the legal sufficiency of the ballot language of a constitutional amendment proposed by the constitution revision commission or the taxation and budget reform commission; providing for revision of the ballot language of such a proposed constitutional amendment under certain circumstances; providing an effective date.

—with pending **Amendment 2A** by Senator Crenshaw, which was deferred on a point of order by Senator Boczar on April 5.

RULING ON POINT OF ORDER

On recommendation of Senator Kirkpatrick, Chairman of the Committee on Rules and Calendar, the President ruled the point not well taken.

The question recurred on **Amendment 2A** which failed.

The question recurred on **Amendment 2** which was adopted. The vote was:

Yeas—17 Nays—13

SENATOR SIEGEL PRESIDING

RECONSIDERATION OF AMENDMENT

On motion by Senator Crenshaw, the Senate reconsidered the vote by which **Amendment 2** was adopted.

Senator Crenshaw moved the following substitute amendment:

Amendment 3 (with Title Amendment)—On page 3, between lines 7 and 8, insert:

Section 2. Section 106.1445, Florida Statutes, is created to read:

106.1445 Circumvention of campaign contribution limits prohibited.—

(1) Inasmuch as the Legislature has determined that the imposition and enforcement of campaign contribution limits are essential to maintaining public confidence in the electoral process, a person who seeks to qualify for nomination or election to a public office or who holds an elective public office may not use a petition drive for a constitutional amendment to evade the limitations on campaign contributions prescribed by law.

(2) Upon opening an account pursuant to s. 106.021, any person eligible to receive funds from the Election Campaign Financing Trust Fund may not appear, or allow his name or image to be used, in any print, broadcast, cable, or mail advertisement that supports or opposes a constitutional amendment, unless:

(a) The advertisement is paid for by that person or a campaign account established under s. 106.021; or

(b) The political committee or committee of continuous existence that is promoting the constitutional amendment petition, or proposed constitutional amendment, establishes a maximum contribution limit of \$500 or less for a contribution from any person.

(3) In addition to any other penalty provided under s. 106.265, a person who violates subsection (2) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 11, insert: creating s. 106.1445, F.S.; prohibiting a specified candidate for public office from allowing his name or image to be used in support or opposition of a constitutional amendment; providing a penalty;

Senator Crenshaw moved the following amendment to **Amendment 3** which was adopted:

Amendment 3A—On page 1, line 16, after "Trust" insert: Fund

Amendment 3 as amended was adopted. The vote was:

Yeas—19 Nays—13

On motion by Senator Crist, by two-thirds vote **CS for HB 309** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—25 Nays—7

THE PRESIDENT PRESIDING

SENATOR CHILDERS PRESIDING

On motions by Senator Johnson, by two-thirds vote **CS for HB 107** was withdrawn from the Committees on Education and Appropriations.

On motion by Senator Johnson, the rules were waived and—

CS for HB 107—A bill to be entitled An act relating to postsecondary education; amending s. 240.2605, F.S.; revising provisions relating to the Trust Fund for Major Gifts; providing purpose; providing Board of Regents' duties; providing for matching donations; providing for university accounts; providing prohibited uses; amending s. 240.2601, F.S.; revising provisions relating to funding requirements for the State University System Facility Enhancement Challenge Grant Program; repealing ss. 240.257 and 240.259, F.S., relating to the Florida Endowment Trust Fund for Eminent Scholars Act and the Trust Fund for New Donors; providing an effective date.

—a companion measure, was substituted for **CS for SB 1930** and read the second time by title.

Senator Johnson moved the following amendment which was adopted:

Amendment 1—On page 1, lines 29 and 30, strike "for the improvement of the operation of educational and academic programs" and insert: *to support libraries and instruction and research programs, as defined by rule of the Board of Regents*

Senator Hargrett moved the following amendments which were adopted:

Amendment 2 (with Title Amendment)—On page 6, between lines 10 and 11, insert:

Section 3. Section 233.061, Florida Statutes, is amended to read:

233.061 Required instruction.—

(1) Members of the instructional staff of the public schools, subject to the rules and regulations of the state board and of the school board, shall teach efficiently and faithfully, using the books and materials required, following the prescribed courses of study, and employing approved methods of instruction the following:

(a) The content of the Declaration of Independence and how it forms the philosophical foundation of our government;

(b) The arguments in support of adopting our republican form of government, as they are embodied in the most important of the Federalist Papers;

(c) The essentials of the United States Constitution and how it provides the structure of our government;

(d) Flag education, including proper flag display and flag salute;

(e) The elements of civil government;

(f) *The history of African Americans, including the history of African peoples before the political conflicts that led to the development of slavery, the passage to America, the enslavement experience, abolition, and the contributions of African Americans to society.*

(g) The elementary principles of agriculture;

(h) The true effects of all alcoholic and intoxicating liquors and beverages and narcotics upon the human body and mind;

(i) Kindness to animals;

(j) The history of the state;

(k) *The conservation of natural resources; and*

(l) Such additional materials, subjects, courses, or fields in such grades as may be prescribed by law or by ~~rules regulations~~ of the state board and the school board in fulfilling the requirements of law; ~~provided, that~~

(2) State and district school officials shall furnish and put into execution a system and method of teaching the true effects of alcohol and narcotics on the human body and mind, provide the necessary textbooks, literature, equipment, and directions, see that such subjects are efficiently taught by means of pictures, charts, oral instruction, and lectures and other approved methods, and require such reports as are deemed necessary to show the work which is being covered and the results being accomplished; ~~and provided further, that~~

(3) Any child whose parent ~~presents shall present~~ to the school principal a signed statement that the teaching of disease, its symptoms, development, and treatment, and the viewing of pictures or motion pictures ~~that teach about disease conflict of such subjects conflict~~ with the religious teachings of ~~the child's their~~ church, ~~is shall be exempt from such instruction; and a no child so exempted may not exempt shall be penalized by reason of that such exemption.~~

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 11, after the semicolon (;) insert: amending s. 233.061, F.S., relating to required instruction; requiring the teaching of African-American history;

Amendment 3 (with Title Amendment)—On page 6, between lines 10 and 11, insert:

Section 3. A chartered, nonprofit, nonpartisan public interest organization may be established at any campus of the State University System if, and only if, a majority of students who vote in a certified student government election vote to establish the organization and vote to create an additional waivable refundable fee to finance the organization. Upon completion of such a vote, the university president at that campus shall authorize the collection of the fee. The university may recover its costs incurred in collecting the fee, providing such costs not exceed 10 percent of the fees collected.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 11, after the semicolon (;) insert: providing for establishment of chartered nonprofit public interest organizations on university campuses;

Senator Harden moved the following amendment which was adopted:

Amendment 4 (with Title Amendment)—On page 1, between lines 18 and 19, insert:

Section 1. A group, association, organization, or corporate entity may not solicit funds at any institution in the State University System unless each solicitation is subject to and conditioned upon the positive indication of acceptance by the solicitee.

And the title is amended as follows:

In title, on page 1, line 15, after the semicolon (;) insert: prescribing limitations upon solicitations on the premises of institutions in the State University System;

The vote was:

Yeas—17 Nays—16

On motion by Senator Johnson, by two-thirds vote **CS for HB 107** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—26 Nays—7

Consideration of **CS for CS for SB 1422** was deferred.

On motion by Senator Jennings, by two-thirds vote **CS for HB 1743** was withdrawn from the Committee on Natural Resources and Conservation.

On motions by Senator Jennings, the rules were waived and by two-thirds vote—

CS for HB 1743—A bill to be entitled An act relating to wastewater reuse; creating the “Florida APRICOT Act”; amending s. 403.086, F.S.; providing requirements for backup discharges of reclaimed water from sewage disposal facilities; providing for backflow prevention devices on certain potable water lines; amending s. 403.859, F.S.; revising provisions allowing discharge of certain reclaimed water into the Floridan and Bis-cayne Aquifers; providing an effective date.

—a companion measure, was substituted for **SB 1866** and by two-thirds vote read the second time by title. On motion by Senator Jennings, by two-thirds vote **CS for HB 1743** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—None

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Wednesday, April 6, 1994: CS for CS for SB 1824, CS for SB 1440, CS for HB 309, CS for SB 1930, CS for CS for SB 1422, SB 1866, CS for SB 480, CS for CS for SB 1608, CS for SB 2704, SB 574, CS for SB 1914, SB 1042, SB 1244, CS for CS for CS for SB’s 1022 and 2404, CS for SB 30, SB 386, SB 2564, CS for SB 434, CS for SB 2350, CS for SB 2380, CS for SB 1826, SB 1828, CS for SB 1540, SB 1832, CS for SB 2042, SB 1360, SB 352, CS for SB 576, CS for SB 1992, SB 2120, CS for SB 1806, SB 2188, HB 343, SB 2062, SB 198, CS for SB 1068, CS for SB 1228 and CS for SB 1910, CS for SB 1320, CS for SB 1378, SB 1536, CS for SB 1944, SB 2658, CS for SB 2536, CS for SB 140, CS for SB 176, CS for SB 552, CS for SB 690, SB 1612, SB 1726, CS for SB 1728, CS for CS for SB 1750, CS for CS for SB 1858, CS for SB 1936, CS for SB 426, SB 2322, CS for SB 242, CS for SB’s 136 and 1716, SB 244, CS for SB 2044, CS for SB’s 302 and 196, SB 1450, SB 1618

Respectfully submitted,
George Kirkpatrick, Chairman

The Committee on Finance, Taxation and Claims recommends the following pass: CS for SB 378 with 1 amendment, SB 1324 with 1 amendment, SB 1330 with 1 amendment, CS for SB 1616, CS for SB 2132 with 1 amendment, CS for SB 2326 with 5 amendments, CS for SB 3020 with 2 amendments

The bills were referred to the Committee on Appropriations under the original reference.

The Special Master on Claims recommends the following pass: CS for HB 1541

The bill was referred to the Committee on Finance, Taxation and Claims under the original reference.

The Committee on Appropriations recommends the following pass: CS for SB 1474, CS for CS for SB’s 1564, 1736 and 2194 with 1 amendment, SB 1566, CS for SB 1774, CS for SB 2170

The Committee on Finance, Taxation and Claims recommends the following pass: HB 585, CS for HB 1391, SB 22, SB 3150

The Committee on Rules and Calendar recommends the following pass: SM 154 with 1 amendment

The bills contained in the foregoing reports were placed on the calendar.

The Committee on Appropriations recommends the following not pass: CS for SB 1704

The bill was laid on the table.

The Committee on Finance, Taxation and Claims recommends committee substitutes for the following: SB 1774, CS for SB 2918

The bills with committee substitutes attached were referred to the Committee on Appropriations under the original reference.

The Committee on Rules and Calendar recommends a committee substitute for the following: CS for SB 1350

The bill with committee substitute attached was placed on the calendar.

INTRODUCTION AND REFERENCE OF BILLS

FIRST READING

SR 3158 was introduced out of order and adopted this day.

COMMITTEE SUBSTITUTES

FIRST READING

By the Committees on Rules and Calendar; Natural Resources and Conservation; and Senators Dantzler and Grant—

CS for CS for SB 1350—A bill to be entitled An act relating to Everglades restoration; amending s. 373.4592, F.S.; providing legislative findings and intent with respect to restoring the Everglades; providing definitions; exempting the Everglades Protection Area and the Everglades Agricultural Area from the Everglades SWIM Plan during the term of the Everglades Program; providing that the district is not prohibited from adopting a SWIM for Florida Bay and C-111 Basin; deleting provisions requiring the adoption of an Everglades SWIM Plan directing the South Florida Water Management District to implement the Everglades Construction Project; limiting ad valorem expenditures in the Okeechobee Basin for the project; providing a preference for displaced workers; providing milestones for completion of the project; requiring the

district to improve the hydroperiod of the Everglades Protection Area; reducing wasteful discharge to tide and requiring water conservation and reuse; requiring a specified increased flow to the Everglades Protection Area; requiring the district to develop a model for quantifying the amount of water to be replaced; requiring coordination with the Federal Government; removing certain tracts from STA 3/4; requiring a monitoring program to evaluate effectiveness of the stormwater treatment areas and best management practices for these areas; requiring the district to submit certain reports to the Governor and Legislature; requiring the Department of Environmental Protection and the district to determine long-term water quality standards and criteria; providing for evaluation of water quality standards; providing for permittees in compliance with best-management practices permit conditions to be exempted from other water-quality improvement measures until December 31, 2006; providing exceptions; providing for water-supply and hydroperiod improvement; providing that certain landowners may not exceed a specified phosphorous loading; requiring the department and the district to implement a water-quality monitoring program; requiring the implementation of BMP's for certain areas; requiring monitoring and control of exotic species; providing for farmers adversely impacted by land acquisition to have priority in leasing state and water management district lands; providing for a specified lease renewal by the Department of Corrections; providing for an Everglades agricultural privilege tax and a C-139 agricultural privilege tax; providing for tax deferments; requiring the Department of Agriculture and Consumer Services to prepare a report; providing procedures for challenging these taxes; providing for special assessments; deleting provisions providing for the creation of stormwater utilities; allowing the district to levy special assessments within stormwater management system benefit areas; allowing the district to begin construction and operation of the Everglades Construction Project prior to receiving a department permit; requiring the district to apply for a permit to construct, operate, and maintain the Everglades Construction Project; authorizing stormwater-treatment-area discharges into the Everglades Protection Area under certain conditions; allowing the district to apply for permit modifications; providing criteria for stormwater-treatment-area compliance; providing for long-term compliance permits; requiring the district to submit to the department certain permit modifications; specifying what the permit application must include; providing that certain water-quality standards are not altered; providing that certain relief mechanisms may not be granted for certain discharges except under certain circumstances; providing that certain landowners or permittees must meet a specified phosphorous-discharge limit; preserving the rights of the Seminole Tribe of Florida under the Water Rights Compact; directing the district to establish an Everglades Fund; providing uses for the fund; amending s. 298.22, F.S.; authorizing the condemnation or acquisition of land to implement s. 373.4592, F.S.; repealing s. 1 of ch. 91-80, Laws of Florida, which prescribes a short title for ch. 91-80, Laws of Florida; providing an appropriation; providing an effective date.

By the Committee on Finance, Taxation and Claims; and Senators Jones, Hargrett, Meadows, Turner, Weinstein, Childers, Forman, Casas, Wexler, Siegel, Holzendorf and Dyer—

CS for SB 1774—A bill to be entitled An act relating to Rosewood, Florida; directing the Florida Department of Law Enforcement to conduct investigations; requiring a report to the Legislature; appropriating funds to compensate Rosewood families for property damage; appropriating funds to compensate former residents, including Arnett T. Goins, Minnie L. Langley, Willie Evans, and Wilson Hall; providing for the establishment of a state university scholarship fund for Rosewood families; continue the Rosewood research and development of materials; providing an effective date.

By the Committees on Finance, Taxation and Claims; Community Affairs; and Senator Turner—

CS for CS for SB 2918—A bill to be entitled An act relating to tourism, sports, and entertainment; providing for the creation and establishment of multi-jurisdictional tourism, sports and entertainment independent special districts; providing legislative findings, policy, intent, declaration and purpose; providing definitions; providing for district requirements in order to qualify for establishment; providing for the purpose of such districts; providing for the election of the board of supervisors; providing for a district manager, treasurer and other officers; providing for the preparation of the districts' budgets and public facilities

reports; providing for district elections; providing for general statements of policy to be adopted by ordinance; providing that a stockholder, officer, or employee of a landowner may be a member of the district's board of supervisors or an officer or employee of the district; providing for powers and duties; providing for a transportation system, a water supply and management system, a sewer and wastewater system, a solid waste collection system, and a mosquito and pest control program; providing for police and fire protection within the districts; providing for district governance procedures; providing for the employment of staff and consultants; providing for the acceptance of gifts; providing for the incurring of debt; providing for fees, rates, tolls, and other charges; providing for limited eminent domain authority; providing for ad valorem taxes and special assessments; providing for discretionary sales surtaxes; providing for investment authority; providing for permits and exclusive and nonexclusive franchises; providing for mandatory use of certain district facilities and services; providing for annexation and contraction of districts' boundaries; providing for the adoption of land development and environmental regulations; providing procedures and criteria for granting exclusive and nonexclusive franchises and authorizing fees for franchises; providing for bonding authority; providing for the levying, assessment and enforcement of ad valorem taxes and special assessments; providing for tax liens; providing for the foreclosure of tax liens; providing for the issuance of certificates of indebtedness and assessment bonds; providing for the payment of taxes and the redemption of tax liens; providing for an exemption from taxes; providing for contracting authority and exemptions from certain requirements; providing for the sale and lease of property; providing for liability for torts to a certain extent; providing for dissolution of the districts; providing intent with respect to tax recapture provisions; providing for district records; providing for the establishment of a district in Dade and Broward counties and the City of Miramar and its boundaries; providing definitions applicable to said district; providing for dissolution of said district; providing for powers, duties and limitations of said district; providing for payment in lieu of taxes and assessments; providing for service to out-parcels of said district; providing for future amendments; providing for liberal construction; providing for severability; providing for a regional-impact planning area and management program; providing for consideration of off-site impacts; amending s. 288.1162, F.S., relating to professional sports and spring training franchises; providing that an applicant may not qualify for certification under certain circumstances; providing an exception; amending s. 212.20, F.S.; clarifying distribution of tax proceeds; providing an effective date.

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

APPOINTMENTS SUBJECT TO CONFIRMATION BY THE SENATE:

The Secretary of State has certified that pursuant to the provisions of Section 114.05, Florida Statutes, certificates subject to confirmation by the Senate had been prepared for the following:

<i>Office and Appointment</i>	<i>For Term Ending</i>
Board of Regents	
Appointees: Cejas, Paul L., Miami Beach	01/01/2000
Ross, Dennis M., Tampa	01/01/2000

Referred to the Committee on Executive Business, Ethics and Elections.

EXECUTIVE BUSINESS

The Honorable Pat Thomas April 6, 1994
President, The Florida Senate

Dear Mr. President:

The following executive appointments were referred to the Senate Committee on Executive Business, Ethics and Elections for action pursuant to Rule 12.7(a) of the Rules of the Florida Senate:

<i>Office and Appointment</i>	<i>For Term Ending</i>
State Athletic Commission	
Appointee: Waldman, Aleida Ors	09/30/97

<i>Office and Appointment</i>	<i>For Term Ending</i>	<i>Office and Appointment</i>	<i>For Term Ending</i>
Florida Building Code Administrators and Inspectors Board Appointee: Gregg, Ada Mijares	10/31/96	Appointee: Towey, H. James	Pleasure of Governor
Board of Building Codes and Standards Appointee: Danger, Charles	01/06/97	Health Care Board Appointee: Stern, Elliot Joseph	09/30/96
Secretary of Business and Professional Regulation Appointee: Stuart, George Lewis, Jr.	Pleasure of Governor	Florida Commission on Human Relations Appointee: Brooks, Clarethea D. Edwards	09/30/97
Capitol Center Planning Commission Appointees: Anstis, James H. Grabiel, Julio	09/30/97 09/30/97	Florida International Affairs Commission Appointees: Paige, Windell Salem, Richard J. Sharkey, Jeffrey Brian	07/09/97 07/09/97 07/09/97
Escambia County Civil Service Board Appointees: Einbecker, Pauline G. Glover, Robert Bryan, Jr. Green, Devaughn	02/09/97 02/13/97 02/13/97	Board of Massage Appointee: Richardson, Jean Stodghill	10/31/96
Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling Appointee: Gygi, Judy Charolene	09/30/95	Board of Medicine Appointee: Diblan, Maribel Concepcion	08/01/95
Secretary of Commerce Appointee: Dusseau, Charles Michael	Pleasure of Governor	Board of Nursing Home Administrators Appointees: Handel, Leo K. Wynn, Alma McKinney	10/31/97 10/31/97
Board of Trustees of Valencia Community College Appointee: Lord, John S.	05/31/97	Board of Optometry Appointee: Braverman, Howard Joel	10/31/97
State of Florida Correctional Medical Authority Appointee: Windom, Robert Emerson	09/30/97	Prepaid Postsecondary Education Expense Board Appointee: Tate, Stanley G.	06/30/96
Board of Dentistry Appointee: Hehn, Roger Maurice	10/31/96	Historic Palm Beach Preservation Board of Trustees Appointee: Song, Young P.	06/30/97
Education Practices Commission Appointees: Anders, Richard Harold Gatlin, James S. Stewart, John A. Vacanti, Loretta Wallace, Brenda Yarbrough, A. Keith	09/30/94 09/30/95 09/30/95 09/30/94 09/30/95 09/30/94	Historic Tampa-Hillsborough County Preservation Board of Trustees Appointee: Dunn, Hampton	06/30/97
Education Standards Commission Appointees: Evans, Donna Browder Riddle, Melinda Paniagua	09/30/94 09/30/96	Florida Public Service Commission Appointees: Kiesling, Diane K. Lauredo, Luis J.	01/01/98 01/01/98
Florida Elections Commission Appointees: Alvarez, Carlos Murrah, Kenneth F.	12/10/97 12/10/95	Commission for Purchase from the Blind or Other Severely Handicapped Appointee: Furches, Sandra (Sandy) BeVile	10/01/96
Board of Employee Leasing Companies Appointee: Shaw, James William	10/31/97	Board of Supervisors, Spaceport Florida Authority Appointee: Romjue, Mary Kalen	06/30/97
Board of Professional Engineers Appointee: Spangler, Byron D.	10/31/97	Florida Commission on Tourism Appointees: Sanborn, John Herrick Usina, Elizabeth Kenson	06/30/97 06/30/97
Board of Directors, Enterprise Florida, Inc. Appointees: Apthorp, James W. Hodor, Howard Irwin Ruthven, Joe P.	07/01/96 07/01/96 07/01/95	Big Cypress Basin Board of the South Florida Water Management District Appointee: Davenport, Claudia Annette	03/01/96
Board of Directors, Enterprise Florida Capital Partnership Appointees: Brown, Hugh McNeil Freeman, Douglas K. Heggestad, Arnold Andersen Leisner, Richard Michael Sink, Adelaide A. Werner, Patricia Ann	03/09/96 03/09/98 03/09/98 03/09/97 03/09/97 03/09/96	Governing Board of the Southwest Florida Water Management District Appointees: Figg, Mary Johnson Harrell, Roy G., Jr. Martin, James Edward	03/01/98 03/01/98 03/01/98
Secretary of Environmental Protection Appointee: Wetherell, Virginia B.	Pleasure of Governor	Hillsborough River Basin Board of the Southwest Florida Water Management District Appointee: Sherwood, Clark Todd	03/01/96
Commission on Ethics Appointee: Phelan, Mary Alice	06/30/95	Manasota Basin Board of the Southwest Florida Water Management District Appointees: Bacon, Eula Teresa Longino, Berryman Thomas	03/01/96 03/01/96
Florida State Fair Authority Appointee: Rolle, Frankie Shannon	06/30/97	Workers' Compensation Panel Appointee: Fareed, John	Pleasure of Governor
Secretary of Health and Rehabilitative Services		As required by Rule 12.7(a), the committee caused to be conducted an inquiry into the qualifications, experience, and general suitability of the above-named appointees for appointment to the offices indicated. In aid of such inquiry the committee held a public hearing at which members of the public were invited to attend and offer evidence concerning the qualifications, experience, and general suitability of each appointee.	

After due consideration of the findings of such inquiry and the evidence adduced at the public hearings, the committee respectfully advises and recommends that:

- (1) the executive appointments of the above-named appointees, to the office and for the term indicated, be *confirmed* by the Senate.
- (2) Senate action on said appointments be taken prior to the adjournment of the 1994 Regular Session.
- (3) there is no necessity known to the committee for the deliberations on said appointments to be held in executive session.

Respectfully submitted,
William H. Turner, Chairman

Senator Turner moved that the report be adopted and the Senate confirm the appointments identified in the foregoing report to the office and for the term indicated, in accordance with the recommendation of the committee.

Senator Dudley called for a bifurcation of the question to remove the appointment of James H. Towey, as Secretary of the Department of Health and Rehabilitative Services, from the report. The motion was adopted without objection and the Senate confirmed the appointments identified in the report to the office and for the term indicated.

Yeas—40 Nays—None

SENATOR FORMAN PRESIDING

Senator Turner moved that the Senate confirm the appointment of James H. Towey, as Secretary of the Department of Health and Rehabilitative Services, to serve at the pleasure of the Governor. The motion was adopted and the Senate confirmed the appointment.

Yeas—34 Nays—6

THE PRESIDENT PRESIDING

The Honorable Pat Thomas
President
The Florida Senate

April 6, 1994

RE: Suspension of
EARL SERMON DYESS, JR.
Sheriff, Hendry County, Florida

Dear Mr. President:

The Committee on Executive Business, Ethics and Elections submits this final report on the matter of the suspension of Earl Sermon Dyess, Jr.

By Executive Order Number 93-1, filed with the Secretary of State on January 4, 1993, the Honorable Lawton Chiles, as Governor, suspended Earl Sermon Dyess, Jr., as Sheriff, Hendry County, Florida. The term of office for Mr. Dyess as Sheriff, Hendry County, Florida, was from January 5, 1989 through January 4, 1993.

Executive Order Number 93-1, with indictment attached, charged that Earl Sermon Dyess, Jr., while holding the aforesaid office, committed criminal violations of the laws of the United States, viz: (1) one count of unlawfully, willfully, and knowingly combining, conspiring, confederating, and agreeing to import into the United States, from a place outside thereof, five kilograms or more of a mixture or substance containing a detectable amount of cocaine, a Schedule II Controlled Substance, in violation of Title 21, United States Code, Section 952, all in violation of Title 21, United States Code, 963; (2) one count of knowingly and intentionally importing into the United States, from a place outside thereof, five kilograms or more of a mixture or substance containing a detectable amount of cocaine, a Schedule II Controlled Substance, in violation of Title 21, United States Code, Section 952 and Title 18, United States Code, Section 2; (3) one count of unlawfully, willfully, and knowingly combining, conspiring, confederating, and agreeing to possess with intent to distribute five kilograms or more of a mixture or substance containing a detectable amount of cocaine, a Schedule II Controlled Substance, in violation of Title 21, United States Code, Section 841(a)(1), all in violation of Title 21, United States Code, Section 846; and (4) one count of knowingly and intentionally possessing with intent to distribute five kilograms or more of a mixture or substance containing a detectable amount

of cocaine, a Schedule II Controlled Substance, all in violation of Title 21, United States Code, Section 841(a)(1) and Title 18, United States Code, Section 2. Executive Order Number 93-1 further stated that the facts alleged constituted the offenses of malfeasance, misfeasance, and/or the commission of a felony which are grounds for suspension under Article IV, Section 7, Florida Constitution.

Criminal prosecution of Earl Sermon Dyess, Jr., was commenced in the United States District Court for the Middle District of Florida, Fort Myers Division, (Case Number 92-145-CR-F'TM-23), where he was indicted on the charges described above on December 16, 1992.

On January 4, 1993, Mr. Dyess' initial appearance was held and his arraignment and detention hearing were set for January 7, 1993, at 2:00 p.m.

On January 5, 1993, the United States' Bill of Particulars for Forfeiture of Property was filed, and the Government submitted its Ex Parte Application for Protective Order pursuant to Title 21, United States Code, Section 853.

On January 7, 1993, Mr. Dyess' detention hearing was scheduled. Mr. Dyess' counsel advised the court that Mr. Dyess was waiving the detention hearing. The Government asked that the court rely on the rebuttable presumption and order that Mr. Dyess be detained pending trial. Mr. Dyess failed to rebut the presumption and the court ordered that he be detained pending trial. The arraignment was set for Tuesday, January 19, 1993, at 2:00 p.m.

On January 8, 1993, the court issued its order that Mr. Dyess be detained prior to and throughout the trial.

On January 12, 1993, a Notice of Arraignment was issued scheduling the arraignment for Wednesday, January 20, 1993, at 2:30 p.m.

On January 20, 1993, the arraignment was held. The Government summarized the indictment; Mr. Dyess entered a plea of not guilty; the case was entered on the March trial calendar; and the Status on Discovery hearing was set for February 3, 1993, at 10:00 a.m.

On January 21, 1993, the Notice of the Status on Discovery hearing scheduled for Wednesday, February 3, 1993, at 10:00 a.m., was filed.

On January 28, 1993, the Government's Notice of Discovery Response was filed.

On February 3, 1993, a Temporary Restraining Order was issued against Mr. Dyess. Also, the Status on Discovery hearing was held, the Government stating that they had given all discovery to the defense and the defense agreeing that all discovery had been provided.

On February 8, 1993, Mr. Dyess entered guilty plea on all four counts; the plea was accepted by the court; adjudication of guilt was deferred; a pre-sentencing investigation was ordered; and the sentencing was set for April 16, 1993, at 9:30 a.m.

On April 16, 1993, the sentencing hearing was held; Mr. Dyess' plea was ratified and accepted; and he was adjudicated guilty on all four counts. The court found grounds for guideline departure based on the Government's motion and Mr. Dyess was sentenced to serve 211 months on each of the four counts, to run concurrently, and he was placed on supervised release of 5 years. A fine was waived and no restitution was ordered; however, a special assessment of \$50 on each count was ordered, totalling \$200. Mr. Dyess was then remanded to the custody of the United States' Marshal.

The Senate assumed jurisdiction of this matter on January 7, 1993, and this matter was referred to the Senate Committee on Executive Business, Ethics and Elections on January 26, 1993. Proceedings by this Committee were stayed, pursuant to Senate Rule 12.7(b), pending criminal prosecution in the trial court and the exhaustion of all appellate remedies.

Based upon the investigation of this Committee, it is the finding of this Committee that:

(1) Earl Sermon Dyess, Jr., was suspended from the office of Sheriff, Hendry County, Florida, on January 4, 1993 by Executive Order Number 93-1;

(2) Earl Sermon Dyess, Jr., pled guilty to the offenses of (1) one count of unlawfully, willfully, and knowingly combining, conspiring, confederating, and agreeing to import into the United States, from a place outside

thereof, five kilograms or more of a mixture or substance containing a detectable amount of cocaine, a Schedule II Controlled Substance, in violation of Title 21, United States Code, Section 952, all in violation of Title 21, United States Code, 963; (2) one count of knowingly and intentionally importing into the United States, from a place outside thereof, five kilograms or more of a mixture or substance containing a detectable amount of cocaine, a Schedule II Controlled Substance, in violation of Title 21, United States Code, Section 952 and Title 18, United States Code, Section 2; (3) one count of unlawfully, willfully, and knowingly combining, conspiring, confederating, and agreeing to possess with intent to distribute five kilograms or more of a mixture or substance containing a detectable amount of cocaine, a Schedule II Controlled Substance, in violation of Title 21, United States Code, Section 841(a)(1), all in violation of Title 21, United States Code, Section 846; and (4) one count of knowingly and intentionally possessing with intent to distribute five kilograms or more of a mixture or substance containing a detectable amount of cocaine, a Schedule II Controlled Substance, all in violation of Title 21, United States Code, Section 841(a)(1) and Title 18, United States Code, Section 2, and that such acts constitute the offenses of malfeasance, misfeasance, and the commission of a felony under the laws of the United States, as such terms are used in Article IV, Section 7, Florida Constitution;

(3) With the adjudication of guilt on April 16, 1993, on the felony counts described above, pursuant to Article VI, Section 4, Florida Constitution, Earl Sermon Dyess, Jr., became legally ineligible to hold public office;

(4) The Senate is authorized to remove from office any suspended official for the commission of a felony, pursuant to Article IV, Section 7, Florida Constitution;

(5) Earl Sermon Dyess, Jr., is deemed to have vacated his office upon conviction of a felony as defined in Article X, Section 10, Florida Constitution, pursuant to section 114.01(1)(j), Florida Statutes; and

(6) Earl Sermon Dyess, Jr., has not contested his suspension on his own behalf, nor shown any cause why the Senate should not take further action to remove him from office.

In view of the foregoing, it is the recommendation of this Committee that Earl Sermon Dyess, Jr., be removed from the office of Sheriff, Hendry County, Florida, effective January 4, 1993.

Respectfully submitted,
William H. Turner, Chairman

On motion by Senator Turner, the foregoing report on the suspension of Earl Sermon Dyess, Jr., Sheriff, Hendry County, Florida was adopted and the Senate removed Earl Sermon Dyess, Jr., from said office effective January 4, 1993. The vote was:

Yeas—39 Nays—None

April 6, 1994

The Honorable Pat Thomas
President
The Florida Senate

RE: Suspension of
ELWYN MAURIECE COFFMAN, JR.
Sheriff, Santa Rosa County, Florida

Dear Mr. President:

The Committee on Executive Business, Ethics and Elections submits this final report on the matter of the suspension of Elwyn Maurice Coffman, Jr.

By Executive Order Number 92-216, filed with the Secretary of State on August 19, 1992, the Honorable Lawton Chiles, as Governor, suspended Elwyn Maurice Coffman, Jr., as Sheriff, Santa Rosa County, Florida. The term of office for Mr. Coffman as Sheriff, Santa Rosa County, Florida, was from January 5, 1989 through August 19, 1992.

Executive Order Number 92-216, with indictment attached, charged that Elwyn Maurice Coffman, Jr., while holding the aforesaid office, committed criminal violations of the laws of Florida, viz: (1) the offense of racketeering, in violation of section 895.03, Florida Statutes, constituting misconduct in office by a public officer or employee under s. 775.15(3)(b), F.S.; (2) the offense of grand theft, in violation of s.

812.014(2)(c), F.S., constituting misconduct in office by a public officer or employee under s. 775.15(3)(b), F.S.; (3) two counts of attempting to tamper with or fabricate physical evidence, in violation of s. 918.13, F.S., constituting misconduct in office by a public officer or employee under s. 775.15(3)(b), F.S.; (4) two counts of obstruction of justice, without violence, in violation of s. 843.02, F.S., constituting misconduct in office by a public officer or employee under s. 775.15(3)(b), F.S.; (5) the offense of harassing a witness, in violation of s. 914.22(2), F.S., constituting misconduct in office by a public officer or employee under s. 775.15(3)(b), F.S.; (6) two counts of bribery, in violation of s. 838.015, F.S., constituting misconduct in office by a public officer or employee under s. 775.15(3)(b), F.S.; and (7) two counts of attempted unlawful compensation, in violation of s. 838.016, F.S., constituting misconduct in office by a public officer or employee under s. 775.15(3)(b), F.S. Executive Order Number 92-216 further stated that the facts alleged constituted the offenses of malfeasance and misfeasance, which are grounds for suspension under Article IV, Section 7, Florida Constitution.

Criminal prosecution of Elwyn Maurice Coffman, Jr., was commenced in the Circuit Court of the First Judicial Circuit, in and for Okaloosa County, Florida, (Case Number 92-00567-CFA), where he was indicted on the charges described above, on August 18, 1992. The case was opened on August 19, 1992, when the *capias* was served. On August 20, 1992, Mr. Coffman's arraignment was set for September 8, 1992.

On August 21, 1992, an order of recusal by Judges Rasmussen and Bell was filed. On August 27, 1992, an order was issued transferring the case to Santa Rosa County and on August 28, 1992, an order was issued assigning Judge Kuder to the case.

On September 4, 1992, a waiver of arraignment and a written plea of not guilty were filed. On September 8, 1992, a jury trial was set for November 16, 1992. On September 14, 1992, a notice of appearance of counsel and a discovery notice were filed.

On October 15, 1992, an order was filed directing the Clerk of the Court to unseal the Governor's orders and related documents.

On October 30, November 2, and November 5, 1992, Supplemental Answers of the State to the Defendant's demands for discovery were filed. On November 5, 1992, Deposition Notices and numerous deposition subpoenas were issued.

On November 6, 1992, the defendant filed a Motion to Dismiss the Indictment or in the alternative a Motion for a Statement of Particulars, and a Motion for the Disclosure of Grand Jury proceedings. Also, on November 6, 1992, a Notice of Hearing was filed.

On November 12, 1992, an Amended Motion for the Disclosure of Grand Jury Proceedings was filed. On November 16, 1992, the State filed a Supplemental Answer to the Defendant's demand for discovery.

On November 20, 1992, an order to release copies of transcripts was issued. On November 24, 1992, Deposition Notices and numerous deposition subpoenas were issued. On November 30, 1992, an Amended Indictment was filed.

On December 7, 1992, a notice and an amended notice of deposition were issued. Also, the State filed a Supplemental Answer to the Defendant's demand for discovery. On December 21 and 23, 1992, the State filed Supplemental Answers to the Defendant's demand for discovery.

On January 18, 1993, a Statement of Particulars was filed. On January 19, 1993, Deposition Notices and numerous deposition subpoenas were issued. On January 20, 1993, a stipulation and order were filed.

On February 9, 1993, the defendant filed Motions to Dismiss the racketeering, grand theft, tampering with evidence, obstruction of justice, and witness tampering counts. Also on February 9, 1993, a Notice of Hearing was issued. On February 12, 1993, an Amended Notice of Hearing was filed. On February 18, 1993, a second Amended Notice of Hearing and the State's Supplemental Answer to the Defendant's demand for discovery were filed.

On February 25, 1993, with his attorney present, Mr. Coffman entered a plea of no contest to four lesser included offenses constituting misdemeanors and three additional misdemeanor offenses and was adjudicated guilty. Imposition of sentence was withheld and Mr. Coffman was placed on probation for a period of one year on the two attempted tampering with evidence counts and the two obstruction of justice without violence counts, to run consecutively, and probation for a period of one year on

the harassing a witness count and the two attempted unlawful compensation counts, to run concurrently and concurrent to one of the attempted tampering with evidence counts.

On February 26, 1993, numerous depositions were taken, and the court entered its order on the Defendant's motions to dismiss the racketeering and grand theft charges and the court directed the Clerk of the Court to unseal the case filed with the exception of grand jury transcripts. On March 2, 1993, additional depositions were taken.

On March 31, 1993, a post-sentence investigation was held. On April 20, 1993, a judgment of guilt was entered and Mr. Coffman was placed on probation.

The Senate assumed jurisdiction of this matter on August 21, 1992, and this matter was referred to the Senate Committee on Executive Business, Ethics and Elections on August 26, 1992. Proceedings by this Committee were stayed, pursuant to Senate Rule 12.7(b), pending criminal prosecution in the trial court and the exhaustion of all appellate remedies.

On March 24, 1994, Mr. Coffman resigned his position as Sheriff, Santa Rosa County, Florida, effective August 19, 1992, the date of his suspension.

Based upon the investigation of this Committee, it is the finding of this Committee that:

(1) Elwyn Maurice Coffman, Jr., was suspended from the office of Sheriff, Santa Rosa County, Florida, on August 19, 1992 by Executive Order Number 92-216;

(2) Elwyn Maurice Coffman, Jr., pled no contest to the offenses of (1) two counts of attempting to tamper with or fabricate physical evidence, in violation of s. 918.13, F.S., constituting misconduct in office by a public officer or employee under s. 775.15(3)(b), F.S.; (2) two counts of obstruction of justice, without violence, in violation of s. 843.02, F.S., constituting misconduct in office by a public officer or employee under s. 775.15(3)(b), F.S.; (3) the offense of harassing a witness, in violation of s. 914.22(2), F.S., constituting misconduct in office by a public officer or employee under s. 775.15(3)(b), F.S.; and (4) two counts of attempted unlawful compensation, in violation of s. 838.016, F.S.; constituting misconduct in office by a public officer or employee under s. 775.15(3)(b), F.S., and that such acts constitute the offenses of malfeasance and misfeasance under the laws of the State of Florida, as such terms are used in Article IV, Section 7, Florida Constitution;

(3) On March 24, 1994, resigned as Sheriff, Santa Rosa County, Florida, effective August 19, 1992, the date of his suspension, which was accepted and filed by the Governor on March 29, 1994.

In view of the foregoing, the Committee on Executive Business, Ethics and Elections advises that no further action by the Senate is authorized or required by the Florida Constitution. The Committee recommends, therefore, that the Senate take no further action on the above-referenced matter and that this suspension case be closed.

Respectfully submitted,
William H. Turner, Chairman

On motion by Senator Turner, the foregoing report on the suspension of Elwyn Maurice Coffman, Jr., Sheriff, Santa Rosa County, Florida was adopted without objection and the Senate took no further action.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable Pat Thomas, President

I am directed to inform the Senate that the House of Representatives has passed HB 819, HB 1337, HB 1483, CS for HB 1661, CS for HB 1743, HB 1783, HB 2089, HB 2091, HB 2235, HB 2237; has passed as amended CS for HB 237, CS for HB 525, CS for HB 547, CS for HB 591, CS for HB 651, CS for HB 751, HB 821, CS for CS for HB 839, HB 1043, HB 1101, CS for CS for HB 1261, CS for HB 1301, HB 1353, HB 1595, CS for HB 1949, HB 2205, HB 2331, CS for HB 2497, HB 2647, HB 2833, HB 2835 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representative Martinez and others—

HB 819—A bill to be entitled An act relating to Hillsborough County; authorizing the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to issue an alcoholic beverage license to the Lowry Park Zoological Society of Tampa, Inc., for use at the Lowry Park Zoological Garden, for special events only; authorizing transfer of the license to qualified applicants; providing for automatic reverter of the license; prohibiting sales for consumption off premises; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committees on Commerce; and Rules and Calendar.

By Representative Sublette and others—

HB 1337—A bill to be entitled An act relating to crime prevention; creating s. 775.0837, F.S.; authorizing a county to adopt an ordinance imposing specified fines upon criminal offenders; authorizing the court to order defendants to pay the fines under certain circumstances; providing for collection of the fines by the clerk of court; providing for separate accounting of the fines as crime prevention funds by the county; providing an effective date.

—was referred to the Committees on Community Affairs; and Finance, Taxation and Claims.

By Representative Jacobs—

HB 1483—A bill to be entitled An act relating to the Delray Beach Downtown Development Authority, Palm Beach County; amending ch. 71-604, Laws of Florida, as amended; correcting the Downtown Development Authority area description to provide for a contiguous area which includes properties eastward of the Intracoastal Waterway, northward of the current Downtown Development Authority area to include those properties lying south of N.E. 4th Street, southward of the current Downtown Development Authority area to include those properties lying north of S.E. 3rd Street, bounded generally on the west by N.E. 1st Avenue, all such properties lying within the municipal boundaries of the City of Delray Beach; providing for seven members on the board for the authority; 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 Aging and Human Services; and Representative Mackenzie and others—

CS for HB 1661—A bill to be entitled An act relating to records of the Department of Health and Rehabilitative Services; amending s. 119.07, F.S.; revising provisions which provide requirements for disclosure of records of the department pertaining to investigations of abuse, neglect, abandonment, or exploitation; revising terminology with respect to application of such provisions to vulnerable adults; authorizing the department to petition the court for an order for immediate public release of such records when the child or vulnerable adult suffers serious injury or dies; authorizing the department to release summary information if the court does not make a determination within a specified period; providing requirements and conditions; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; Professional Regulation; and Appropriations.

By the Committee on Natural Resources and Representative Constantine and others—

CS for HB 1743—A bill to be entitled An act relating to wastewater reuse; creating the "Florida APRICOT Act"; amending s. 403.086, F.S.; providing requirements for backup discharges of reclaimed water from sewage disposal facilities; providing for backflow prevention devices on certain potable water lines; amending s. 403.859, F.S.; revising provisions

allowing discharge of certain reclaimed water into the Floridan and Biscayne Aquifers; providing an effective date.

—was referred to the Committee on Natural Resources and Conservation.

By Representative Bitner—

HB 1783—A bill to be entitled An act relating to the North Port Water Control District; 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 for a referendum; providing effective dates.

Proof of publication of the required notice was attached.

—was referred to the Committees on Natural Resources and Conservation; and Rules and Calendar.

By Representative Thrasher and others—

HB 2089—A bill to be entitled An act relating to Clay County Hospital Authority; amending chapter 30280, Laws of Florida, 1955, as amended; repealing provisions relating to care of charity, Medicaid, and indigent patients with respect to sale, transfer, or lease agreement of the authority; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Chestnut and others—

HB 2091—A bill to be entitled An act relating to Alachua County; authorizing the board of county commissioners of Alachua County and each of the governing boards of the municipalities within the county to use the proceeds of the local government infrastructure surtax for the operation and maintenance of parks and recreation programs and facilities established with the proceeds of the surtax; authorizing establishment of trust funds; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committees on Community Affairs; and Rules and Calendar.

By Representative Merchant—

HB 2235—A bill to be entitled An act relating to the South Indian River Water Control District, Palm Beach County; amending chapter 71-820, Laws of Florida; authorizing the Board of Supervisors of the South Indian River Water Control District to receive real and personal property for recreational purposes for land within the District lying East of Canal 18 of the South Florida Water Management District only; authorizing the Board of Supervisors to lease or make available facilities or grounds owned by the District to public-spirited organizations; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Hawkins—

HB 2237—A bill to be entitled An act relating to Collier County; amending chapter 78-494, Laws of Florida, as amended, relating to the Immokalee Water and Sewer District; deleting the requirement of appointment of board members upon recommendation of the board of county commissioners of Collier County; increasing the authority of the director to write checks up to and including \$1,500 without board

approval; requiring that all disbursements of district funds over \$1,500 shall be made pursuant to warrants or checks signed by the chairman or vice chairman and countersigned by the treasurer or secretary of the board; 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 Agency Rules, Select and Representative Mitchell and others—

CS for HB 237—A bill to be entitled An act relating to administrative procedures; naming the act; creating s. 11.0755, F.S.; providing for the legislative delegation of rulemaking authority; amending s. 11.60, F.S.; revising the membership of the Administrative Procedures Committee; providing additional duties; amending s. 120.52, F.S.; redefining the term "invalid exercise of delegated legislative authority"; defining the term "small county"; amending s. 120.54, F.S.; revising language with respect to rule adoption procedures; revising rule publication requirements and timeframes; providing for a statement of estimated regulatory costs rather than an economic impact statement; amending workshop requirements; providing for consideration of a rule's impact on small counties; providing a definition of good cause; providing for a rulemaking record; providing for model rules; providing for agency postponement of rule adoption; directing agencies to review existing rules by a certain date and file a written report; amending s. 120.545, F.S.; providing reference to a statement of estimated regulatory costs; directing the Administrative Procedures Committee to hold a hearing under certain circumstances; providing that there shall not be a presumption that a rule is a valid exercise of delegated legislative authority under certain circumstances; amending s. 120.55, F.S.; authorizing rather than requiring a contract; providing that the Department of State shall retain the copyright over the text of the Florida Administrative Code; increasing an allowable amount of unencumbered funds in the revolving trust fund; amending s. 120.56, F.S.; revising language with respect to the administrative determination of a rule's validity by a hearing officer; defining good cause; amending s. 120.58, F.S.; providing that legislative history shall be admissible under certain circumstances; amending s. 120.68, F.S.; revising language with respect to judicial review; providing an effective date.

—was referred to the Committees on Governmental Operations; and Rules and Calendar.

By the Committee on Criminal Justice and Representative Villalobos and others—

CS for HB 525—A bill to be entitled An act relating to domestic violence and repeat violence; creating s. 741.28, F.S.; providing definitions; amending s. 741.29, F.S.; revising guidelines with respect to investigation of domestic violence incidents; requiring that report furnished by a law enforcement agency to a domestic violence center include a narrative description of the incident; amending s. 741.2901, F.S.; providing intent that indirect criminal contempt may no longer be used to enforce compliance with injunctions for protection; conforming cross references; amending s. 741.2092, F.S.; providing intent that civil contempt be used to enforce compliance with an injunction unless injunction violation is criminal under s. 741.31, F.S.; amending s. 741.30, F.S.; providing for a system of statewide and circuitwide verification of injunctions for protection against domestic violence and repeat violence; providing for law enforcement officers to serve injunctions for protection against domestic violence under certain circumstances; revising the procedures under which the court may enforce an injunction for protection; deleting a provision that such enforcement may include imposition of a fine; providing that such enforcement may include imposition of a monetary assessment; providing for collection and transfer of such assessments; providing for a person who violates an injunction to be held in custody until admitted to bail; providing that an ex parte temporary injunction may not be effective for longer than 15 days; amending s. 741.31, F.S.; providing additional acts that constitute a criminal violation of an injunction for protection against domestic violence; providing a penalty; amending s. 784.046, F.S.; revising provisions relating to injunctions against repeat violence; providing for law enforcement officers to serve injunctions for protection against repeat violence under certain circumstances; providing for a statewide verification system; revising the procedures under which the court may enforce an injunction against repeat violence; deleting a provision that such

enforcement may include imposition of a fine; providing that such enforcement may include imposition of a monetary assessment; providing for collection and transfer of such assessments; providing for a person who violates an injunction to be held in custody until admitted to bail; providing that an ex parte temporary injunction may not be effective for longer than 15 days; amending s. 943.05, F.S.; providing duties of the Division of Criminal Justice Information Systems with respect to the statewide verification system; amending s. 61.13, F.S.; providing that certain convictions for domestic violence shall be considered by the court as a rebuttable presumption of detriment to the child with respect to shared parental responsibility; providing for the effect of not rebutting such a presumption; reenacting s. 44.102(2)(b), F.S.; relating to court-ordered mediation, to incorporate the amendment to s. 61.13, F.S., in a reference thereto; creating a Commission on Minimum Standards for Batterers' Treatment within the Office of the Governor; providing for appointment; providing duties; providing for a report; amending s. 28.101, F.S.; imposing an additional charge upon petition for dissolution of marriage; providing for deposit and use of such funds; reenacting s. 410.30(5)(b), F.S., relating to Displaced Homemaker Trust Fund, to incorporate the amendment to s. 28.101, F.S., in a reference thereto; amending ss. 39.001, 39.076, 110.1127, 242.335, 393.0655, 394.457, 397.451, 400.512, 402.305, 409.175, 464.018, 787.03, and 944.705, F.S., to conform cross references; amending s. 901.15, F.S.; relating to arrests without warrants for injunctive violations to conform cross references and clarify language; reenacting s. 415.606, F.S., relating to referrals to domestic violence centers, to incorporate the amendments to s. 741.29, F.S., in a reference thereto; reenacting ss. 784.048(4), and 901.15(6) and (8), F.S., penalties for violations of injunctions for protection against repeat violence, and arrests without warrants for injunctive violations, to incorporate the amendments to ss. 741.30 and 784.046, F.S., in references thereto; amending s. 415.602, F.S.; amending definitions relating to ss. 415.601-415.608, F.S.; amending s. 415.603, F.S.; amending duties of the Department of Health and Rehabilitative Services relating to domestic violence, including directing the department to develop by rule criteria for the certification and funding of domestic violence centers and directing the department to contract with a statewide association to provide for specified services; amending s. 415.605, F.S.; expanding the list of services that a domestic violence center must offer in order to be certified; amending s. 415.608, F.S.; clarifying the circumstances in which confidential information may be released; reenacting ss. 282.502(5) and (6), F.S., relating to information system coordinating council, to incorporate the amendments to s. 415.608, F.S., in a reference thereto; providing an appropriation; providing an effective date.

—was referred to the Committees on Criminal Justice, Judiciary and Appropriations.

By the Committee on Finance and Taxation; and Representative Smith and others—

CS for HB 547—A bill to be entitled An act relating to trust funds; amending ss. 215.20, 215.22, and 215.24, F.S.; providing for the exemption of certain income from federal matching funds or contributions or private grants from the service charges deducted from trust funds pursuant to s. 215.20, F.S., for deposit in the General Revenue Fund under certain circumstances; exempting the Camp Blanding Management Trust Fund from the 7-percent service charge imposed pursuant to said section; dismissing previously assessed charges and late penalties and absolving the Department of Military Affairs of obligations incurred with respect thereto; providing an effective date.

—was referred to the Committees on Finance, Taxation and Claims; and Appropriations.

By the Committee on Judiciary and Representative De Grandy and others—

CS for HB 591—A bill to be entitled An act relating to Rosewood, Florida; directing the Florida Department of Law Enforcement to conduct investigations; requiring a report to the Legislature; appropriating funds to compensate Rosewood families for property damage; appropriating funds to compensate former residents, including Arnett T. Goins, Minnie L. Langley, Willie Evans, and Wilson Hall; providing for the establishment of a state university scholarship fund for Rosewood families; continue the Rosewood research and development of materials; providing an effective date.

—was referred to the Special Master; and the Committees on Finance, Taxation and Claims; and Appropriations.

By the Committee on Transportation and Representative McClure and others—

CS for HB 651—A bill to be entitled An act relating to bicycle regulations; amending s. 316.2065, F.S., requiring a bicycle rider who carries a child passenger to provide certain safety equipment; prohibiting a person who rides a bicycle on a highway or in a public place from allowing a child passenger to ride on the bicycle or on a bicycle trailer or bicycle semitrailer without a helmet; providing a penalty; providing for dismissal of charges under specified circumstances; prohibiting a bicycle rider from allowing a child to remain in a child carrier when the rider is not in immediate control of the bicycle; requiring a label specifying safety requirements to be affixed to boxes containing certain child carriers; providing a definition; providing requirements for the wearing of a safety helmet for the operation of a bicycle; providing for enforcement; providing penalties; providing exceptions; providing for the disposition of fines; providing for educational programs; providing for application with respect to negligence provisions; amending s. 318.18, F.S.; providing for the assessment of fines for certain violations; providing an effective date.

—was referred to the Committees on Transportation and Judiciary.

By the Committee on Education and Representative Brennan and others—

CS for HB 751—A bill to be entitled An act relating to personnel of the school system; creating s. 231.3605, F.S.; providing for employment of educational support employees; providing definitions; providing for probationary status and continued employment; providing for suspension of an employee and for a notice and appeals process; amending s. 231.434, F.S.; authorizing rules to provide annual leave for certain educational support employees; providing an effective date.

—was referred to the Committees on Education; Personnel, Retirement and Collective Bargaining; and Appropriations.

By Representative Davis and others—

HB 821—A bill to be entitled An act relating to the City of Tampa, Hillsborough County; authorizing the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to issue a beverage license to the City of Tampa for use within the complex known as the Tampa Museum of Art; providing for application; providing for transfer; repealing ch. 73-635, Laws of Florida, relating to issuance of a liquor license for use within the complex known as Curtis Hixon Hall; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committees on Commerce; and Rules and Calendar.

By the Committees on Appropriations and Higher Education and Representative Wallace and others—

CS for CS for HB 839—A bill to be entitled An act relating to access to undergraduate postsecondary education; amending s. 235.014, F.S.; revising minimum utilization standards for postsecondary classrooms; amending s. 240.115, F.S.; revising provisions relating to transfer of credit; amending s. 240.147, F.S.; requiring certain reports to be considered when making recommendations for contracts with independent institutions; providing additional duties of the Postsecondary Education Planning Commission relating to an accountability process and funding; amending s. 240.209, F.S.; revising provisions relating to the setting of fees by the Board of Regents; authorizing approval of certain alternative fee schedules; requiring the board to maintain access; amending s. 240.2094, F.S.; revising provisions relating to establishment of authorized positions and salary rate; amending s. 240.214, F.S.; revising provisions of the State University System accountability process; providing additional plan and report requirements; amending s. 240.2145, F.S.; conforming provisions; amending s. 240.235, F.S.; authorizing the waiver of certain fees; amending s. 240.271, F.S.; revising provisions relating to categorical programs and allocations based on planned enrollments; providing for allocation of certain student fees; amending s. 240.272, F.S.; revising pro-

visions relating to the carryforward and expenditure of funds; amending s. 240.605, F.S.; changing the state tuition voucher program to the Florida resident access grant program and revising funding provisions; amending ss. 240.4085, 240.4093, 240.414, 240.4145, and 246.041, F.S.; conforming provisions; creating s. 240.63, F.S.; establishing the postsecondary capitation grant program to provide incentives for certain increased student completion; amending s. 246.013, F.S.; revising requirements for payment of costs for participation in common course designation and numbering system by nonpublic schools; repealing s. 240.243, F.S., relating to required number of classroom teaching hours; providing for issuance of a voucher by a state university or community college to businesses that make donations of high technology equipment to such institution; providing for determination of the amount of the voucher; authorizing use of the voucher as a credit against tuition charges; providing for rules; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By Representative Arnall and others—

HB 1043—A bill to be entitled An act relating to the City of Jacksonville; amending s. 17.06 of chapter 92-341, Laws of Florida, as amended, being the Charter of the City of Jacksonville, so as to clarify the exemptions provided by the charter to designated employees; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Gay—

HB 1101—A bill to be entitled An act relating to Sarasota County; amending ch. 71-904, Laws of Florida, the Manasota Key Conservation District Act; providing definitions; 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; and Higher Education; and Representative Mackenzie and others—

CS for CS for HB 1261—A bill to be entitled An act relating to education; amending s. 239.117, F.S., relating to postsecondary student fees; deleting provisions relating to college-preparatory programs, to the Community College Program Fund, and to community colleges; deleting the requirement that the State Board of Community Colleges review the cost of adult programs and postsecondary adult programs; deleting the provision for increasing fees for those programs; amending s. 240.1201, F.S.; revising provisions relating to the loss of resident tuition status; amending s. 240.307, F.S.; allowing members of the State Board of Community Colleges to participate in health insurance plans; amending s. 240.311, F.S.; eliminating a duty of the State Board of Community Colleges to publish certain annual reports from each community college on progress towards meeting state and institutional quality goals; amending s. 240.313, F.S.; allowing members of boards of trustees to participate in health insurance plans; amending s. 240.319, F.S.; authorizing the community college district boards of trustees to contract for the purchase, lease, or acquisition of equipment by a lease, lease-purchase contract, or installment contract if the lease or contract is approved by the executive director of the community college system appointed by the State Board of Community Colleges; amending s. 240.335, F.S.; eliminating a report by a community college district board of trustees concerning programs to eradicate discrimination in the granting of salaries to employees; amending s. 240.347, F.S.; eliminating salary information in the legislative budget request; amending s. 240.35, F.S.; revising provisions relating to the establishment of community college fees; providing requirements for a student activity and service fee, an athletic fee, and a financial aid fee; providing for fee committees, adoption of fees, use of fees, and reporting; revising provisions relating to the capital improvement fee; providing purpose of fees; amending s. 240.36, F.S., relating to the Florida Academic Improvement Trust Fund for Community Colleges; revising the provisions relating to academic improvement trust funds in order to improve clarity and to revise a cross-reference to the financial aid moneys that a community college must collect; amending s. 242.65, F.S.; revising

provisions relating to the Council for the Florida School of the Arts; providing an effective date.

—was referred to the Committees on Education, Governmental Operations and Appropriations.

By the Committee on Judiciary and Representative Ritchie—

CS for HB 1301—A bill to be entitled An act relating to guardianship and probate; amending s. 28.223, F.S.; requiring the clerks of the circuit court to record orders of guardianship; amending s. 28.2401, F.S.; revising service charges in probate matters and deleting provisions relating to matters required to be recorded; amending s. 733.816, F.S.; providing for notice on disposition of unclaimed property of a certain value held by a personal representative; amending s. 744.331, F.S.; requiring appointed attorneys to petition the court for fees and costs; amending s. 744.351, F.S.; requiring a guardian's bond to cover the amount of stocks held singly or jointly in the ward's name; amending s. 744.362, F.S.; providing that guardians shall file an initial guardianship report within 60 days after the letters of guardianship are signed; amending s. 744.367, F.S.; prescribing the ending time of an annual guardianship plan; amending s. 744.3678, F.S.; revising fee schedule for annual accountings; amending s. 744.471, F.S.; providing that successor guardians shall be governed by the laws concerning guardianships; amending s. 744.534, F.S.; providing for notice upon disposition of funds of a ward that are in the registry of the court; revising provisions in part VIII of ch. 744, the Veterans' Guardianship Law; amending s. 744.618, F.S.; providing for the court to give priority to the recommendation of the United States Department of Veterans Affairs in appointing a veteran's guardian; amending s. 744.634, F.S.; eliminating an exception relating to certification with respect to guardianship accounts; amending s. 744.639, F.S.; revising provisions relating to attorney's fees; amending s. 744.641, F.S.; revising guidelines relating to guardian's compensation; providing an effective date.

—was referred to the Committees on Judiciary; Finance, Taxation and Claims; and Appropriations.

By Representative Minton—

HB 1353—A bill to be entitled An act relating to Acme Improvement District, Palm Beach County; amending chapter 28557, Laws of Florida, 1953, as amended; expanding the boundaries of said district, including transferring land from the Lake Worth Drainage District to the Acme Improvement District; amending Article III of chapter 61-1747, Laws of Florida, as amended; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Hawkins—

HB 1595—A bill to be entitled An act relating to Collier County; repealing chapter 69-616, Laws of Florida, which establishes a quota for issuing of alcoholic beverage licenses relating to social clubs; repealing chapter 9412, Laws of Florida, 1923, which authorizes the Board of County Commissioners of Collier County, Florida, to purchase, receive, and to hold title to lands for park and parkway purposes and to protect, improve, maintain, and beautify the same as well as public highways and which provides for a special tax not exceeding 1 mill for such purposes; repealing chapter 61-2037, Laws of Florida, as amended, chapter 63-1239, Laws of Florida, and chapter 67-1242, Laws of Florida, which authorize the creation and establishment of water conservation districts in Collier County, provides a method whereby such creation and establishment may be effected, provides that the board of county commissioners may be the governing body of such districts, and provides for the powers and jurisdiction of such districts; repealing chapter 67-1238, Laws of Florida, relating to child care centers, kindergartens, schools and other similar establishments caring for children under the age of 7 years in Collier County, which describes minimum standards and regulations relative to sanitation, safety, welfare, and physical plant thereof, and which provides for the granting and revoking of permits for the operation of such establishments by the Collier County Health Department; repealing chapter 63-1238, Laws of Florida, which provides for the fixing, collection, and accounting of fees to be charged by the county health unit for certain ser-

vices; repealing chapter 59-1189, Laws of Florida, which permits the transfer of property owned by the Board of Public Instruction of Collier County to the Board of County Commissioners of Collier County and from the Board of County Commissioners of Collier County to the Board of Public Instruction of Collier County by sale, lease, or otherwise; repealing chapter 70-641, Laws of Florida, which authorizes the board of county commissioners to appoint and employ a competent medical examiner and assistants, defines the responsibility, authority, and qualifications of such appointees, and fixes the terms of employment and compensation; repealing chapter 25734, Laws of Florida, 1949, which authorizes the board of county commissioners to establish and maintain a fire control unit and authorizes said board of county commissioners to enter into an agreement with the Florida Board of Forestry and Parks for the establishment and maintenance of such fire control unit; repealing chapter 65-677, Laws of Florida, which provides minimum and maximum compensation of employees and officers of the sheriff's office; repealing chapter 79-442, Laws of Florida, which authorizes the board of county commissioners to designate agents of the Collier County Department of Animal Control as animal control enforcement officers, and authorizes animal control enforcement officers to issue citations for violations of Collier County Ordinance 78-16 and amendments thereto; repealing chapter 61-2022, Laws of Florida, which authorizes the board of county commissioners to acquire, establish, equip, and maintain auxiliary county offices outside the county seat and to pay the cost thereof from the general revenue fund of the county; repealing chapter 61-2036, Laws of Florida, which prohibits shooting and discharging of firearms and other weapons on, off, from, or within one-half mile of certain county roads in Collier County; 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 Criminal Justice and Representative Hafner and others—

CS for HB 1949—A bill to be entitled An act relating to domestic violence and repeat violence; creating s. 741.28, F.S.; providing definitions; amending s. 741.29, F.S.; revising guidelines with respect to investigation of domestic violence incidents; requiring that report furnished by a law enforcement agency to a domestic violence center include a narrative description of the incident; amending s. 741.2901, F.S.; providing intent that indirect criminal contempt may no longer be used to enforce compliance with injunctions for protection; conforming cross references; amending s. 741.2092, F.S.; providing intent that civil contempt be used to enforce compliance with an injunction unless injunction violation is criminal under s. 741.31, F.S.; amending s. 741.30, F.S.; providing for a system of statewide and circuitwide verification of injunctions for protection against domestic violence and repeat violence; providing for law enforcement officers to serve injunctions for protection against domestic violence under certain circumstances; revising the procedures under which the court may enforce an injunction for protection; deleting a provision that such enforcement may include imposition of a fine; providing that such enforcement may include imposition of a monetary assessment; providing for collection and transfer of such assessments; providing for a person who violates an injunction to be held in custody until admitted to bail; providing that an ex parte temporary injunction may not be effective for longer than 15 days; amending s. 741.31, F.S.; providing additional acts that constitute a criminal violation of an injunction for protection against domestic violence; providing a penalty; amending s. 784.046, F.S.; revising provisions relating to injunctions against repeat violence; providing for law enforcement officers to serve injunctions for protection against repeat violence under certain circumstances; providing for a statewide verification system; revising the procedures under which the court may enforce an injunction against repeat violence; deleting a provision that such enforcement may include imposition of a fine; providing that such enforcement may include imposition of a monetary assessment; providing for collection and transfer of such assessments; providing for a person who violates an injunction to be held in custody until admitted to bail; providing that an ex parte temporary injunction may not be effective for longer than 15 days; amending s. 943.05, F.S.; providing duties of the Division of Criminal Justice Information Systems with respect to the statewide verification system; amending s. 61.13, F.S.; providing that certain convictions for domestic violence shall be considered by the court as a rebuttable presumption of detriment to the child with respect to shared parental responsibility; providing for the effect of not rebutting such a presumption; reenacting s. 44.102(2)(b), F.S.; relating to court-ordered

mediation, to incorporate the amendment to s. 61.13, F.S., in a reference thereto; creating a Commission on Minimum Standards for Batterers' Treatment within the Office of the Governor; providing for appointment; providing duties; providing for a report; amending s. 28.101, F.S.; imposing an additional charge upon petition for dissolution of marriage; providing for deposit and use of such funds; reenacting s. 410.30(5)(b), F.S., relating to Displaced Homemaker Trust Fund, to incorporate the amendment to s. 28.101, F.S., in a reference thereto; amending ss. 39.001, 39.076, 110.1127, 242.335, 393.0655, 394.457, 397.451, 400.512, 402.305, 409.175, 464.018, 787.03, and 944.705, F.S., to conform cross references; amending s. 901.15, F.S.; relating to arrests without warrants for injunctive violations to conform cross references and clarify language; reenacting s. 415.606, F.S., relating to referrals to domestic violence centers, to incorporate the amendments to s. 741.29, F.S., in a reference thereto; reenacting ss. 784.048(4), and 901.15(6) and (8), F.S., penalties for violations of injunctions for protection against repeat violence, and arrests without warrants for injunctive violations, to incorporate the amendments to ss. 741.30 and 784.046, F.S., in references thereto; amending s. 415.602, F.S.; amending definitions relating to ss. 415.601-415.608, F.S.; amending s. 415.603, F.S.; amending duties of the Department of Health and Rehabilitative Services relating to domestic violence, including directing the department to develop by rule criteria for the certification and funding of domestic violence centers and directing the department to contract with a statewide association to provide for specified services; amending s. 415.605, F.S.; expanding the list of services that a domestic violence center must offer in order to be certified; amending s. 415.608, F.S.; clarifying the circumstances in which confidential information may be released; reenacting ss. 282.502(5) and (6), F.S., relating to information system coordinating council, to incorporate the amendments to s. 415.608, F.S., in a reference thereto; providing an appropriation; providing an effective date.

—was referred to the Committees on Criminal Justice, Judiciary and Appropriations.

By Representative Futch—

HB 2205—A bill to be entitled An act relating to the Melbourne-Tillman Drainage District, Brevard County; renaming the district as the Melbourne-Tillman Water Control 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 Insurance and Representative Cosgrove—

HB 2331—A bill to be entitled An act relating to insurance; amending s. 624.438, F.S.; specifying eligibility requirements for a certificate of authority as a multiple-employer welfare arrangement; amending s. 626.561, F.S.; providing a criminal penalty for depriving a person of trust funds or benefits therefrom; providing that failure to forward certain premiums is prima facie evidence of certain personal use of the premiums or that the lawful owner was deprived of a benefit therefrom; amending s. 626.902, F.S.; providing a penalty for representing or aiding an unauthorized insurer; amending s. 626.989, F.S.; providing immunity for the disclosure by insurers of information relating to fraudulent insurance acts; providing for attorney's fees and costs; creating s. 626.9891, F.S.; providing for insurer anti-fraud investigative units; amending s. 817.234, F.S.; providing a penalty for knowingly presenting or concealing certain information in an application for insurance; defining "insurer"; amending s. 895.02, F.S.; providing that specified violations of the Insurance Code constitute racketeering activity; amending s. 322.34, F.S.; providing for the impoundment of a motor vehicle driven by a person upon arrest for driving under certain circumstances; amending s. 324.201, F.S.; providing for the release of certain information to recovery agents or agencies; providing a procedure when a recovery agent or agency obtains a seized license plate; creating s. 324.2011, F.S.; authorizing recovery agents and agencies to seize license plates in certain counties; providing for rules of the Department of Highway Safety and Motor Vehicles; amending s. 624.075, F.S.; providing a definition; amending s. 624.426, F.S.; exempting United States Customs surety bonds from the resident agent and countersignature law; amending s. 624.4622, F.S.; providing for membership of governing bodies of local government self-insurance funds; amending s. 624.501, F.S.; providing additional fees; increasing certain fees; providing fees for mediators; amending s. 626.051, F.S.; revising a definition;

amending s. 626.112, F.S.; requiring agents to be appointed; amending ss. 626.141, 626.171, 626.181, 626.211, 626.221, 626.266, 626.281, 626.311, 626.511, 626.521, 626.561, 626.601, 626.611, 626.621, 626.641, 626.651, 626.727, 626.730, 626.732, 626.733, and 626.877, F.S.; including customer representatives within and deleting claims investigators from application of certain provisions; amending s. 626.201, F.S.; providing for interrogatories before reinstatement; amending s. 626.2815, F.S.; reducing continuing education requirements for title agents; amending s. 626.321, F.S.; consolidating limited credit licenses; amending s. 626.331, F.S.; requiring licensure of certain agents for certain appointments; providing that an appointment fee is not refundable; amending s. 626.342, F.S.; prohibiting furnishing supplies to certain agents; amending s. 626.541, F.S.; specifying names and addresses required of certain personnel of corporations; amending s. 626.592, F.S.; revising provisions relating to designation of primary agents; amending s. 626.681, F.S.; providing for administrative fines in addition to certain actions; increasing such fines; amending s. 626.691, F.S.; authorizing the department to place certain persons on probation in addition to suspending, revoking, or refusing to renew a license or appointment; amending s. 626.729, F.S.; defining "industrial fire insurance"; amending s. 626.732, F.S.; specifying educational requirements for industrial fire and burglary insurance agents; amending s. 626.7351, F.S.; specifying residency requirements for customer representatives; amending s. 626.739, F.S.; specifying a temporary license as general lines insurance agent; amending s. 626.741, F.S.; providing for cancellation of a non-resident agent's license; amending s. 626.837, F.S.; clarifying conditions of placing certain excess or rejected risks; amending s. 626.8418, F.S.; specifying that the bond of a title agency must be posted with the department and must inure to the benefit of damaged insurers and insureds; amending s. 626.852, F.S.; providing for applicability; amending s. 626.869, F.S.; requiring certain continuing education courses; clarifying requirements of such courses; amending s. 626.873, F.S.; providing for cancellation of nonresident adjuster's license; amending s. 626.918, F.S.; increasing surplus requirements for surplus lines agents; creating s. 626.9182, F.S.; requiring surplus lines insurers to file annual and quarterly financial reports; providing penalties; amending s. 626.919, F.S.; specifying disciplinary actions for eligible surplus lines insurers; amending ss. 626.927, 626.9271, 626.929, 626.935, and 626.944, F.S.; requiring appointment in addition to licensure of certain persons; creating s. 626.9301, F.S.; creating the Florida Surplus Lines Policy Stamping Office; providing functions, powers, and duties; providing for a board of governors; providing for a plan of operation; providing for examination; providing immunity; amending s. 626.931, F.S.; requiring filing of reports with the stamping office; amending s. 626.932, F.S.; requiring remittance of taxes to the stamping office; providing that stamping fees are not premiums; holding insurers liable for surplus lines taxes in specified circumstances; creating s. 626.9325, F.S.; imposing a stamping fee; providing for collection and remittance; specifying interest rate; defining "premium"; creating s. 626.9552, F.S.; prohibiting insurers from terminating general lines agent contracts under certain conditions; requiring notice and prohibiting new business from being written; requiring renewal of policies; providing exceptions; providing for future repeal; amending and renumbering s. 627.0613, F.S.; specifying powers, duties, and term of office of the insurance consumer advocate; providing for removal only for cause; providing for confirmation; authorizing temporary and permanent employment of certain professionals; providing that the office of insurance consumer advocate is a separate budget entity; providing for reports and other information for the Legislature and the public; providing for payment of expenses of the office; providing for location of the office; providing a rule of construction; amending s. 627.062, F.S.; providing that said section does not apply to commercial inland marine risks; amending s. 627.0651, F.S.; removing an exception for commercial inland marine risks; amending s. 627.409, F.S.; limiting the errors in an insurance application which may bar recovery under the insurance coverage; providing that certain agent errors in completing an application waive the insurer's right to deny coverage; providing circumstances under which an insurer waives the right to prevent recovery based on information produced by certain investigations; creating ss. 627.4901-627.4923, F.S.; creating the "Viatical Settlement Act"; providing definitions; requiring licensure of viatical settlement providers and brokers; providing procedures for applying for licensure; imposing a license fee; requiring the Department of Insurance to investigate applicants for licensure; providing for issuance and renewal of licenses; providing a limitation; providing for an annual statement by providers; providing fees; providing for revoking or suspending a license; providing administrative fines; providing for probation; prohibiting mention of licensure status in advertising; requiring licensed brokers to use licensed providers and licensed providers to use licensed brokers; requiring filing and approval of forms; authorizing the

department to examine the business affairs of licensees and applicants; requiring licensees to disclose certain information to viators; providing procedures and specifying criteria for entering into viatical settlement contracts; requiring use of a trustee or escrow agent; authorizing the department to adopt rules to implement the act; providing that rate regulation is not authorized; specifying that violations are unfair trade practices; authorizing injunctions; providing civil cause of action; providing damages; providing court costs and attorney's fees; providing requirements for acquisition of a provider or broker; providing a grace period for certain providers and brokers; amending s. 627.7263, F.S.; providing circumstances in which the insurance of a lessee of a motor vehicle is primary; requiring notice; amending s. 627.7275, F.S.; requiring the grant of a credit against certain new policy premiums paid on certain canceled policies; amending s. 627.728, F.S.; defining "nonpayment of premium"; requiring advance notice of certain renewal premiums; amending s. 627.7295, F.S.; specifying the minimum time period within which a new policy or binder may not be canceled; requiring certain down payment with respect to private passenger motor vehicle policies; 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; amending s. 627.736, F.S.; authorizing insurers to require certain notice after an accident; specifying effect of notice; specifying physicians eligible to report on certain mental and physical examinations; authorizing certain injured persons to receive health care services from any licensed health care provider; providing for limitation of reimbursement or payment of medical benefits; requiring personal injury protection insurers to provide certain notice; providing for future repeal and review; requiring the department to release certain insurance information to persons involved in accidents; amending s. 627.739, F.S.; providing for application of a deductible amount; providing for receipt of certain benefits after a deductible is met; amending s. 627.745, F.S.; clarifying a provision related to final examination; revising administration and cost of the auto mediation program; amending s. 627.8405, F.S.; revising provisions relating to prohibited premium financing; amending s. 628.6011, F.S.; providing procedures under which an assessable mutual insurer may change or drop its sponsoring association; amending s. 631.271, F.S.; revising the priority of distribution of claims from an insurer's estate; specifying applicability; amending s. 631.713, F.S.; exempting certain policies and contracts from part III of ch. 631, F.S.; amending s. 631.717, F.S.; providing duties of the association; providing for alternative or reissued policies and specifying obligations thereunder; amending s. 631.718, F.S.; revising procedures for and limits on assessments by the association; specifying applicability; amending s. 631.821, F.S.; specifying time for appeal of Florida Health Maintenance Organization Consumer Assistance Plan actions; requiring compliance pending exhaustion of appeal; amending s. 634.011, F.S.; revising the definition of the term "motor vehicle" to exclude certain vehicles for purposes of motor vehicle service agreements; amending s. 635.041, F.S.; limiting applicability of mortgage guaranty insurers' contingency reserve requirements; amending s. 635.042, F.S.; limiting applicability of limits on a mortgage guaranty insurer's outstanding liability; repealing s. 626.112(6), F.S., relating to licensing of claims investigators; repealing s. 626.532, F.S., relating to insurance vending machine licenses; repealing s. 626.753(4), F.S., relating to revocation of licenses; repealing s. 626.857, F.S., relating to the definition of "claims investigator"; creating s. 641.60, F.S.; providing definitions; creating the Statewide Managed Care Ombudsman Committee; providing for membership, powers, duties, staffing, and funding of the committee; requiring reports; creating s. 641.65, F.S.; creating district managed care ombudsman committees; providing for membership, powers, duties, staffing, and funding of the committees; creating s. 641.70, F.S.; providing duties of the Agency for Health Care Administration relating to the statewide and district committees; creating s. 641.75, F.S.; providing committee members immunity from liability for good faith action on behalf of an enrollee in a managed care program; providing for public records and meetings; providing that committee members shall not be required to testify on certain matters; providing an appropriation; providing effective dates.

—was referred to the Committees on Commerce, Criminal Justice and Appropriations.

By the Committees on Employee and Management Relations; and Governmental Operations; and Representative Boyd and others—

CS for HB 2497—A bill to be entitled An act relating to government performance and accountability; providing a short title; defining "state

agency" and "agency" for purposes of the act; amending s. 216.011, F.S.; providing definitions; creating s. 216.0166, F.S.; requiring state agencies to provide certain information for approval by the Executive Office of the Governor according to a specified schedule; providing for adjustment based on annual appropriations; providing requirements for revision of the service areas or programs of state agencies operating under a performance-based program budget; requiring the State Board of Administration and the legislative branch to submit performance measures and standards for review; creating s. 216.0172, F.S.; providing a schedule for submission of performance-based program budgets by state agencies; amending s. 216.023, F.S., and repealing subsection (7) thereof; removing provisions relating to submission of budget requests and point-by-point responses by agencies subject to evaluation pursuant to s. 216.0165, F.S.; providing requirements relating to submittal of performance-based program budget requests; amending s. 216.031, F.S.; revising requirements relating to budget requests for operational expenditures; requiring agencies operating under a performance-based program budget to submit an evaluation regarding performance measures and standards; amending s. 216.053, F.S.; revising requirements for summary information in the General Appropriations Act; amending s. 216.163, F.S.; providing requirements for submittal by the Governor to the Legislature of performance-based program budgets; providing for recommendations regarding incentives and disincentives for agency performance; creating s. 216.183, F.S.; requiring state agencies and the judicial branch submitting performance-based program budgets to use a specified chart of accounts; amending s. 216.292, F.S.; authorizing certain transfer of appropriations for departments operating under a performance-based program budget; amending s. 287.14, F.S.; providing an exception to provisions relating to purchase or lease of motor vehicles for agencies operating under a performance-based program budget; providing that the Department of Management Services and the Department of Revenue shall be considered to be operating under performance-based program budgets on a specified date; authorizing those departments to retain certain balances of appropriations; amending s. 11.143, F.S.; providing for designation by standing legislative committees of members to participate in the performance measures and standards process; amending s. 11.45, F.S.; revising the definition of "performance audit"; deleting provisions relating to performance audits of new programs, evaluations regarding agencies reviewed under s. 216.0165, F.S., and audit schedules; amending s. 11.51, F.S.; renaming the Office of Policy Analysis and Agency Review as the Office of Program Analysis and Agency Review and transferring the office to the Office of the Auditor General; deleting the repeal of said section; amending s. 11.513, F.S.; requiring the performance of program evaluation and justification reviews by the office and providing requirements with respect thereto; providing duties of agencies; requiring a report; authorizing the Legislative Auditing Committee to direct that such reviews be conducted; deleting the repeal of said section; creating s. 14.30, F.S.; establishing the Commission on Government Accountability to the People; providing for membership, meetings, and functions of the commission; requiring a report; amending s. 20.21, F.S.; providing a mission statement for the Department of Revenue; specifying outcomes for the department; providing for service areas rather than divisions of the department; amending s. 20.22, F.S.; providing a mission statement for the Department of Management Services; specifying outcomes for the department; providing for service areas rather than divisions of the department; creating s. 121.1905, F.S.; establishing the Division of Retirement as a separate budget entity within, but independent of, the Department of Management Services; amending ss. 110.1231, 112.3173, 112.63, 112.665, 121.025, 121.031, 121.135, 121.136, 121.1815, 121.22, 121.23, 121.24, 121.35, 123.01, 218.32, 238.03, 250.22, 321.17, 321.19, 321.191, 321.202, and 321.2205, F.S., to conform; establishing the State Retirement Commission within the division; specifying effect on existing rules and pending judicial or administrative proceedings; providing an appropriation and authorizing positions; exempting the division from certain expenditure reduction requirements; amending s. 186.021, F.S.; providing for consistency of objectives in agency strategic plans; requiring the Office of Program Analysis and Agency Review to initiate a program evaluation and justification review of educational facilities and report its findings; providing policy regarding state services; providing for identification of commercial activities being performed by state agencies and determination whether competition with private sources or other state agencies should be required; providing powers of the Administration Commission; providing for award of contracts; repealing s. 11.511, F.S., which provides for a director of the Office of Policy Analysis and Agency Review; repealing s. 11.55, F.S., which creates the State Agency Evaluation and Review Committee; repealing s. 216.0165, F.S., which provides for periodic agency and judicial branch evaluation and justification;

amending s. 20.055, F.S.; revising the agencies to which said section applies; providing for an inspector general rather than chief internal auditor for each state agency; providing duties of inspectors general; providing for appointment and removal; providing qualifications; providing duties of state agencies; requiring reports; amending s. 373.079(4)(b), F.S.; providing for an inspector general rather than a chief internal auditor for each water management district; providing qualifications for said inspector general; creating s. 14.32, F.S.; creating the Office of Chief Inspector General within the Executive Office of the Governor; providing duties and responsibilities of the office; specifying that responsibilities of chief internal auditors are to become the responsibilities of inspectors general; providing intent relating to use of funds; directing the Division of Statutory Revision to prepare reviser's bills; providing for severability; providing an effective date.

—was referred to the Committees on Governmental Operations and Appropriations.

By the Committee on Judiciary and Representative Trammell and others—

HB 2647—A bill to be entitled An act relating to the judiciary; amending s. 26.021, F.S.; providing residency requirements for judges in certain judicial circuits; providing for application; amending s. 26.021, F.S.; requiring judicial nominating commissions to consider certain criteria with respect to appointees and nominees for vacancies in judgeships; amending s. 34.022, F.S.; increasing the number of judges for specified county courts; providing for election; providing an appropriation; providing effective dates.

—was referred to the Committees on Judiciary and Appropriations.

By the Committee on Health Care and Representative Graber—

HB 2833—A bill to be entitled An act relating to public records and meetings; amending s. 408.702, F.S.; providing an exemption from public records requirements for community health purchasing alliance membership and accountable health partnership enrollee information, and other proprietary information; providing an exemption from public meetings requirements for that portion of a meeting in which such confidential information is discussed; requiring notice and recording of certain meetings; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—was referred to the Committees on Health Care and Commerce.

By the Committee on Health Care and Representative Graber—

HB 2835—A bill to be entitled An act relating to public records and meetings; amending s. 408.702, F.S.; providing an exemption from public records requirements for application, enrollment, coverage, and patient records obtained by a community health purchasing alliance or the Agency for Health Care Administration, relating to persons covered or seeking coverage by an accountable health partnership or through a community health purchasing alliance; providing an exemption from public meetings requirements for that portion of a meeting in which such confidential information is discussed; requiring notice and recording of certain meetings; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—was referred to the Committees on Health Care and Commerce.

RETURNING MESSAGES—FINAL ACTION

The Honorable Pat Thomas, President

I am directed to inform the Senate that the House of Representatives has passed SB 610, SB 1120, SB 1142, SB 1144, SB 1146, SB 1148, SB 1150, SB 1152, SB 1154, SB 1156, SB 1466, SB 2932, SB 2942, SB 2944, SB 2946, SB 2952, SB 2966, SB 2974, SB 2982, SB 3040, SB 3066, SB 3074, SB 3080, SB 3112 and SB 3120.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

ROLL CALLS ON SENATE BILLS

CS for SB 1440

Yeas—37

Mr. President	Dudley	Jenne	Siegel
Bankhead	Dyer	Jennings	Silver
Beard	Foley	Johnson	Sullivan
Brown-Waite	Forman	Jones	Turner
Casas	Grant	Kirkpatrick	Weinstein
Childers	Grogan	Kurth	Wexler
Crenshaw	Gutman	McKay	Williams
Crist	Harden	Meadows	
Dantzler	Hargrett	Myers	
Diaz-Balart	Holzendorf	Scott	

Nays—2

Boczar Burt

CS for CS for SB 1824—Amendment 2K

Yeas—16

Bankhead	Casas	Dudley	Kiser
Beard	Crenshaw	Grant	McKay
Boczar	Crist	Gutman	Myers
Burt	Diaz-Balart	Harden	Sullivan

Nays—23

Mr. President	Grogan	Jones	Silver
Brown-Waite	Hargrett	Kirkpatrick	Turner
Childers	Holzendorf	Kurth	Weinstein
Dantzler	Jenne	Meadows	Wexler
Dyer	Jennings	Scott	Williams
Forman	Johnson	Siegel	

CS for CS for SB 1824

Yeas—35

Mr. President	Diaz-Balart	Jenne	Scott
Bankhead	Dyer	Jennings	Siegel
Beard	Foley	Johnson	Silver
Brown-Waite	Forman	Jones	Sullivan
Burt	Grant	Kirkpatrick	Turner
Casas	Grogan	Kurth	Weinstein
Childers	Gutman	McKay	Wexler
Crenshaw	Harden	Meadows	Williams
Crist	Hargrett	Myers	

Nays—2

Boczar Dudley

ROLL CALLS ON HOUSE BILLS

CS for HB 107—Amendment 4

Yeas—17

Bankhead	Dantzler	Kirkpatrick	Sullivan
Beard	Dudley	Kiser	Williams
Burt	Grant	McKay	
Crenshaw	Harden	Myers	
Crist	Jennings	Scott	

Nays—16

Brown-Waite	Forman	Jenne	Silver
Casas	Grogan	Johnson	Turner
Childers	Hargrett	Jones	Weinstein
Diaz-Balart	Holzendorf	Meadows	Wexler

CS for HB 107

Yeas—26

Mr. President Bankhead Beard Brown-Waite

Burt	Diaz-Balart	Jennings	Myers
Casas	Dudley	Johnson	Scott
Childers	Grant	Jones	Weinstein
Crenshaw	Grogan	Kirkpatrick	Williams
Crist	Harden	Kiser	
Dantzler	Jenne	McKay	

Nays—7

Forman Holzendorf Silver Wexler
Hargrett Meadows Turner

CS for HB 309—Amendment 2

Yeas—17

Bankhead	Crenshaw	Jennings	Sullivan
Beard	Crist	Kirkpatrick	Williams
Burt	Diaz-Balart	McKay	
Casas	Grant	Scott	
Childers	Harden	Siegel	

Nays—13

Mr. President	Hargrett	Meadows	Wexler
Dyer	Holzendorf	Silver	
Forman	Johnson	Turner	
Grogan	Jones	Weinstein	

CS for HB 309—Amendment 3

Yeas—19

Bankhead	Crenshaw	Harden	Scott
Beard	Crist	Holzendorf	Siegel
Burt	Diaz-Balart	Jennings	Sullivan
Casas	Dudley	Kirkpatrick	Williams
Childers	Grant	McKay	

Nays—13

Mr. President	Hargrett	Meadows	Wexler
Dyer	Johnson	Silver	
Forman	Jones	Turner	
Grogan	Kiser	Weinstein	

CS for HB 309

Yeas—25

Bankhead	Dantzler	Holzendorf	Sullivan
Beard	Diaz-Balart	Jennings	Turner
Burt	Dudley	Kirkpatrick	Wexler
Casas	Foley	McKay	Williams
Childers	Grant	Meadows	
Crenshaw	Gutman	Siegel	
Crist	Harden	Silver	

Nays—7

Dyer Grogan Johnson Weinstein
Forman Hargrett Jones

CS for HB 1743

Yeas—34

Mr. President	Dantzler	Harden	Meadows
Bankhead	Diaz-Balart	Hargrett	Siegel
Beard	Dudley	Holzendorf	Silver
Brown-Waite	Dyer	Jenne	Turner
Burt	Foley	Jennings	Weinstein
Casas	Forman	Johnson	Wexler
Childers	Grant	Jones	Williams
Crenshaw	Grogan	Kirkpatrick	
Crist	Gutman	McKay	

Nays—None

ROLL CALLS ON EXECUTIVE BUSINESS

Senate Confirmation of
Executive Appointments

Yeas—40

Mr. President	Dantzler	Hargrett	Meadows
Bankhead	Diaz-Balart	Holzendorf	Myers
Beard	Dudley	Jenne	Scott
Boczar	Dyer	Jennings	Siegel
Brown-Waite	Foley	Johnson	Silver
Burt	Forman	Jones	Sullivan
Casas	Grant	Kirkpatrick	Turner
Childers	Grogan	Kiser	Weinstein
Crenshaw	Gutman	Kurth	Wexler
Crist	Harden	McKay	Williams

Nays—None

Senate Confirmation of
Executive Appointment
James H. Towey

Yeas—34

Mr. President	Diaz-Balart	Jenne	Siegel
Beard	Dyer	Jennings	Silver
Boczar	Foley	Johnson	Sullivan
Brown-Waite	Forman	Jones	Turner
Burt	Grant	Kirkpatrick	Weinstein
Casas	Grogan	Kurth	Wexler
Childers	Gutman	Meadows	Williams
Crist	Harden	Myers	
Dantzler	Hargrett	Scott	

Nays—6

Bankhead	Dudley	Kiser
Crenshaw	Holzendorf	McKay

Suspension
Earl Sermon Dyess, Jr.

Yeas—39

Mr. President	Dantzler	Hargrett	Myers
Bankhead	Diaz-Balart	Holzendorf	Scott
Beard	Dudley	Jenne	Siegel
Boczar	Dyer	Jennings	Silver
Brown-Waite	Foley	Johnson	Sullivan
Burt	Forman	Jones	Turner
Casas	Grant	Kiser	Weinstein
Childers	Grogan	Kurth	Wexler
Crenshaw	Gutman	McKay	Williams
Crist	Harden	Meadows	

Nays—None

CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 5 was corrected and approved.

CO-SPONSORS

Senator Boczar—SB 1766

RECESS

On motion by Senator Kirkpatrick, the Senate recessed at 5:59 p.m. to reconvene at 10:00 a.m., Thursday, April 7 or upon call of the President.